

**SPECIAL PROVISIONS**  
**MAINTENANCE BRIDGE PAINTING CONTRACT 2010-2**  
**EIGHTEEN (18) BRIDGES - ROUTE NJ 21 & I-80**  
**NEWARK, NUTLEY, BELLEVILLE, PASSAIC, PATERSON AND CLIFTON**  
**ESSEX AND PASSAIC COUNTIES**  
**FEDERAL PROJECT No.: STP-0045(132)**  
**D.P. No. 10417**

*This project is funded by FHWA-Regular Project Fund.*

**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 for General, Road, and Bridge Provisions

General wage determinations issued under Davis-Bacon and related acts, published by US Department of Labor, may be obtained from the Davis-Bacon web site at <http://www.access.gpo.gov/davisbacon/nj.html> under the appropriate county, select the construction type heading: HIGHWAY.

Pay the prevailing wage rates determined by the United States Secretary of Labor and the New Jersey Department of Labor. If the prevailing wage rate prescribed for any craft by the United States Secretary of Labor is not the same as the prevailing wage rate prescribed for that craft by the New Jersey Department of Labor, pay the higher rate.

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](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.

**FHWA funded project attachments:**

1. Required Contract Provisions, Federal-Aid Construction Contracts (Form FHWA-1273) pages 1 to 10 inclusive, dated January 2009.

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2. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).
3. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246).
4. State of New Jersey Equal Employment Opportunity for Contracts Funded by FHWA.
5. Disadvantaged Business Enterprise Utilization Attachment, FHWA Funded Contracts, pages 1 to 8 inclusive, dated January 2007.
  - A. Incentive Program, Disadvantaged Business Enterprise Utilization Attachment for FHWA Funded Contracts.
6. Equal Employment Opportunity Special Provisions.
7. Special Contract Provisions for Investigating, Reporting, and Resolving Employment Discrimination and Sexual Harassment Complaints.

## **DIVISION 100 – GENERAL PROVISIONS**

### **SECTION 101 – GENERAL INFORMATION**

#### **101.03 TERMS**

THE FOLLOWING TERMS ARE CHANGED.

##### **Completion.**

(3) IS CHANGED TO:

3. The Contractor has satisfactorily executed and delivered to the RE all documents, including federal form FHWA-47 “Contractor’s Statement of Materials and Labor” according to 23CFR 635, certifications, and proofs of compliance required by the Contract Documents, it being understood that the satisfactory execution and delivery of documents, certificates, and proofs of compliance is a requirement of the Contract.

#### **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.

##### **2. After Award of the Contract.**

Submit inquiries to RE through the Bureau of Maintenance Engineering and Operations, Bridge Section at the below listed address:

###### **a. Inquiries.**

Mr. A. Ghorbani, Section Chief  
Bureau of Maintenance Engineering and Operations  
1035 Parkway Avenue, Trenton, New Jersey 08625  
Telephone: 609.530.3708

###### **b. Containment Plan Review.**

Mr. A. Atta Najem, PhD, Project Manager  
Bureau of Maintenance Engineering and Operations  
1035 Parkway Avenue, Trenton, New Jersey 08625  
Telephone: 609.530 4560 (office) 609 306 9316 (cell phone)

###### **c. Paint Materials.**

Ms. Eileen Sheehy, Manager  
Bureau of Materials  
1035 Parkway Avenue, Trenton, New Jersey 08625  
Telephone: 609.530.2317

## 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.

### 102.04 EXAMINATION OF CONTRACT AND PROJECT LIMITS

THE FOLLOWING IS ADDED:

The existing structures within the project are:

No.	Str. No.	M.P.	Description of Structure
1.	0716-150	4.62	Route 21 South Bound over Route 21 North Bound Viaduct
2.	0716-153	4.86	Route 21 over Erie Rail Road
3.	0716-158	5.58	Route 21 South Bound over Route 21 North Bound
4.	0716-160	5.79	Rt. 21 North Bound over Second River
5.	0716-161	5.79	Rt. 21 South Bound over Second River
6.	0717-150	6.30	Route 21 over Route 7 (Rutgers Street & Main Street)
7.	0717-152	7.16	Ramp "L" over Route 21
8.	0717-156	8.13	Route 21 over Park Avenue
9.	1603-156	9.36	Route 21 Ramp "8" over access Road & Delaware RR
10.	1603-171	11.86	State Street Extension over Route 21
11.	1603-172	12.20	Route 21 North Bound over Passaic Street & Weasel Brook
12.	1603-173	12.24	Route 21 over Washington Place
13.	1603-174	12.29	Route 21 over Jefferson Street
14.	1603-175	12.36	Route 21 over Madison Street
15.	1603-176	12.43	Route 21 Ramp "N" over Madison Street
16.	1603-177	12.44	Route 21 over Hope Avenue
17.	1610-172	58.40	Route I-80 EB Ramp "M" & "B" over Marshall and Main Streets
18.	1610-173	58.40	Route I-80 Ramp "A" WB over Main Street

Prior to the submission of the bid, examine the condition of the existing steel structures and metals, concrete pier caps surfaces, and accumulation of all kind of debris and other products (concrete, grease, birds' droppings, etc.) on the steel surfaces or pier caps. The submission of a bid is conclusive evidence that the bidder has made such an examination and is fully aware of the conditions of the surfaces and the quantity of work.

Contact the Department immediately, if any discrepancies between the structure numbers, structure description, and /or milepost location are found.

**3. Existing Plans and As-Built.**  
THE FOLLOWING IS ADDED:

The existing plans can be ordered through the Engineering Document Unit. The Engineering Document Unit contact numbers are: Phone (609) 530-5587, Fax (609) 530-6626.

## **SECTION 103 - AWARD AND EXECUTION OF CONTRACT**

**103.01 AWARD OF CONTRACT**  
THE FOLLOWING IS ADDED:

The Department will award the contract to successful Bidder who is a certified SSPC (The Society for Protective Coatings) QP-1and SSPC QP-2 Contractor. Before the award is recommended, the Contractor shall submit a copy of the current SSPC QP-2 certification to the Project Manager (for the address see Subsection 101.04.2.b). If the lowest Bidder cannot provide the SSPC- QP 1, 2 certificates within 30 State business days, the Department will not award the contract to the lowest bidder. Prior to recommendation for Award, the Department will verify the Contractor's current SSPC QP-1, 2.

The Contractor shall maintain the SSPC QP-1and SSPC QP-2 certificates throughout the contract.

## **SECTION 104 – SCOPE OF WORK**

**104.01 INTENT**  
THE FOLLOWING IS ADDED:

The intent of this project is to blast clean and paint the existing structural steel and metal surfaces, as described in Subsection 554.01and 554.03.02.

Those Pay Items listed below shall be considered as major Pay Items even though their Contract value may not be more than ten percent of the Total Contract Price:

1. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0716-150
2. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0716-153
3. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0716-158
4. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0716-160
5. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0716-161
6. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0717-150
7. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0717-152
8. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 0717-156
9. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-156

- 10. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-171
- 11. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-172
- 12. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-173
- 13. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-174
- 14. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-175
- 15. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-176
- 16. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1603-177
- 17. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1610-172
- 18. NEAR-WHITE BLAST CLEANING AND PAINTING, STRUCTURE NO. 1610-173

It should be noted that all major pay items for this project are lump sum pay items.

**104.03.04 Contractual Notice**

THE SECOND PARAGRAPH IS CHANGED TO:

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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 where 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.

**SECTION 105 – CONTROL OF WORK**

**105.01 AUTHORITY OF THE DEPARTMENT**

**105.01.01 RE**

THE FOLLOWING IS ADDED:

After reviewing the progress schedule or planned work, the RE has the authority to suspend the work wholly or in part for unavailability of inspectors. The contract time will be adjusted accordingly.

**105.01.02 Inspection**

THE FOLLOWING IS ADDED:

In order to conform to the contract requirements, to plan for production of conforming work, and to inspect and document that conforming work, plan and establish a Quality Management System (QMS). Assign an independent QMS Manager not directly responsible for the work to the project who shall manage quality matters and submittals for the project. The QMS Manager shall have the authority to act in all quality matters and submittals for the Contractor. The QMS Manager is responsible for all work to be inspected, all inspection to be documented, and all nonconformities in the work or work process are corrected and documented. Any failure of the contractor to

document defects or falsify the document will cause for suspension of the work and may cause for termination of the contract. RE will approve the QMS prior to the start of the actual work.

The primary outputs required from QMS are schedules, work plan, inspection and test plans, documentation of work, and inspection reports (IRS). The secondary outputs required are summaries (logs) of work completed, conforming and nonconforming work, re-work requirements, and corrective action.

Following are required submittals and schedule, but not limited:

a. Insurance Certificates, Policy Declarations and Letter of Facts	Pre-mobilization and as required
b. Project-specific Quality Plan, responsible personnel and contacts	Pre-mobilization and as required
c. Project-specific Work Plan, Schedules	Pre-mobilization and as required
d. Inspection and Test Plan	Pre-mobilization and as required
e. Product Information (technical and safety data)	Pre-mobilization and as required
f. Source of Major Materials (Material Questionnaires)	Pre-mobilization and as required
g. Working drawings-containment plans and platforms	Pre-mobilization and as required
h. Outline of Key Contract Personnel(Form DC-34)	Pre-mobilization and as required
i. Construction Site and Equipment Storage plan	Pre-mobilization and as required
j. Lead Health And Safety Plan (LHASP)	Pre-mobilization and as required
k. General Health and Safety Plan/Program	Pre-mobilization and as required
l. Waste Management Plan	Pre-mobilization and as required
m. Traffic Control and Health Safety Officers	Pre-mobilization and as required
n. Certificates and NJDOH Lead License Cards	Pre-mobilization and as required
o. List of Proposal Subcontractors, (Form DC-18)	Pre-mobilization and as required
p. Blood Tests	Pre-mobilization and Monthly
q. Weekly Work Plan with the area of work	Weekly and as required
r. Production Reports (including safety reports)	Daily
s. Inspection and Test Reports	Daily
t. Corrective Action Requests	As required
u. Corrective Action Log	As required
v. Preventive Action Log	As required
w. Payrolls	Biweekly
x. Affirmative Action Plan, EEO, DBE/ESBE and SBE	As per check list, to be provided
y. Other QA reports that would provide meaningful data	As required

All submittals shall be approved by the Contractor's QMS and all records shall be available to the RE.

As part of QMS, employ a Quality Control Individual (QCI) to implement and enforce Quality Assurance Program. This individual shall have successfully completed the National Association of Corrosion Engineers (NACE) course Level one (1) / or SSPC equivalent and have a minimum of one year field experience in Quality Control/Quality Assurance in the field of surface preparation and coatings. QCI must verify that all blasted/painted areas are in compliance with the Contract Documents; none conformance areas must be corrected immediately, prior to call the State inspector for the final inspection. In the event that any blasted/painted area is rejected by the inspector, the entire work shall be rejected. The inspector will specifically note ALL areas that were subject to rejection and bring these areas to the attention of the Contractor. The work will not be re-inspected by the inspector on the day that the work is rejected. The inspector will re-inspect the work on the following work day.

The application of the prime coat will only be permitted after re-inspection and final acceptance of the blast. In the event that the blast is rejected again, the above process of correction will be repeated until accepted by the inspector.

Maintain written records of the above noted Quality Control/Quality Assurance process/program. These records shall be available to the RE.

The Contractor is responsible for the quality of the work and carrying out the provisions of the Contract at all time regardless whether a State inspector is present or not.

The Department reserves the right to direct the Contractor to provide special lane closings in order to perform destructive and/or non destructive testing after the finish coat has been applied. The inspection can be at any location within the project limits, and the frequency can be up to three (3) lanes closing per structure. The Contractor shall provide the inspector with safe access to all requested locations for inspection. There will be no specific payment for any labor, materials and equipment necessary in order to provide these lane closings and access. All related costs are to be included in the pay items of the contract.

In the event that the Department detects any indication of suspect work on any part of the structure, the entire structure shall be subject to inspection. There will be no specific payment for any labor, materials and equipment necessary in order to provide for this inspection. All related costs shall be included in the pay items of the contract.

The basis of payment is as the following and will be as percentage of the completed works:

<i>Item</i>	<i>Pay Unit</i>
Quality Management System (QMS)	Lump Sum

#### **105.04 PLANS AND SPECIFICATIONS**

THE FOLLOWING IS ADDED:

The Contract Documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. All components are complementary and describe and provide for the general completion of the Project. The Contractor shall keep one set of Plans, Special Provisions, Addenda, Standard Specifications, Supplemental Specifications, and Standard Details available on the Project site at all times.

In case of discrepancy, calculated dimensions will govern over scaled dimensions; Plans will govern over Specifications; Contract Documents will govern over Working Drawings, Right-of-Way Plans will govern over Plans when setting monuments; Special Provisions will govern over Supplemental Specifications; and Supplemental Specifications will govern over Standard Specifications.

The Contractor shall not take advantage of any apparent discrepancy, error, omission, or patent ambiguity in the Contract Documents. In the event the Contractor discovers any discrepancy, error, omission; or patent ambiguity in the Contract Documents, or if there is any doubt or question as to the intent or meaning of the Contract Documents, the Contractor shall immediately notify the RE in writing with sufficient detail. The Department will promptly make, in writing, such corrections and interpretations as deemed necessary. The Contractor shall not be relieved of the obligation of completing an item of Work because of any discrepancy, error, omission, or patent ambiguity, and shall complete the Work as directed with adjustments as specified in Section 104. The Contractor shall not commence with any changes to the Work as provided under the Contract Documents without written authorization from the Department.

#### **105.08 ENVIRONMENTAL PROTECTION.**

THE FOLLOWING IS ADDED:

The Contractor shall submit to the RE, within 15 days after execution of the Contract by the Commissioner, a pollution control system including a description of each plan to contain, collect, dispose of, and otherwise fully protect the environment from all rust, paint particles, blasting medium and contaminates associated with the work.



Failure of the Contractor to submit and receive approval of the pollution control system from the Engineer shall constitute a default by the Contractor, for which the Commissioner may take whatever action deemed appropriate under the Contract.

## **SECTION 106 – CONTROL OF MATERIAL**

### **106.05 MATERIALS INSPECTIONS, TESTS, AND SAMPLES**

THE FOLLOWING IS ADDED:

At least 45 days before painting is anticipated; submit the following samples and technical information of selected coating system to NJDOT Bureau of Materials:

1. A **one (1) gallon** sample for each coat of paint in the system.
2. Infrared curves (**2.5 to 15 micrometers**) for the zinc primer, intermediate, and finish coats to include curves for the dry film of the vehicle (binder) of each component and for the mixed paint.
3. Weight per gallon, at 75 degrees F, for the zinc primer, intermediate, and finish coats. Variance shall be within plus or minus 5 Krebs unit, or equivalent units of another viscometer, of the viscosity of the sample that was approved and placed on the qualified paint list.
4. Viscosity in Krebs units, at 75 degrees F, for the zinc primer vehicle and the intermediate and finish coat paints. Variance shall be within plus or minus 5 Krebs units, or equivalent units of another viscometer, of the viscosity of the sample that was approved and placed on the qualified paint list.
5. Percent of solids by weight of the zinc primer vehicle and the intermediate and finish coat paints.
6. Percent of metallic zinc by weight in the dry film of the cured zinc primer coat. This percentage should be greater than or equal to that of the sample that was approved and placed on the qualified paint list.
7. Percent of metallic zinc by weight in the zinc pigment component.
8. Finish coat color chips for selection of color by the engineer.
9. The required curing time and dry film thickness for the qualification of the zinc primer for slip-critical connections in conformance with the requirements of AASHTO, division i, table 10.32.3c for class of surface a. A certified test report with the slip coefficient tested in accordance with AASHTO Division 1 Article 10.32.3.2.2.
10. Technical data sheets, material safety data sheets, and specific application instructions for all coats. In the event of a conflict between the data/instruction sheets and these specifications, with the approval of the engineer, the manufacturer's requirements shall govern. Work shall not be allowed to proceed until the information is received and approved.
11. Mixing and thinning directions.
12. Recommended spray nozzles and pressures.

Each container of paint shall be labeled to show the name of the manufacturer, the trade name designation of the contents, the lot or batch number, the date of manufacture, and the volumetric contents in liters or the weight of zinc powder in kilograms. Each container shall be labeled in accordance with the Code of Federal Regulations for flammable materials and shall contain all information necessary to comply with **N.J.S.A. 34:5A-1** N. J. worker and community right to know act.

## **SECTION 107 – LEGAL RELATIONS**

### **107.04 NEW JERSEY CONTRACTUAL LIABILITY ACT**

THE FOURTH PARAGRAPH IS CHANGED TO:

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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 SECOND SENTENCE IS CHANGED TO:

It shall neither hold itself out as, nor claim to be, an officer or employee of the Department by reason hereof.

**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.

**SECTION 108 – PROSECUTION AND COMPLETION**

**108.02 COMMENCEMENT OF WORK**

THE ENTIRE ITEMS IN THE FIRST PARAGRAPH, AFTER THE SECOND LINE, ARE REPLACED WITH:

1. Certificate for QC personnel, NACE Level 1 (Spec, Sub Section 105.01.02)
2. Working drawings-containment plans and platforms (Spec, Sub Section 105.05)
3. Product Information DC-2891, technical and safety data (Spec, Section 106.04)
4. Material Certification of compliance from suppliers (Spec, Sub Section 106.07)
5. Affirmative Action Plan, EEO, D/ESBE and SBE (Spec, Sub Section 107.03)
6. List of Proposal Subcontractors, Form DC-18, (Spec, Sub Section 108.01)
7. Outline of Key Contract Personnel(Form DC-34) (Spec, Sub Section 108.02)
8. Construction Site and Equipment Storage plan (Spec, Sub Section 108.04)
9. General Sanitary, Health and Safety Plan (Spec, Sub Section 108.05)
10. Certificates and NJDOH Lead License Cards (Spec, Sub Section 108.05.02)
11. Traffic Control Plan (TCP) (Spec, Sub Section 108.07.02)
12. Insurance Certificates, Policy Declarations and Letter of Facts (Spec, Section 152)
13. Progress Schedule (Spec, Sub Section 153.03.01)
14. Field Office Setup (Spec, Sub Section 155.03.01)
15. Provisions for Inspection (Spec, Sub Section 155.03.01.7)
16. Traffic Control Coordinators (TCC) Certificates (Spec, Sub Section 159.03.01)
17. Containment Plan (Spec, Sub Section 554.03.01.1)
18. Waste Disposal Plan (Spec, Sub Section 554.03.01.2)
19. Lead Health & Safety Plan, LDASP (Spec, Sub Section 554.03.01.3)
20. Lead Health & Safety Officer (HSO) Certificate (Spec, Sub Section 554.03.01.3)
21. Initial blood lead level reports (Spec, Sub Section 554.03.01.3.g)
22. Other reports that would provide meaningful data (if required)

THE FOLLOWING IS ADDED TO THE END OF THE FIRST PARAGRAPH:

Do not start mobilization (Spec, Sub Section 154.03.01) before the above noted items and any other information, required by the contract, have been supplied to RE and approved by The Department.

**108.05.02 Safety Program**

THE FOLLOWING IS ADDED:

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This program is separate from the **Lead Health and Safety Plan (LHASP)** as required in subsection **554.03.01.3**. This program deals with general overall safety and health of the Contractor's personnel as described under subsection **108.05** of the Standard Specifications for Road and Bridge Construction. Any duplication between this and the requirements of the **LHASP** may be omitted from the program. However, the Contractor shall meet all other requirements.

**108.06 Night Operations**

THE FOLLOWING IS ADDED:

Any time during blasting, painting, and inspection, provide adequate lighting inside and outside the containment and ensure that required luminance levels are maintained continuously. The RE will stop the work, if there is not sufficient lighting.

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

<i>Item</i>	<i>Pay Unit</i>
FLOODLIGHTS FOR NIGHTTIME OPERATIONS	UNIT

**108.07 TRAFFIC CONTROL**

THE FOLLOWING IS ADDED:

Maintain and protect traffic while performing the work on this project in accordance with the following schedules or as directed by the RE:

**A - Route NJ 21 North and Southbound MP 4.50 – 12.50 (Three lanes each direction)**

**All Lanes Maintained**

Monday to Thursday	6:00 AM to 9:00 PM
Friday	6:00 AM to 9:30 PM
Saturday	7:00 AM to 9:30 PM

**Two Lanes Maintained and One lane closed**

Monday to Thursday	9:00 PM to 6:00 AM (Next day)
Friday	9:30 PM to 7:00 AM (Saturday)
Sunday	1:00 PM to 9:00 PM (Sunday)

**One Lane Maintained and Two lanes closed**

Saturday	9:30 PM to 1:00 PM (Sunday)
Sunday	9:00 PM to 6:00 AM (Monday)

**B - Route I-80 East and Westbound MP 58.00 – 59.00 (Four lanes each direction)**

**All Lanes Maintained**

Monday to Thursday	6:00 AM to 8:00 PM
Friday	6:00 AM to 8:30 PM
Saturday	7:00 AM to 8:00 PM

**Three Lanes Maintained and One lane closed**

Monday to Thursday	8:00 PM to 6:00 AM (Next day)
Friday	8:30 PM to 7:00 AM (Saturday)

**Two Lanes Maintained and Two lanes closed**

Monday to Thursday	9:00 PM to 6:00 AM (Next day)
Friday	9:30 PM to 7:00 AM (Saturday)
Saturday	8:00 PM to 6:00 AM (Monday)

No lane 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:**

<b>If Holiday Falls On</b>	<b>No Lane Closures Permitted</b>
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

Shoulder closure will be allowed at any time.

Do not establish a new permanent traffic pattern earlier than 11:00 PM, Friday and make ready for operations by 6:00 PM, following Sunday.

Ramp closure will conform to the single lane closure schedule listed above.

Detours and detour signing must be provided, by the contractor, for all ramp closures. NJDOT Traffic Signal & Safety Engineering must approve all detours and detour signage.

Acceleration and deceleration lane closure will conform to the single lane closure schedule listed above.

Include CAN-069 in General Notes of TCP's. Get the copy of CAN-069 from the following website: [www.state.nj.us/transportation/eng/notices/CAN](http://www.state.nj.us/transportation/eng/notices/CAN)

Notify the RE, if there is any existing NJDOT fiber optic cable/conduit in any structure prior to start blast cleaning and painting of the structure. The RE has to submit a request for the fiber optic mark-out to Traffic Operations North. The form for this request can be accessed on the following NJDOT website:

<http://highpoint.state.nj.us/transportation/eng/elec/ITS/markout.shtm>. All mark-outs should be scheduled at least 10 days in advance.

Portable Variable Message Sign (PVMS) locations and display messages will be directed and approved by the Resident Engineer, Traffic Signal & Safety Engineering, Regional Traffic Engineer – Work Zone, and the Bureau of Traffic Operations North.

12:00 AM is defined as the first moment of the day. Midnight (mid) is defined as the last moment of the day. Noon is defined as the middle of the day. All lanes must be fully open to traffic for the entire period listed as "All lanes maintained."

Request to close lanes based on the lane closure schedule must be made to the Statewide Traffic Management Center (STMC) in accordance with NJDOT Policy & Procedure Policy No. 108. Contact Statewide Traffic Operations at (609) 530-3971 for the copy of the policy.

**(<http://njdotintranet.dot.state.nj.us/policy/policies/pdf/108.pdf>).**

Submit all request of lane closure for all non-state routes to the appropriate local authorities.

#### **108.07.02 Change to the Traffic Control Plan (TCP)**

THE FOLLOWING IS ADDED:

Submit site-specific traffic control plans for each structure to the RE for approval prior to the start of blast cleaning and painting of the structure. These plans shall include as a minimum, the location and quantities of all required traffic control devices for each stage of construction. The traffic control plans shall be of similar design and detail as the typical traffic control plans that are available from the Department as described in the 102.04. No separate payment will be made for providing these traffic control plans. Included all costs in the various unit prices bid in the Proposal.

Provide written notice to the RE at least twenty-eight calendar days, but not more than sixty days, in advance of the date of establishing a new traffic pattern such as a start of a stage, start of a sub stage, permanent lane closure, and detour. Start of a new traffic pattern will not be permitted prior to the date given in the notice. Provide written notice to the RE fourteen (14) days before the date of new traffic pattern establishment.

In determining hours of operations or lane restrictions, consideration shall be given to the location of the project and calendar of events. Unless there are valid reasons to the contrary, travel lanes shall not be reduced in number or width, nor work is permitted to interfere with traffic, on weekends, holidays (including the pm peak the day before and the AM peak the day after), and days of special events of major traffic generators near the project site during the summer.

Submit a detailed Equipment Storage Plan to the Resident Engineer for approval. The Plan shall be site specific for each stage of operation and shall detail the storage location of all equipment utilized on the project during non-working hours. Do not begin the blast cleaning operations until the Equipment Storage Plan has been reviewed and accepted by the RE. No separate payment shall be made for providing the Equipment Storage Plan. Include all cost for providing this Plan in the prices bid in the Proposal. Additionally, no separate payment shall be made if the Contractor proposes a Plan that requires additional and/or special traffic control devices that are not included as Pay Items in the Proposal. Include all costs prices bid for the various traffic control items scheduled in the proposal.

Safety measures prescribed herein shall be considered minimum requirements and are not necessarily sufficient in every instance to provide adequate protection to the traveling public or the work crews.

Provide an escort vehicle to assist slow-moving vehicles entering or exiting any work area adjacent to a live lane. The escort vehicle must be equipped with a rotating warning light in operation and be approved by the RE. The police shall not be used as an escort.

Unless noted in these Special Provisions or specifically approved by Traffic Operations, shoulder closings shall only be permitted during the hours when lane closings are permitted.

All lane closing hours, requirements and restrictions on roadways that are not under jurisdictional authority of The New Jersey Department of Transportation, shall be subject to the specific requirements of that jurisdictional authority. In the event that specific lane closing hours, requirements and restrictions are not included in these Special Provisions, the Contractor shall be responsible for obtaining these from each jurisdictional authority prior to bid. No specific payment will be made for any additional lane closing hours, requirements and restrictions dictated by other jurisdictional authorities. Include all costs in the unit prices bid in the proposal.

**NOTE:**

**See Section 159 – TRAFFIC CONTROL for more requirements.**

**108.08 LANE OCCUPANCY CHARGES**

THE SECOND SENTENCE IN THE SECOND PARAGRAPH IS CHANGED TO:

The Department will calculate the lane occupancy charge by multiplying the length of time of the delayed opening, in minutes, by the rate of **\$100.00** per minute per lane.

THE FOLLOWING IS ADDED TO THE SECOND PARAGRAPH:

For every 60 minutes of lane closures recorded beyond the lane closure limits, one additional day will be deducted from the Substantial Completion date or days. The Substantial Completion date or days will be re-established. The Contractor will be notified of such action, and the Contractor shall not make any claim against the Department as a result of such action. The RE also reserves the right to suspend all Work until the next allowable lane closure time period, where the Contractor exceeds the lane closure limits. Before deduction of any charge from a monthly estimate for occupancy of a lane beyond the allowable lane closure hours, the Department will provide the Contractor with a statement of the charges to be collected and the supporting calculations.

**108.10 CONTRACT TIME**

THE FOLLOWING IS ADDED:

Complete the Work substantially in **THREE HUNDRED TEN (310)** working days.

Complete the entire Work in **THREE HUNDRED FORTY (340)** working days.

**108.19 COMPLETION AND ACCEPTANCE**

THE FOLLOWING IS ADDED:

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

**108.20 LIQUIDATED DAMAGES:**

THE FOLLOWING IS ADDED:

Pay **\$2,000.00** for each Working Day, if the Work is not substantially completed in **THREE HUNDRED TEN (310)** Working Days.

Pay **\$2,000.00** for each Working Day, if the entire Work is not completed **THREE HUNDRED FORTY (340)** Working Days.

**108.21 WARRANTIES:**

THE FOLLOWING IS ADDED:

Issue a warranty for defects, failing of the paint (peeling of the paint, appearance of the rust thru the paint) in material and workmanship for a period of **two years** starting on the date of acceptance. Cover both material and labor by this period. Execute the warranty in writing to the Manager of Maintenance Engineering & Operations.

## DIVISION 150 – CONTRACT REQUIREMENTS

### SECTION 153 – PROGRESS SCHEDULE

#### 153.01 DESCRIPTION

THE FOLLOWING IS ADDED:

The progress schedule for this project is Bar Chart as described in 153.03.03 of the Standard Specifications.

#### 153.02 MATERIALS

(Intentionally left Blank)

#### 153.03.03 Bar Chart Progress Schedule and Updates

##### A Schedule:

THE FOLLOWING IS ADDED:

The Resident Engineer and/or Project Manager reserve the right to dictate the order of completion of the blast cleaning and painting of the structures on this Contract. This option may be exercised for any reason and at any stage of completion of the Work. In the event that this option is exercised, the Contractor shall provide a new progress schedule indicating these changes. No additional payment will be made in the event that the Department dictates the order of the blast cleaning and painting of the structures on this project. Furthermore, by acceptance of this Contract, the Contractor waives all rights of claim for any additional monetary compensation for the changing of the order of the work.

### SECTION 155 – CONSTRUCTION FIELD OFFICE

#### 155.03.01 Field Office

##### 1. Office Size Requirements.

THE FOLLOWING IS ADDED:

Provide a field office Type-C for this project.

##### 4. Communication Equipment.

###### a. Telephone.

THE FOLLOWING IS ADDED:

Provide **one** multi-line touch-tone telephone and **two** telephone lines for use with the telephones and the computer modem, **one** dedicated, operational telephone line for Fax machine, High Speed Internet Cable Service for desktop computers, Wireless Internet Service for laptop computer and PC Modem Card that will allow internet access outside of field office. The RE will approve the above items and direct the installation in the Field Office

No specific payment will be made for the installation and monthly cost of the internet services. Include all costs in the pay item "FIELD OFFICE TYPE-C SET UP".

###### c. Cell Phones.

THE FOLLOWING IS ADDED:

Provide **three (03)** portable handheld cellular phones for the exclusive use of the Resident Engineer. The cellular telephone service plan shall provide for a minimum of 1500 minutes per month of talk time during



peak hours, with no roaming charges within the State. All cellular phones shall have the following features at a minimum:

Signal Strength Indicator, Individual Call Length Timer, Full Lock Function, Low Battery Warning, 3 Hours Continuous Use, 7 Day Standby Mode, Lithium Ion Battery, Data Transmission Capabilities, Audible and/or Vibrating Alert, Voice Recognition technology, Speaker phone, Memory storage for 300 numbers, Full graphic display of 9 text input line, Enhanced for web browsing and data services, Mobile camera, and Tri mode operation (800 MHz AMPS/CDMA, 1900 MHz PCS)

Accessories and supplies for each phone:

Spare Battery Pack, Home Charging Station, Cigarette Lighter Power Adapter /Charger, and Hands-Free Headset

Payment for the cellular telephone service and accessories will be made under "TELEPHONE SERVICE" No separate payment will be made for the activation fee, the termination fee, the equipment, and the extended warranty

**d. Computer System.**

THE FOLLOWING IS ADDED:

Provide the following:

1. **Two (02)** desktop computer systems having at the minimum:

Processor - Intel™ Core®2 Duo up to E8400 (3.00GHz/1333MHz/6MB L2/600W)

Operating System – Genuine Windows XP Professional SP3/or latest version of Windows if required by RE.

Monitor - 32 inch Widescreen, Flat Panel

Memory - 8GB, 800MHz, DDR2 SDRAM Memory, ECC (4 DIMMS)

Primary Hard Drive -250 GB Serial ATA Hard Drive

Optical Driver, Single Drive – 16X DVD+/- RW Drive

Video Card– nVidia Quadro FX1700, 512MB PCIe x16

Ports– 6 USB, Serial port, Mic in and headphones/Speaker

Keyboard– USB Keyboard

Mouse– Scroll Mouse or USB Wireless Mouse or Built-in Bluetooth Technology Mouse

Modem– 56K, V.92 internal modem

Zip Drive– 250 MB minimum internal or external Iomega Zip Drive

Router – Wireless Router or Hub to create a Network

2. **One (01)** laptop computer system having at the minimum:

Processor - Intel™ Core®2 Duo up to T9600 (2.80GHz, 6M L2 Cache, 1067MHZ)

Operating System - Genuine Windows 7 Professional

LCD Display - up to 17.0 inch wide Anti-Glare

Graphics - nVIDIA Quadro FX 2800M, 1GB Discrete

Sound - Built-in Speakers and webcam.

Memory - up to 6.0GB, DDR3-1066MHz SDRAM, 2 DIMMS

Primary Hard Drive -500 GB Serial ATA Hard Drive

Ports– 3 USB 2.0, HDMI/DVI/VGA monitor, AC power,

Mobile Broadband Internet - Built-in Verizon mobile broadband or External Wireless PC Modem Card Compatible with Operating System (Along with Unlimited Data Plan)

Mouse - USB Wireless Mouse or Built-in Bluetooth Technology with a Bluetooth Travel Mouse  
Power – AC power Charger, Additional Back-up Battery (Compatible with Laptop) and AC power converter (Universal Car Adapter for vehicle usage)

3. Software packages for the computers including the following at a minimum:

Microsoft Windows 7 Professional, Anti-virus software, latest version with monthly updates (e.g., Norton's anti-virus, etc.), Microsoft Office Professional, latest version, compatible with the operating system, noted above, to include MS Word, Excel, Power Point and Access at the minimum.

6. **Office Equipment.** Provide the following:  
THE ENTIRE SUBPART CHANGES TO:

- (a). **One (01)** black and white laser printer, complete with software, compatible with the operating system, noted above, and having at a minimum **64** Megabyte expanded memory, 10 pages per minute printing capacity appropriate printer cable, and legal size tray.
- (b). **One (01)** color inkjet printer (All-in-One), complete with software, compatible with the operating system, noted above, and having at a minimum **11** pages per minute printing capacity, up to **4800 x 1200 dpi**, direct photo printing capabilities from memory cards and six ink color cartridge.
- (c). **One (1)** digital camera complete with software, compatible with the operating system and inkjet printer noted above in item (b) and having a 8.1 mega pixel resolution and 3X optical zoom at a minimum.
- (d). **Two (02)** computer workstations, printer stands and/or tables having both appropriate surface and chair height, that shall be approved by the Resident Engineer, including the following:

(UPS) - OMNI 1000 or approved equal (e.g., APC-1000 - American Power Corporation)  
Surge protector for the entire computer work station to be used in conjunction with the UPS (e.g., Zero Surge Power, Inc. - Point of Use - 2R-15 amp/120 volts)  
Static mat, floor type, 4 X 5 feet or larger with grounding capabilities  
Computer workstation, printer stand, and/or table having both appropriate surface and chair height

All hardware and software shall be acceptable to the RE prior to purchase/installation. All software shall be compatible with the computer's operating system. Bundled software packages with additional programs will be acceptable provided that the minimum program requirements of the RE are met.

- (e). Provide the following additional consumables for the exclusive use of the RE:
  - 50 writeable CD's 700 MB minimum capacity
  - 5 Iomega Zip Drive disks, 250 MB each, minimum
  - 5 USB flash memory drives, 4 GB minimum capacity each.
  - 500 sheets 8 ½" x 11" glossy ink jet photo paper for the printer noted in item (e) above.
  - One ten-ream carton of letter size paper (500 sheets per ream, weight: 20 lbs, color: white, grain: long, for laser printers and copiers) every **two** months for the duration of the construction project.

One ten-ream carton of legal size paper (500 sheets per ream, weight: 20 lbs, color: white, grain: long, for laser printers and copiers) every **three** months for the duration of the construction project.

One additional laser printer replacement cartridge per month, or as required, for the above noted printer in item **(a)**, for the duration of the Contract.

One additional color inkjet replacement cartridge per month, or as required, for the above noted printer in item **(b)**, for the duration of the Contract.

No specific payment will be made for the cost of providing above items. Included all cost in the pay item "FIELD OFFICE TYPE C SETUP".

All equipments are for the exclusive use of the RE. This equipment shall conform to the applicable ASTM designation, when appropriate, be in good working condition and approved by the RE. Repair or replace damaged equipment throughout the duration of the Contract. The equipment will become the property of the Contractor after Final Acceptance.

**7. Inspection Equipment**

THE FOLLOWING IS ADDED:

Provide the following for the inspection:

<b>Equipment</b>	<b>Quantity</b>
1) SSPC Publications Volume 1 and 2 (latest editions)	1 set
2) Positector 6000	1 each
3) Elcometer 456 Top Ferrrous Coating Thickness Gage (elcometer) with calibration certificate and ElcoMaster Data Management Software	1 each
4) Elcometer 224 Top Digital Surface Profile Gauge with Memory, Bluetooth, and Certificate.	1 each
5) Elcometer 319 Top Dewpoint Meter	1each
6) NIST calibration standards	1 set
7) "Dew Check" conditions meter (fully electronic)	1 each
8) Testex "Press-O-Film" test kits (appropriate size)	2 each
9) Digital thermometer, 1% accuracy	2 each
10) Disposal latex gloves (sizes as needed)	400 pairs
11) "Tyvek" suits (sizes as needed)	150 each
12) Portable flashlight 14,000 candle power	2 each
13) Coating inspection mirrors	2 each
14) SSPC Visual Guide Vis 1	2 each
15) SSPC Visual Guide Vis 2	2 each
16) Respirators (self contained breathing apparatus). The respirators shall be properly fitted for each person designated by the RE complete with appropriate chemical Cartridges as specified by the manufacturer.	As Required

The Contractor shall have available for use by the Project Manager **one (01)** dry film thickness - Tooke Gauge. This will only need to be provided if requested by the Project Manager.

No separate payment will be made for providing the above listed equipment. Included all associated costs the unit prices bid in the proposal for all “NEAR-WHITE BLAST CLEANING AND PAINTING” items”.

Do not begin the mobilizations and construction operations before the above noted items and any other information, required by the contract, have been supplied and the RE has accepted.

**155.03.02 Field Office Maintenance**

THE LAST SENTENCE OF THE FIRST PARAGRAPHS IS DELETED.

**155.04. MEASUREMENT AND PAYMENT**

THE FOLLOWING IS CHANGED TO:

*Item*

FIELD OFFICE TYPE C SET UP

*Pay Unit*

LUMP SUM

**SECTION 156 – MATERIALS FIELD LABORATORY AND CURING FACILITY**

Material field laboratory and curing facilities are not required for this project.

**SECTION 159 – TRAFFIC CONTROL**

**159.03.02 Traffic Control Devices**

**2. Construction Barrier Curb**

THE FOLLOWING IS ADDED:

Construction Barrier and temporary crash cushions, inertial barrier system will not be measured. If the Contractor elects to use construction barriers, no separate payment will be made. Include all costs associated with the placement, movement and removal of any concrete barrier in the unit prices of the items in the bid proposal.

**159.03.08 Traffic Direction**

**A. Flagger.**

THE FOLLOWING IS ADDED:

There is no separate payment for the flagger. Include all costs in the unit prices bid in the proposal.

THE LAST SENTENCE IS CHANGED TO:

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

**B. Police.**

THE FIRST PARAGRAPH IS CHANGED TO:

The use of the state police is not allowed on this project, except for the well-defined, specific instances when they are absolutely necessary. The RE will determine the need of THE state police services.

It is the Contractor's responsibility to determine the need or requirement for "Municipal Police"; if the municipal police are used, the Contractor must adhere to their policy and procedures. There is no payment for use of the municipal police, if needed or required, in this contract.

## **SECTION 160 – PRICE ADJUSTMENTS**

### **160.03.01 Fuel Price Adjustment**

There is no fuel price adjustment in this project.

## **SECTION 161 – FINAL CLEANUP**

### **161.04 MEASUREMENT AND PAYMENT**

THE ENTIRE TEXT CHANGED TO:

Final cleanup will not be measured. Include all associated costs to the pay item "NEAR-WHITE BLAST CLEANING AND PAINTING".

## **SECTION 504 – STRUCTURAL CONCRETE**

### **504.03.03 Epoxy Waterproofing**

THE FOLLOWING IS ADDED:

Prior to the application of the Epoxy Waterproofing on the concrete pier caps, pier seats, and on the abutment perform the followings:

- Repair concrete surface spalls.
- Seal concrete cracks with pressure injection.
- Clean concrete surfaces.

No separate payment will be made for the above work; include the cost of Epoxy Waterproofing and all the associated work under the pay items ""NEAR-WHITE BLAST CLEANING AND PAINTING".

### **504.04 MEASUREMENT AND PAYMENT**

THE ENTIRE TEXT CHANGED TO:

Epoxy Waterproofing will not be measured. Payment will be made under the pay items ""NEAR-WHITE BLAST CLEANING AND PAINTING".

## **SECTION 506 – STRUCTURAL STEEL**

### **506.03.02 Bearings**

**C. Installing Bearings.**

**2. Bridge Seat Bearing Area.**

THE FOLLOWING IS ADDED:

Caulk the entire perimeter of the surface between all masonry plates and concrete piers and abutments to the satisfaction of the RE. The material shall conform to the Subsection 506.02 of the Standard Specifications. No separate payment will be made for the caulking of masonry plates. Include all costs under the pay items ““NEAR-WHITE BLAST CLEANING AND PAINTING””.

## **DIVISION 550 – STRUCTURE REHABILITATION**

### **SECTION 554 – PAINTING EXISTING BRIDGES**

#### **554.01 DESCRIPTION.**

THE ENTIRE SUBSECTION IS CHANGED TO:

This work consists of the near-white blast cleaning, as described in the SSPC Standard SSPC-SP10 (Near-White Metal Blast Cleaning), and painting of all surfaces of existing structural steel and surfaces of other metals with the **“Organic zinc coating system”**.

The existing structural steel and surfaces shall include steel girders, beam and metal plate flooring, metal protection for piers and abutments, metal railings on bridge spans, wing-walls, and along the bridge approaches, and metal work exposed on the bridge deck and sidewalks, stairs and cat walks, and other miscellaneous appurtenance, defined by RE.

All components/materials that are not scheduled for blast cleaning and painting shall be adequately protected or removed and reinstalled during those operations. All blast damage to or paint overspray on these components/materials is to be repaired or removed to the satisfaction of the RE at the Contractor’s expense.

All kind of debris and other products accumulated on the steel surfaces or pier caps shall be removed prior to blast cleaning and painting. No specific payment will be provided for the removing of debris and other products from the steel surfaces and pier caps. All costs shall be deemed included in the unit prices bid in the Proposal.

Prior to the submission of the bid, examine the condition of the existing steel structures and metals, concrete pier caps surfaces. The submission of a bid is conclusive evidence that the bidder has made such an examination, is fully aware of the conditions and the quantities to be encountered in performing the work as described in the requirements of the contract documents.

The Contractor and his representative are expected to be familiar with all contract documents and SSPC standards related to this project.

Contact the Department immediately, as described in subsection 101.04; if any discrepancies between the structure numbers, structure description, and/or milepost location are found.

The following list of structure(s) is a guide to assist the Contractor in the preparation of the proposal. The Department does not intend, nor imply that this information currently reflects the actual conditions that may exist:

No.	Str. No.	M.P.	Description of Structure
1.	0716-150	4.62	Route 21 South Bound over Route 21 North Bound Viaduct
2.	0716-153	4.86	Route 21 over Erie Rail Road
3.	0716-158	5.58	Route 21 South Bound over Route 21 North Bound
4.	0716-160	5.79	Rt. 21 North Bound over Second River
5.	0716-161	5.79	Rt. 21 South Bound over Second River
6.	0717-150	6.30	Route 21 over Route 7 (Rutgers Street & Main Street)
7.	0717-152	7.16	Ramp "L" over Route 21
8.	0717-156	8.13	Route 21 over Park Avenue
9.	1603-156	9.36	Route 21 Ramp "8" over access Road & Delaware RR
10.	1603-171	11.86	State Street Extension over Route 21
11.	1603-172	12.20	Route 21 North Bound over Passaic Street & Weasel Brook
12.	1603-173	12.24	Route 21 over Washington Place
13.	1603-174	12.29	Route 21 over Jefferson Street
14.	1603-175	12.36	Route 21 over Madison Street
15.	1603-176	12.43	Route 21 Ramp "N" over Madison Street
16.	1603-177	12.44	Route 21 over Hope Avenue
17.	1610-172	58.40	Route I-80 EB Ramp "M" & "B" over Main and Marshall Streets
18.	1610-173	58.40	Route I-80 Ramp "A" WB over Main Street

#### 554.02.01 Materials

THE FOLLOWING IS ADDED:

Only three coat, organic zinc rich primer, high built epoxy intermediate coat, and urethane finish coating system (OEU) will be considered for this project. A complete coating system of an organic zinc rich primer, a high build epoxy intermediate coat and a urethane finish coat shall be selected from one of the approved coating systems listed on the following website:

<http://www.state.nj.us/transportation/eng/technology/materials>

In addition to the above, the coating system shall also be listed on the approved NEPCOAT product list. The Department reserves the right to choose any manufacturer's (OEU) coating system from the approved NEPCOAT list.

All products for the complete system, including thinners and solvents, shall be from the same manufacturer and shall be from the Qualified Paint List.

Submit the samples and technical information, as described in Subsection 106.05, for the selected coating system to NJDOT Bureau of Materials.

Submit to the RE the manufacturer's recommended repair procedures to correct damage such as that caused in handling and shipping, deficient or excessive coating thickness, removal of zinc salts and other contaminants that would be detrimental to succeeding coats, and procedures for surface preparation and painting of rust spots.

Provide the services of a paint or a painting technical representative from the paint manufacturer at the beginning of operations and whenever required during operations.

#### 554.03 CONSTRUCTION

##### 554.03.01 Pollution Control System

###### 1. Containment Plan.

THE FOLLOWING IS ADDED:



A “**Class 1A Containment System**”, as specified in the SSPC Guide 6i (con), shall be utilized on this project for all surface preparation for all structural steel, bearings and appurtenances. Visible emissions for this project shall meet or exceed section 5.5.1.1, level 1 Emissions. Compliance with all Federal, State and Local Regulations shall be verified in accordance with section 5.5.4 Method D, Ambient Air Monitoring for Toxic Metals.

For all work over the traveled lanes and adjacent shoulders, only containment system designs that employ either “rapid deployment type containment trailers” or “suspended containment with work platforms” shall be permitted. Simple bridge to grade containment systems shall not be permitted at these locations.

A “suspended containment with work platform” shall only be permitted, if all of the below listed criteria are met:

- a. The platform shall have a minimum live load design of twenty (20) pounds per square foot, excluding all OSHA safety factors.
- b. The work area of the containment shall be solid/rigid and shall not deflect more than one sixtieth (1/60) of the span length when loaded. Unstable objects shall not be used to support scaffolds or platform. Unstable objects shall not be used as working platform.
- c. The minimum clearance shall be greater than sixteen (16) feet after installation and during operation.
- d. The Contractor shall specify and employ continuous vacuuming of all spent blast material, during all blast cleaning operations. This shall be noted in the Containment Plans.
- e. The Contactor shall have an independent qualified individual with PE License to certify in writing that each “suspended work platform” has been constructed in accordance with the Containment Plans accepted by the Department. Minor modifications will be allowed to accommodate site conditions. However, it will be noted that these minor field modifications will not alter the overall operation or requirements of the platform. The credentials of the qualified individual who certifies the construction of the suspended work platform shall be subject to the approval of the Resident Engineer / or Project Manager. No blast cleaning operations shall be permitted until this written certification has been received by the Resident Engineer.

For all other locations over traveled and adjacent shoulders, “rapid deployment type containment trailers” shall be utilized. The Resident Engineer shall be responsible for approving the type and design prior to implementation for use at each specific location.

For all work over water, suspended work platforms can be utilized, provided all of the above listed criteria can be met for suspended work platforms for use over roadways with the exception that the minimum clearance shall be determined on a case-by-case basis, depending on the use of the waterway.

No specific payment shall be made for providing the above noted independent written certifications. All costs shall be deemed included in the various unit prices bid in the Proposal.

**2. Waste Disposal Plan.**

THE FOLLOWING IS ADDED:

The hazardous waste generator identification numbers (EPA ID Number) for this project are listed below:

<u>Structure Numbers</u>	<u>EPA ID Number</u>
0716-150, 153, 158, 160 and 161	NJR000073429
0717-150, 152 and 156	NJR000073429

1603-156 and 171 to 177  
1610-172 and 173

NJR000073429  
NJR000073429

Send the Hazardous Waste Manifests to the following address:

Department of Transportation  
Bureau of Project Support  
951 Parkway Avenue  
P. O. Box 600  
Trenton, NJ 08625

The Contractor is advised that it is the Department's intent to dispose of the waste generated on this project at an approved USEPA lead reclaiming facility. The Department is aware of the following two possible lead reclaiming facilities which believes are currently approved by USEPA:

1. Exide Corporation  
645 Penn Street  
Reading, PA. 19612  
1-800-437-8495  
Contact: Robert F. Jordan
2. Encycle Texas  
5500 Upriver Road  
Corpus Christi, TX 78407  
512-289-0300  
Contact: Rick Gilbert

**The Contractor is specifically warned to verify that the lead reclaiming facility it intends to use is currently approved by USEPA for lead reclaiming.**

Lead reclaiming facilities that are not listed above may be used, **but only if** such facilities are approved by the United States Environmental Protection Agency (USEPA) for lead reclaiming. The Contractor is advised to contact USEPA to determine whether a particular lead reclaiming facility is approved by USEPA. Proof of approval by USEPA of the reclaiming facility shall be submitted to the Engineer prior to any cleaning or blasting.

In the event that the Contractor is unable to legally dispose of the waste at a lead reclaiming facility, an alternate transportation/storage/disposal (TSD) facility may be selected. The alternate TSD shall meet all the requirements of this subsection, with the exception of the lead reclaiming requirements. However, in order to use the alternate TSD, the Contractor shall provide sufficient documentation to the RE indicating that the waste was unable to be disposed of at a lead reclaiming facility.

**1. Lead Health and Safety Plan (LHASP)**

**g. Medical Surveillance Program.**

THE FOLLOWING IS ADDED:

The Resident Engineer shall verify that all blood monitoring is conducted at a New Jersey clinical laboratory approved by OSHA, and has demonstrated proficiency in blood lead analysis. A list of all currently approved laboratories for the State of New Jersey can be obtained from the following web site:

**<http://osha.gov/SLT/bloodlead/state/list.html#states>**

FOLLOWING ARE REFERENCE DOCUMENTS:

- 1) Additional information is also available from the home page of the following website under laws and regulations – standards:

<http://www.osha.gov/>

- 2) This publication is available from the following website address:

<http://www.osha.gov/Publications/osha3142.pdf>

- 3) Additional information is also available from the home page of the following website:

<http://www.state.nj.us/health/eoh/survweb/>

- 4) This publication is available from the following website address:

<http://www.cdc.gov/niosh/91-116.html>

### **554.03.02 Cleaning and Painting**

#### **A. Protection of Environment, Structure, Persons and Property**

THE FOLLOWING IS ADDED:

Projects that involve lead paint abatement shall require that the Contractor's personnel, who supervise and/or perform the lead paint abatement work, be trained in the applicable programs that concern health and safety compliance and environmental regulations regarding lead abatement. The training shall be certified by the Department of Health, in accordance with **N.J.S.A.26:2q.1 et seq. and N.J.A.C. 8:62-1.1 et seq.** Each supervisor and worker shall possess an individual lead permit as issued by the Department of Health. Also, the Contractor's firm shall be certified by the Department of Community Affairs, Division of Codes and Standards, in accordance with **N.J.S.A. 52:27d-427 et seq. And N.J.A.C.5:17-1.1 et seq.** The Contractor shall submit a copy of the Department of Community Affairs certification to the Bureau of Construction Services, Division of Procurement (609.530.2103), prior to the award of this Contract. The Contractor shall maintain the appropriate lead abatement certification throughout the duration of this Contract. The applicable regulating State agencies will monitor projects for compliance with the training and certification requirements through random inspections.

Also, as noted in the subsection 103.01, for this project the Contractor shall be a certified SSPC QP-2 Contractor.

Maintain in good standing all the above licenses and certifications for the duration of this project. Failure to maintain all of the above licenses and certifications for the duration of the project could result in default of the contract. However, the Department reserves the right to take whatever action is deemed appropriate in this situation.

#### **B. Cleaning.**

THE FOLLOWING IS ADDED:

Remove all cross street identification signs and vertical under clearance signs prior to blast cleaning and painting of each structure. These signs are to be replaced at their original location after finish coat is applied. In the event that any threaded installation studs are damaged or cannot be reused, suitable replacements shall be installed. Maintenance Engineering and Support will provide the appropriate repair procedure if required. No specific payment will be provided for the proper replacement of these signs to the satisfaction of the Department. All costs shall be deemed included in the unit prices bid in the Proposal.

All kind of debris and other products accumulated on the steel surfaces shall be removed prior to blast cleaning. No specific payment will be provided for the removing of debris and other products from the steel surfaces. All costs shall be deemed included in the unit prices bid in the Proposal.

**2. Blast Cleaning.**

THE FOLLOWING IS CHANGED AT SECOND PARAGRAPH:

The average anchor profile shall not exceed **four (04)** mils. In the event that the anchor profile exceeds 4.0 mils, the coating thickness for the organic zinc shall exceed the anchor profile by a minimum of **one (01)** mil.

In order to achieve the required anchor profile, as specified in the Standard Specifications 2007, it is recommended to use Grit G-50 for blast cleaning.

**D. Conditions for Painting.**

THE FOLLOWING IS CHANGED AT THIRD PARAGRAPH:

Apply coating as per manufacturer’s recommendations for temperature and drying time. However, do not apply coating when the temperature is below 35 degrees F. Maintain the temperature through the drying time of the paint as per manufacture’s time table. Allow the drying time for recoating as per manufacturer’s time table. Do not apply the subsequent coats if the previous coat is not fully dried. Prior to subsequent coat application, test the previous coat dryness by nail thumb and solvents wipes.

**E. Paint Application.**

**5. Coating Thickness.**

**b. Organic Zinc Coating System**

THE SECOND PARAGRAPH CHANGED TO:

Minimum dry film thickness (DFT) of the paint shall be as the following:

Prime coat .....	4 mils
Intermediate coat.....	5 mils
Finish coat.....	2 mils

THE FOLLOWING IS ADDED:

The zinc prime coat shall be applied immediately after inspection and acceptance of the surface preparation, SSPC-SP10, Near-White Metal Blast Cleaning.

Maximum DFT shall not exceed the maximum DFT recommended by manufacturers; in the event that the DFT of any coat exceed the manufacturer’s recommendations, remove the coating and recoat to the required thickness.

The Dry Film Thickness will be measured by Positector 6000 F3. The Positector shall be calibrated against National Institute of Standards and Technology (NIST) calibration standards. All measurements shall be in accordance with SSPC-PA2.

In the event that the dry film thickness of any coat does not meet all of the above noted requirements, recoat to the required DFT. The recoat times shall be in accordance with the manufacturer’s recommendations. If manufacturers do not recommend recoat time, re-blast and recoat to the required thickness.

**F. Stenciling.**

THE FOLLOWING IS ADDED TO SUBPART “2.”:

2. The phrase "PAINTED ON" plus the month and year of completion.  
For example: "PAINTED ON 08-2009".

**554.04 MEASUREMENT AND PAYMENT**

THIS ENTIRE SUBSECTION IS DELETED AND REPLACED BY THE FOLLOWING:

The below listed items will not be measured. All costs associated for payment of these items shall be included in the pay items "NEAR-WHITE BLAST CLEANING AND PAINTING" in the bid proposal:

POLLUTION CONTROL SYSTEM  
HAND /POWER TOOL CLEANING AND PAINTING  
NEAR- WHITE BLAST CLEANING AND PAINTING

The pay items "NEAR-WHITE BLAST CLEANING AND PAINTING" will not be measured. Payment will be made on a lump sum basis. This item shall include the "NEAR-WHITE BLAST CLEANING AND PAINTING" of all structural steel, lead health and safety plan, containment plan, waste disposal plan, epoxy waterproofing, caulking, and "NEAR-WHITE BLAST CLEANING AND PAINTING" of all bridge appurtenances as described in Subsection 554.01.

<i>Item</i>	<i>Pay Unit</i>
NEAR-WHITE BLAST CLEANING AND PAINTING	LUMP SUM

**DIVISION 900 - MATERIALS**

**SECTION 912 – PAINT COATINGS, TRAFFIC STRIPES, AND TRAFFIC MARKINGS**

**912.01 PAINTS AND STAINS**

**912.01.01 Structural Steel Paint**

THE FOLLOWING IS ADDED:

Provide material as specified in 554.02.01 of this Special Provisions.

The color shall match the existing color of the structures, matching color chips as described in Sub Section 912.01.01 of the Standard Specifications.

The Department reserves the right to change the finish coat color of any structure in this project. No additional payment will be provided in the event that the Department changes the finish coat color. All related costs shall be included under pay item "NEAR-WHITE BLAST CLEANING AND PAINTING".

## **ATTACHMENTS**

## **FHWA ATTACHMENT NO. 1**

### **REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Payment of Predetermined Minimum Wage
- V. Statements and Payrolls
- VI. Record of Materials, Supplies, and Labor
- VII. Subletting or Assigning the Contract
- VIII. Safety: Accident Prevention
- IX. False Statements Concerning Highway Projects
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion
- XII. Certification Regarding Use of Contract Funds for Lobbying

### **ATTACHMENTS**

- A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

#### **I GENERAL**

- 1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
- 2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
- 3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
- 4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
  - Section I, paragraph 2;
  - Section IV, paragraphs 1, 2, 3, 4, and 7;
  - Section V, paragraphs 1 and 2a through 2g.
- 5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the

meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:
  - a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
  - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

## II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
  - a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
  - b. The contractor will accept as his operating policy the following statement:
 

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, preapprenticeship, and/or on-the-job training."
2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
  - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
  - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.



- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
  - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
  - e. The contractor's EEO 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 means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- a. 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 group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.
  - b. 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 EEO contract provisions. (The DOL has held that where implementation 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.)
  - c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.
5. **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 race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to insure 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 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 avenues of appeal.
6. **Training and Promotion:**

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
  - b. Consistent with the contractor's work force requirements and as permissible under Federal and 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. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
  - c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
  - d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.
7. **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 female employees. 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 use 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.
  - b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
  - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent 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 SHA and shall set forth what efforts have been made to obtain such information.
  - d. 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 race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL 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 SHA.
8. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.
- a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
  - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to

utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

- c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
9. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.
- a. The records kept by the contractor shall document the following:
    - 1. The number 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, when applicable, to increase employment opportunities for minorities and women;
    - 3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
    - 4. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.
  - b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number 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 Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

- a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.
- b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).
- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

**1. General:**

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.
- b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

**2. Classification:**

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
  1. the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
  2. the additional classification is utilized in the area by the construction industry;
  3. the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
  4. with respect to helpers, when such a classification prevails in the area in which the work is performed.
- c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards

Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

- d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary
- e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

### **3. Payment of Fringe Benefits:**

- a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.
- b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

### **4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:**

- a. Apprentices:
  - 1. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
  - 2. The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

3. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
  4. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.
- b. Trainees:
1. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.
  2. The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
  3. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.
  4. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- c. Helpers:
- Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**5. Apprentices and Trainees (Programs of the U.S. DOT):**

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such

programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**6. Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**7. Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**8. Violation:**

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

**9. Withholding for Unpaid Wages and Liquidated Damages:**

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

**V. STATEMENTS AND PAYROLLS**

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

**1. Compliance with Copeland Regulations (29 CFR 3):**

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

## 2. Payrolls and Payroll Records:

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.
- b. The payroll records shall contain the name, the social security number of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.
- c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
- d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
  1. that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;
  2. that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;
  3. that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.
- f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.
- g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of



the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

## **VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR**

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:
  - a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
  - b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.
  - c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.
2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

## **VII. SUBLETTING OR ASSIGNING THE CONTRACT**

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).
  - a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.
  - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

#### **VIII. SAFETY: ACCIDENT PREVENTION**

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

#### **IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

#### **NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS**

18 U.S.C. 1020 reads as follows:

*"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*

*Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

**X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

**XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

**1. Instructions for Certification - Primary Covered Transactions:**

(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--  
Primary Covered Transactions**

- 1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
  - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**2. Instructions for Certification - Lower Tier Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transactions:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

## **XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
  - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **ATTACHMENT A - EMPLOYMENT PREFERENCE FOR APPALACHIAN CONTRACTS**

### **(APPLICABLE TO APPALACHIAN CONTRACTS ONLY.)**

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
  - a. To the extent that qualified persons regularly residing in the area are not available.
  - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
  - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.
3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
4. If, within 1 week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.
5. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## **FHWA ATTACHMENT NO. 1**

### **REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS (FORM FHWA-1273).**

#### **V. STATEMENTS AND PAYROLLS**

##### **2. Payrolls and Payroll Records:**

THE FOLLOWING SUBPART IS CHANGED TO:

- b. The payroll records shall contain the name, the last four digits of the social security number of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs. Contractors or subcontractors shall maintain complete social security numbers and home addresses 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.



## FHWA ATTACHMENT NO. 2

### STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these Specifications:
  - a. Covered area means the geographical area in which the Project is located.
  - b. Director means Director, Office of Federal Contract Compliance Programs, United States Department of Labor or any person to whom the Director delegates authority.
  - c. Employer identification number means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, US Treasury Department Form 941.
  - d. Minority includes:
    - (1) Black (a person having origins in any of the black African racial groups not of Hispanic origin);
    - (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);
    - (3) Asian and Pacific Islander (a person having originals in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (4) American Indian or Alaskan Native (a person having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participating or community identification).
2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. The Contractor shall implement the specific affirmative action standards provided in paragraphs 6a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
4. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these Specifications, Executive Order 111246, or the regulations promulgated pursuant thereto.
5. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the US Department of Labor.
6. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to

achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foreman, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment with specific attention to minority or female individual working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred back to the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the source compiles under 6b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news median, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of

- applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and females and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Contractor and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
7. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (6a through p). The efforts of a Contractor association, joint contractor union, Contractor-Community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 6A through p of these Specifications provided that the Contractor actively participates in the group, make every effort to assure that the group has a positive impact on the employment of minorities and females in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, make a good faith effort to meet its individual goals and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
  8. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women both minority and nonminority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
  9. The Contractor shall not use the goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
  10. The Contractor shall not enter any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
  11. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspensions, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any

Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246 as amended.

12. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 6 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
13. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (such as mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
14. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (such as those under the Public Works Employment Act of 1977 and the community Development Block Grant Program).
15. 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.

### **FHWA ATTACHMENT NO. 3**

#### **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The goals for minority and female participation, in the covered area, expressed in percentage terms for the Contractor's aggregate work force in each trade, on all construction work are as shown on Page 2.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4. (3) a, and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

2. The Contractor will provide the Department with written notification in triplicate within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification will list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
3. As used in this Notice and in the Contract resulting from this solicitation the covered area is the county or counties in which the Project is located.
4. If a project is located in more than one county, the minority work hours goal, only, will be determined by the county which serves as the primary source of hiring or, if workers are obtained almost equally from one or more counties, the single minority goal will be the average of the affected county goals.

**WORK HOUR GOALS IN EACH TRADE FOR MINORITY AND FEMALE PARTICIPATION**

<b>COUNTY</b>	<b>MINORITY PARTICIPATION PERCENT</b>	<b>FEMALE PARTICIPATION PERCENT</b>
Atlantic	18.2	6.9
Bergen	15	6.9
Burlington	17.3	6.9
Camden	17.3	6.9
Cape May	14.5	6.9
Cumberland	16	6.9
Essex	17.3	6.9
Gloucester	17.3	6.9
Hudson	12.8	6.9
Hunterdon	17	6.9
Mercer	16.4	6.9
Middlesex	15	6.9
Monmouth	9.5	6.9
Morris	17.3	6.9
Ocean	17	6.9
Passaic	12.9	6.9
Salem	12.3	6.9
Somerset	17.3	6.9
Sussex	17	6.9
Union	17.3	6.9
Warren	1.6	6.9

## **FHWA ATTACHMENT NO. 4**

### **STATE OF NEW JERSEY EQUAL EMPLOYMENT OPPORTUNITY FOR CONTRACTS FUNDED BY FHWA**

The parties to this Agreement do hereby agree that the provisions of NJSA 10:2-1 through 10:2-4 and NJSA 10:5-31 et seq (PL 1975, c 127, 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 them.

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

- a. The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Division of Civil Rights/Affirmative Action setting forth provisions of this nondiscrimination clause;
- b. The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex;
- c. The Contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Division of Civil Rights/Affirmative Action, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The notices referred to in paragraphs a and c may be obtained from the Supervising Engineer of Construction or his representative at the preconstruction conference.

## **FHWA ATTACHMENT NO. 5**

### **DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION ATTACHMENT FHWA FUNDED CONTRACTS**

#### **I UTILIZATION OF DISADVANTAGED BUSINESSES AS CONTRACTORS, MATERIAL SUPPLIERS AND EQUIPMENT LESSORS.**

The New Jersey Department of Transportation (NJDOT) 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 the notification of the applicable federal agency, may result in termination of the agreement or contract by the Department or such remedy as the Department deems appropriate. Requirements set forth in this section shall also be physically included in all subcontracts in accordance with USDOT requirements.

#### **II POLICY**

It is the policy of NJDOT that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26; Titles I & V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA); the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21); and Section V, Part B below, shall have equal opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR, Part 26, Subsections A, C and F apply to this agreement.

#### **III CONTRACTOR'S DBE OBLIGATION**

The NJDOT and its Contractor agree that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, Subpart A; and in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), and Section V, Part B below, have equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, the NJDOT and all Contractors shall take all necessary and reasonable steps in accordance with 49 CFR, Part 26 to ensure that Disadvantaged Businesses are given equal opportunity to compete for and to perform on NJDOT federally funded contracts. The NJDOT and its Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of USDOT assisted contracts.

#### **IV COMPLIANCE**

To signify and affirm compliance with the provisions of this attachment, the bidder shall complete the Schedule of DBE Participation (Form A) included in the bid package 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 GOALS FOR THIS PROJECT**

- A. This Project includes a goal of awarding fourteen percent (14%) of the total contract value to subcontractors, equipment lessors and/or material suppliers that qualify as Disadvantaged Business Enterprises (DBEs).
  1. Failure to meet the minimum goal placed on this project, or to provide a "good faith effort" to meet the minimum goal, may be grounds for rejection of the bid as being non-responsive.
  2. As a source of information only, a Disadvantaged Business Enterprise Directory is available from the Division of Civil Rights and Affirmative Action. Use of this listing does not relieve the Contractor of their responsibility to seek out other DBE's not listed, prior to bid. If a contractor proposes to use a DBE contractor not listed in the DBE Directory, the proposed



DBE firm must submit a completed certification application to the Division of Civil Rights and Affirmative Action, fifteen (15) days prior to bid date.

## B. DEFINITIONS

1. Disadvantaged Business Enterprise is a firm, "Owned and controlled" by socially and economically disadvantaged individuals that is also a small business concern, as defined pursuant to Section 3 of the Small Business Act and Small Business Administration Regulations (13 CFR, Part 121) which also does not exceed the revenue cap on averaged annual gross receipts applicable to the firm's particular Standard Industrial Classification (SIC Code).
2. Owned and Controlled is defined as a firm which is at least fifty-one (51%) percent owned by one or more disadvantaged individuals, or in the case of a publicly owned business, at least fifty-one (51%) percent of the stock is owned by one or more disadvantaged individuals, and whose management and daily business operations are controlled by one or more such individuals.
3. Any individual in one of the following groups who is also a U.S. Citizen or lawfully admitted permanent resident presumed to be socially and economically disadvantaged under the DBE Program.
  - (a) Black Americans – includes any persons having origins in any of the black racial groups of Africa;
  - (b) Hispanic Americans - includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture; or origin, regardless of race;
  - (c) Native American - includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
  - (d) Asian-Pacific Americans - includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau) the Commonwealth of the Northern Mariana Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;
  - (e) Subcontinent Asian Americans - includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - (f) Women - regardless of race;
  - (g) Other - Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration, at such time as the SBA designation becomes effective; or a determination made by the NJDOT's Division of Civil Rights and Affirmative Action, on a case-by-case basis;

## VI COUNTING DBE PARTICIPATION

- A. Each DBE is subject to a certification procedure to ensure its DBE eligibility status prior to award of contract. In order to facilitate this process it is advisable for the bidder to furnish the names of proposed DBE's to the Department fifteen (15) days before bid opening. Once a firm is determined to be a bona fide DBE by the Division of Civil Rights and Affirmative Action, the total dollar value of the contract awarded to the DBE is counted toward the applicable DBE goal.
- B. The Contractor may count toward its DBE goal only expenditures to DBE's that perform a commercially useful function in the work of a contract. A DBE 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 DBE is performing a commercially useful function, the Contractor shall evaluate the amount of work subcontracted, industry practice and other relevant factors.

- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce, or the DBE 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 the prime Contractor is a certified DBE, payments made to the Contractor for work performed by the Contractor will be applied toward the DBE goal. Payments made to the Contractor for work performed by non-DBE's will not be applied toward the goal.
- E. The prime Contractor may count 60 percent of its expenditures to DBE suppliers who are not Manufacturers, provided that the DBE supplier performs a commercially useful function in the supply process. The contractor may count 100% of its expenditure to DBE suppliers who are also manufacturers. Manufacturers receive 100% credit toward the DBE goal.
- F. When a DBE subcontractor sublets part of the work of its contract to another firm, the value of the subcontract work may be counted towards the DBE goals only if the subcontractor itself is a DBE. Work that a DBE subcontractor subcontracts to a non-DBE firm, does not count toward DBE goals.

## **VII GOOD FAITH EFFORT**

To demonstrate sufficient reasonable efforts to meet the DBE contract goals, a bidder shall document the steps it has taken to obtain DBE participation, including but not limited to the following:

- A. Attendance at a pre-bid meeting, if any, scheduled by the Department to inform DBE's of subcontracting opportunities under a given solicitation.
- B. Advertisement in general circulation media, trade association publications, as well as minority-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 DBE's that their interest in the contract is solicited;
- D. Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goal;
- E. Efforts made to negotiate with DBE's for specific sub-bids including at a minimum:
  1. The names, addresses and telephone numbers of DBE's that were contacted;
  2. A description of the information provided to DBE's regarding the plans and Specifications for portions of the work to be performed; and
  3. A statement of why additional agreements with DBE's were not reached;
- F. Information regarding each DBE the bidder contacted and rejected as unqualified and the reasons for the bidder's conclusion;
- G. Efforts made to assist the DBE in obtaining bonding or insurance required by the Bidder or the Department.

NOTE: If the Division of Civil Rights and Affirmative Action determines that the apparent successful low bidder has failed to meet the requirements of this section, the bidder will be afforded the opportunity for administrative consideration prior to the award or rejection of the contract. As part of the administrative reconsideration process, 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 goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the USDOT.

## **VIII AFFIRMATIVE ACTION PLANS**

- A. General contractors are required to submit their firm's Affirmative Action Program annually to the Division of Civil Rights and Affirmative Action. Until such time as these programs are

submitted and approved, Contractors must have their programs in the Division of Civil Rights and Affirmative Action no later than seven (7) State business days after the date of receipt of bids.

- B. This program will include, but is not limited to the following:
1. The name of the Contractor's D/ESBE Liaison Officer to administer the firm's Disadvantaged Business Program.
  2. An explanation of the affirmative action methods used in seeking out and considering Disadvantaged Business Enterprises as subcontractors, material suppliers or equipment lessors.
  3. An explanation of affirmative action methods intended to be used in seeking out and considering Disadvantaged Business Enterprises as subcontractors, material suppliers or equipment lessors. This refers to the Contractor's ongoing responsibility, i.e., Disadvantaged Business Enterprise/Affirmative Action activities 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 and Affirmative Action no later than seven (7) State business days after the date of receipt of bids.
1. DBE Form "A" - Schedule of DBE Participation. List all DBE's participating in the contract listing the scope of work, dollar value and percent of total contract to be performed.
  2. Supplement to DBE Form "A" - A list of all subcontractors who submitted bids or quotes on this project.
  3. DBE Form B - Affidavit of Disadvantaged Business Enterprise. Each proposed DBE not listed in the NJDOT DBE directory must submit Form B attesting to its validity as a DBE. (All firms must be certified by the Department's D/ESBE Liaison Officer prior to award of the contract).
  4. Request for Exemption - In the event that the bidder fails to meet the specified goal, they must submit within seven State business days of the bid, a written request for exemption to the goal. This request must include a written statement addressing Items A through G in Article VII of this attachment in addition to an accounting of the reason(s) why each items in the bid proposal was not subcontracted. Submittal of such request does not imply Departmental approval. An assessment of the material will be conducted by the Department's Division of Civil Rights and Affirmative Action.

## **IX AFFIRMATIVE ACTION 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:

1. To notify the Resident Engineer, in writing, of the type and approximate value of the work which the Contractor intends to accomplish by such subcontract, purchase order or lease.
2. To signify and affirm compliance with the provisions of this Section, the Contractor shall submit the Post-Award DBE Certification Form to the Regional Supervising Engineer with his application to sublet or prior to purchasing material or leasing equipment. Post Award DBE forms may be obtained from the Resident Engineer.
3. To give disadvantaged firms equal consideration with non-minority firms in negotiation for any subcontracts, purchase orders or leases.
4. If a prime contractor fails to meet its original DBE obligation, they must request an exemption to the goal following criteria in Section VIII (C)(4) and provide a good faith effort thereof. This request must include a written statement addressing each of the Good Faith Efforts outlined in Section VII, A-G.

## **X CONSENT BY DEPARTMENT TO SUBLETTING**

The Department will not approve any subcontract proposed by the Contractor unless and until said Contractor has complied with the terms of this attachment.

## **XI SELECTION AND RETENTION OF SUBCONTRACTORS**

- A. The Contractor is further obligated to provide the Resident Engineer with a listing of firms, organizations or enterprises solicited and those utilized as subcontractors on the proposed project. Such listing shall clearly delineate which firms are classified as disadvantaged.
- B. Efforts made to identify and retain a Disadvantaged Business Enterprise as a substitution subcontractor when the arrangements with the original DBE proved unsuccessful, shall be submitted in writing to the Department's D/ESBE Liaison Officer for approval. Work in the category concerned shall not begin until such approval is granted in writing.
- C. Notification of a subcontractor's termination will be sent to the Department by the Contractor through the Resident Engineer. Said termination notice will include the subcontractor's ethnic classification and reason for termination.

## **XII CONCILIATION**

In cases of alleged discrimination regarding these DBE provisions and guidelines, an investigation will be undertaken by the Federal Office of Contract Compliance in conjunction with the Division of Civil Rights and Affirmative Action of the New Jersey Department of Transportation and the Federal Highway Administration.

## **XIII DOCUMENTATION**

- A. The Department or the federal funding agencies may at any time require such information as is deemed necessary in the judgment of the Department to ascertain the compliance of any bidder or contractor with the terms of these provisions.
- B. Record and Reports.

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

1. The names of disadvantaged 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 the work of the prime contractor on the project.
  3. The actual dollar value of work subcontracted and awarded to DBE's.
  4. The progress being made and efforts taken in seeking out and utilizing Disadvantaged Business Enterprises. 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 Disadvantaged Business Enterprises on this project.
  6. Records of all DBE's and non-DBEs who have submitted quotes/bids to the Contractor on the project.
- C. Submit reports, as required by the Department, on those contracts and other business transactions executed with Disadvantaged Business Enterprises in such form and manner as may be prescribed by the Department.
  - D. 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 NON-COMPLIANCE**

Failure by the bidder to comply with the Specifications may result in rejection of the bid. The Contractor may further be declared ineligible for future Department contracts.

## FHWA ATTACHMENT NO. 5 (A)

### INCENTIVE PROGRAM DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION ATTACHMENT FOR FHWA FUNDED CONTRACTS

#### I PURPOSE.

To ensure that certified Disadvantaged Business Enterprises (DBE's), as defined in 49 CFR Part 26, have the maximum opportunity to compete for and perform on Department construction projects.

#### II INTENT.

To encourage prime contractors to utilize the services of DBE's who have not previously been prime contractors or subcontractors on Department projects, and afford DBE's the opportunity to again experience in Department construction contract work.

#### III ELIGIBILITY.

Only prime contractors and DBE's certified prior to the date of bid, or prospective DBE's that have submitted to the Division of Civil Rights/Affirmative Action on or before the day of bid a completed "New Jersey Department of Transportation Disadvantaged Business Enterprise Disclosure Affidavit" (PR-131) and all required documentation and have never been either prime contractor or subcontractor on Department construction projects will be eligible for participation in this program. A list of those eligible DBE's will be available from the Division of Civil Rights/Affirmative Action. Any bidder who submits the name of a certified first-time DBE as part of its goal commitment is also eligible. Any DBE participating in the program must submit to the prime contractor a certification that they have never been either a prime contractor or subcontractor on a Department construction project under their present name or any other name. The prime contractor shall submit this certification with their required DBE submission.

#### IV INCENTIVE.

Prime contractors utilizing first-time DBE's will be given a credit toward their goal percentage identified in companion document "*Disadvantaged Business Enterprise Utilization Attachment For FHWA Funded Contracts*", dated September 1987, revised January 1989, September 1992 and May 1995, equal to the actual dollar amount subcontracted to a first time DBE with the total project credit limited to two percent (2%) of the total bid price but not to exceed \$200,000. This extra credit will reduce the goal percentage award as well as be applicable to the reduced goal percentage.

#### V PROGRAM REQUIREMENTS.

- A. A prime contractor may present any number of first time DBE's for each project. Credit will be given only for the actual amount subcontracted up to the limits established in IV above.
- B. The prime contractor shall be responsible for the entire DBE goal percentage established for the project.
- C. Failure to use a first time DBE shall cause the original goal award percentage prior to applying first time DBE credits to remain in effect.
- D. Failure to meet the goal award percentage, coupled with a lack of good faith effort as determined by the Division of Civil Rights/Affirmative Action, will be considered to be non-compliance on the part of the prime contractor who may be placed in show cause and subsequently be grounds for rejection of the bid as nonresponsive.

## FHWA ATTACHMENT NO.6

### EQUAL EMPLOYMENT OPPORTUNITY SPECIAL PROVISIONS

#### 1. General

- a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form FHWA-1273) and these Special Provisions which are imposed pursuant to Section 140 of Title 23 USC, as established by Section 22 of the Federal Aid Highway Act of 1968. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the Equal Employment Opportunity requirements set forth in the Required Contract Provisions.
- b. The Contractor will work with the State agencies and the Federal Government in carrying out Equal Employment Opportunity obligations and in their review of activities under the contract.
- c. The Contractor and all subcontractors holding subcontracts, not including material suppliers, of \$10,000 or more, will comply with the following minimum specific requirement activities of Equal Employment Opportunity. The Contractor will include these requirements in every subcontract of \$10,000 or more with such modification of language as is necessary to make them binding on the subcontractor. (The equal employment opportunity requirements of Executive Order 11246, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material suppliers as well as contractors and subcontractors).
- d. 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.

#### 2. Equal Employment Opportunity Policy

The Contractor will accept as its operating policy the following statement which is designed to further the provisions of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include 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, preapprenticeship, and on-the-job training.

#### 3. Equal Employment Opportunity Officer

The Contractor will designate and make known to the Department contracting officers an equal opportunity officer (hereinafter referred to as the EEO Officer) who will have the capability, authority and responsibility to effectively implement and promote an active contractor program of equal employment opportunity.

#### 4. Dissemination of Policy

- a. All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommended such action, or who are substantially involved in 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 compliance, the following minimum actions will be taken:

- (1) An initial project site meeting with key supervisory and office personnel will be conducted before or at the start of work, and then not less than once every 6 months, at which time the Contractor's equal employment opportunity program will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.
  - (2) All new supervisory and office personnel 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 engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official concerning the Contractor's procedures for locating and hiring minority and female employees.
- 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 the Contractor's equal employment opportunity policy will be placed in areas 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, and/or other appropriate means.

## 5. Recruitment

- a. When advertising for employees, the Contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer". All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force 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 female applicants, including, but not limited to, State employment agencies, schools, colleges and minority-oriented organizations. To meet this requirement, the Contractor will, through his EEO Officer, identify sources of potential minority and female employees, and establish procedures with such sources whereby applicants may be referred to the Contractor for employment consideration.

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 the equal employment opportunity contract provisions. (The US Department of Labor has held that where implementation of such agreements has the effect of discriminating against minorities or females, or obligates the Contractor to do the same, such implementation violates Executive Order 11246, as amended).

- c. The Contractor will encourage his present employees to refer minority and female applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures pertaining to the referral of applicants will be discussed with employees.

## 6. 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 race, color, religion, sex, or national origin. The following procedures shall be followed:

- a. The Contractor will conduct a project site inspection at the start of work, and periodically thereafter, 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 its obligations under this contract, and will resolve or attempt to resolve such complaints, within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform complainants of available avenues of appeal.

## 7. Training Special Provisions

As part of the Contractor's equal employment opportunity affirmative action program, training shall be provided as follows:

The Contractor shall provide on-the-job training aimed at developing full journey people in the type of craft or job classification involved.

The number of training positions will be \_\_\_\_, where feasible, consisting of at least \_\_\_\_ APPRENTICES and \_\_\_\_ TRAINEES. TRAINEE HOURS= \_\_\_\_.

Apprentices are defined as registered members of an approved apprenticeship program recognized by the United States Department of Labor (USDOL) Bureau of Apprenticeship and Training (BAT) or a New Jersey State apprenticeship agency recognized by USDOL BAT (e.g., New Jersey Department of Education). Graduates of the Pre-Apprenticeship Training Cooperative Program shall be classified as apprentices. Trainees are defined as skilled, semi-skilled or lower level management individuals receiving training per one of the approved NJDOT "Revised Standard Training Guidelines" (available from the Division of Civil Rights).

Where feasible, at least 50% of the training positions will be assigned to Skilled Crafts which include but are not limited to Carpenters, Dockbuilders, Electricians, Ironworkers and Operating Engineers.

### a. Contractor Submission and NJDOT Approval of the Initial Training Program.

At or after the preconstruction conference and prior to the start of work, the Contractor shall submit a training program to the Resident Engineer for his or her review and comments prior to Division of Civil Rights review and approval. The Contractor's training program shall include:

- (1) the number of trainees or apprentices to be trained in all selected Training Positions,
- (2) the Standard Program Hours for all positions,
- (3) an estimate of the Minimum Available Hours actually feasible on the project toward completion of the Standard Program Hours per position,
- (4) a training schedule of Estimated Start Dates for the apprentices or trainees, developed and coordinated with the project's work progress schedule,
- (5) Training Guidelines for all positions, and
- (6) which training will be provided by the Contractor and which by Subcontractors.

The number of apprentices and trainees shall be distributed among the work classifications on the basis of the Contractor's needs and the availability of journeypeople in the various crafts within a reasonable area of recruitment. The Contractor shall submit timely, revised training programs as required throughout the project to ensure that feasible and Maximum Available Training is provided. Maximum Available Training is defined as bringing each apprentice or trainee onto the project when



work first becomes available in his/her craft and providing all available training until hours are no longer available.

b. Assignment of Training to Subcontractors

In the event that portions of the contract work are subcontracted, the Contractor shall determine how many, if any, of the apprentices or trainees are to be trained by subcontractors, provided, however, that the Contractor shall retain the primary responsibility for meeting the training requirements imposed by these Training Special Provisions. The Contractor shall also ensure that these Training Special Provisions are made applicable to such subcontracts.

c. Requirements for Recruitment, Selection and Approval of Apprentices and Trainees

- (1) Apprentices or trainees should be in their first year of apprenticeship or training. The Contractor shall interview and screen trainee candidates to determine if their actual work experience is equivalent to or exceeds that offered by the training program prior to submitting candidates, via the Resident Engineer, to the Division for review and approval or disapproval.
- (2) Training and upgrading of minorities (e.g., Blacks, Asians or Pacific Islanders, Native Americans or Alaskan Natives, Hispanics) and females toward journeyman status is a primary objective of these Training Special Provisions. Accordingly, the Contractor shall make every effort to enroll minorities and females, by conducting systematic and direct recruitment through public and private sources likely to yield minority and female apprentices or trainees, to the extent that such persons are available within a reasonable area of recruitment. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.
- (3) No employee shall be employed as an apprentice or trainee in any position in which he or she has successfully completed a training course leading to journeyman status or in which he or she has been employed as a journeyman. The Contractor shall satisfy this requirement by including appropriate questions in the employment application or by other suitable means and by submitting an accurate and complete "Apprentice/Trainee Approval Memorandum." Regardless of the methods used, the Contractor's records should document the findings in each case.
- (4) Skilled craft trainees may complete up to 3,000 total training hours on NJDOT projects, with an extension of an additional 1,000 hours permitted on a case-by-case basis. Semi-skilled and lower-level management trainees attain journeyman status upon completion of a training guideline and may complete up to three (3) different positions.

d. Apprenticeship and Training Programs

- (1) The minimum length and type of training for each position will be established in the training program selected by the Contractor and approved by NJDOT and the Federal Highway Administration. NJDOT will approve a program if it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and to qualify the average apprentice or trainee for journeyman status in the craft concerned by the end of the training period.
- (2) Apprenticeship programs registered with the US Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by USDOL BAT and training programs approved but not necessarily sponsored by the US Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided such programs are being administered in a manner consistent with the equal employment obligations of Federal-aid highway construction contracts. Approval or acceptance of a training program shall be obtained from the NJDOT Division of Civil Rights prior to commencing work on the positions covered by the Contractor's training program. The Division will review guidelines developed by the Contractor for approval or disapproval in accordance with the Training Guideline Approval Process described in the "Revised Standard Training Guidelines". The Division will also review existing guidelines for revision based on the same process.

- (3) It is the intention of these provisions that training be provided in construction crafts rather than clerk-typist or secretarial-type positions. Training is permitted in lower level management positions (e.g., timekeepers), where the training is oriented toward project site applications. Training in semi-skilled laborer positions is permitted provided that significant and meaningful training is available on the project site. Some offsite, classroom training (e.g., safety, first aid instruction) may be permitted as long as such training is an integral part of an approved training program and does not comprise a significant part of the overall training.
- e. Reimbursement of the Contractor for Providing Training
- (1) The Contractor will be credited for each apprentice or trainee employed on the construction site who is currently enrolled or becomes enrolled in an approved program and will be reimbursed for such apprentices or trainees as provided hereinafter. Payment will be made under the pay item Trainees at the bid price in the Proposal per person-hour of training given an employee on this contract in accordance with an approved training program. If approved, payment will be made for training persons in excess of the number specified herein. This reimbursement will be made even though the Contractor receives additional training program funds from other sources, provided such other sources do not specifically prohibit the Contractor from receiving other reimbursement. Offsite, classroom training reimbursement may only be made to the Contractor when the company does one or more of the following and the apprentices or trainees are concurrently employed on a Federal-aid project: contributes to the cost of the training and/or provides instruction to apprentices or trainees or pays their wages during the offsite, classroom training (e.g., safety, first aid instruction) period.
  - (2) The Contractor shall pay apprentices and trainees according to the project-specific New Jersey Department of Labor Prevailing Wage Rate Determination for the project.
- f. Documentation Required to be Signed by Apprentices or Trainees and provided to NJDOT
- (1) At the start of training, the Contractor shall provide the Resident Engineer and each apprentice or trainee with an applicable "Training Guideline" and, at the conclusion of training, an accurate and complete "Training Certificate for Reporting Hours to NJDOT", showing hours of training satisfactorily completed.
  - (2) The Contractor shall maintain and submit an accurate and complete "NJDOT Contractor's 1409 Quarterly Training Report" to the Resident Engineer within ten (10) days of the end of each training quarter (e.g., January 10, April 10, July 10, October 10); a copy shall also be given to each apprentice or trainee.
  - (3) The Contractor shall maintain and submit accurate and complete "Biweekly Training Reports" to the Resident Engineer, and each apprentice or trainee, as periodic reports documenting performance under these Training Special Provisions.
- g. Training and Promotion
- (1) The Contractor shall assist in locating, qualifying, and increasing the skills of minority and female employees, and applicants for employment.
  - (2) The Contractor shall advise employees and applicants for employment of available training programs and entrance requirements.
  - (3) The Contractor shall periodically review the training and promotion potential of minority and female employees and encourage eligible employees to apply for such training and promotion.
- h. Determining Good Faith Compliance
- (1) Per the approved program or guideline, the Contractor shall provide Maximum Available Training to apprentices and trainees by beginning their training as soon as feasible with the start of craft work utilizing the skill involved on the project construction site and by retaining them as long as training opportunities exist in their crafts or until their training program positions are completed.
  - (2) The Contractor shall recall apprentices or trainees released due to reductions in force when the work scope permits and they are available to return. When they are unavailable to resume training on the project site, the Contractor shall submit written proof of recall efforts

and replacement candidates and/or positions in a timely manner. The Contractor shall not terminate apprentices or trainees prior to completion of their training program positions without NJDOT consultation and authorization. Apprentices or trainees are not required to be on board for the entire length of the contract.

- (3) The Contractor shall have fulfilled the contractual responsibilities under these Training Special Provisions if the company has provided Acceptable Training to the number of apprentices or trainees specified in this contract and/or by providing the remaining hours required to complete training positions begun by apprentices or trainees on other projects. The number trained shall be determined on the basis of the total number enrolled on the contract for a significant period.
  - (4) The Contractor shall be responsible for demonstrating all steps that have been taken in pursuance of enrolling minorities and females in the training program positions, prior to a determination as to whether the Contractor is in compliance with these Training Special Provisions.
  - (5) The Contractor shall submit to the Resident Engineer written training program summaries at the 50% time and/or cost stage of the contract and also prior to project completion, describing all good faith actions and particularly addressing Maximum Available Training for incomplete training positions, per the procedure found in the revised "Instructions for Implementing the Training Special Provisions".
- i. Enforcement Measures and Contractor's Rating
- (1) Payment will not be made if either the failure to provide the required training or the failure to hire the apprentice or trainee as a journey person is caused by the Contractor and evidences a lack of good faith on the part of the Contractor in meeting the requirements of these Training Special Provisions.
  - (2) Per established procedures and scheduled Contract Compliance Reviews, the Contractor's performance will be rated and reviewed periodically by the Department.
  - (3) Noncompliance with these Training Special Provisions 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, per Item 1d of these EEO Special Provisions.

## 8. Unions

If the Contractor relies in whole or in part upon unions as a source of employees, the Contractor will make maximum effort to obtain the cooperation of such unions to increase opportunities for minorities and females within the unions, and to effect such union referrals to the construction project. 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 use maximum effort to develop, in cooperation with the unions, joint training programs aimed at qualifying more minorities and females for union membership and increasing their skills in order to qualify for higher paying employment.
- b. The Contractor will use maximum effort 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 race, color, religion, sex, or national origin.
- c. The Contractor will obtain information concerning the referral practices and policies of the labor unions except that to the extent such information is within the exclusive possession of the labor unions and they refuse to furnish this information to the Contractor, the Contractor shall so certify to the Department and shall set forth what efforts have been made to obtain this information.
- d. In the event the unions are unable to provide the Contractor with a reasonable flow of minority and female 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 race, color, religion, sex, or national origin, making full efforts to obtain qualified and/or qualifiable minorities and females. (The US Department of Labor has held that it shall

be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees). In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such Contractor shall immediately notify the Department.

9. Subcontracting

- a. The Contractor will use maximum effort to solicit bids from and to utilize minority subcontractors or subcontractors with meaningful minority and female representation among their employees. Contractors may use lists of minority-owned construction firms as issued by the Department.
- b. The Contractor will use maximum effort to ensure subcontractor compliance with the equal employment opportunity obligations.

10. Documents and Reports

- a. The Contractor will maintain such documents as are necessary to determine compliance with the contract's equal employment opportunity requirements. Documents will include the following:
  - (1) the number of minorities, non-minorities, and females 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 females (applicable only to Contractors who rely in whole or in part on unions as a source of their work force).
  - (3) the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and
  - (4) the progress and efforts being made in securing the services of minority and female subcontractors or subcontractors with meaningful minority and female representation among their employees.
- b. All such documents 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 Department and the Federal Highway Administration.
- c. 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/procurement/ConstrServ/documents/NJ\\_StimulusReportingNotification-Contractor.pdf](http://www.state.nj.us/transportation/business/procurement/ConstrServ/documents/NJ_StimulusReportingNotification-Contractor.pdf)

Instructions on how to complete Form CC257 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. Submission of this form also satisfies the requirement of the form FHWA 1391.

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 Report may impact the contractor's prequalification rating with the Department.

## FHWA ATTACHMENT NO.7

### **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 shall 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 investigative 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 Department all other records, including but not limited to, interview memos and statements.

3. Upon the request of the Department, provides to the Department within ten (10) calendar days a copy of its detailed written investigative report and all other records on the complaint investigation and resolution.
4. Take appropriate disciplinary action 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 an investigation is a subcontractor's employee, then the contractor is required to attempt to effectuate corrective and/or disciplinary action by the subcontractor in order to establish compliance with the 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.

In conjunction with the above requirements, the contractor shall develop and post a written sexual harassment policy for its work force.

Failure by the contractor 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.