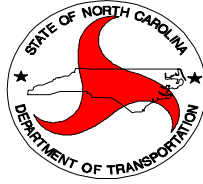


STATE OF NORTH CAROLINA  
**DEPARTMENT OF TRANSPORTATION**



DIVISION 2

**CONTRACT PROPOSAL**

**CONTRACT:** 11428664  
**WBS ELEMENT:** 36050.054, 36053.054  
**COUNTY:** Lenoir  
**ROUTES:** Various  
**DESCRIPTION:** On-call Snow & Ice Removal  
**BID OPENING:** Wednesday, October 22, 2014

**NOTICE:**

ALL BIDDERS SHALL COMPLY WITH ALL APPLICABLE LAWS REGULATING THE PRACTICE OF GENERAL CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA WHICH REQUIRES THE BIDDER TO BE LICENSED BY THE N.C. LICENSING BOARD FOR CONTRACTORS WHEN BIDDING ON ANY NON-FEDERAL AID PROJECT WHERE THE BID IS \$30,000 OR MORE, EXCEPT FOR CERTAIN SPECIALTY WORK AS DETERMINED BY THE LICENSING BOARD OR SBE PROJECT. BIDDERS SHALL ALSO COMPLY WITH ALL OTHER APPLICABLE LAWS REGULATING THE PRACTICES OF ELECTRICAL, PLUMBING, HEATING AND AIR CONDITIONING AND REFRIGERATION CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA. NOT WITHSTANDING THESE LIMITATIONS ON BIDDING, THE BIDDER WHO IS AWARDED ANY PROJECT SHALL COMPLY WITH CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA FOR LICENSING REQUIREMENTS WITHIN 60 CALENDAR DAYS OF BID OPENING, REGARDLESS OF FUNDING SOURCES.

---

NAME OF BIDDER

N.C. CONTRACTOR'S LICENSE NUMBER

---

ADDRESS OF BIDDER

**RETURN BIDS TO:**

**N. C. DEPARTMENT OF TRANSPORTATION  
Attn: Sarah Lentine  
105 Pictolus Highway  
P O Box 1587  
Greenville, NC 27835-1587**

**PROPOSAL FOR THE CONSTRUCTION OF  
CONTRACT No. 11428664 IN LENOIR COUNTY, NORTH CAROLINA  
September 29, 2014  
DEPARTMENT OF TRANSPORTATION,  
RALEIGH, NORTH CAROLINA**

The Bidder has carefully examined the location of the proposed work to be known as Contract No. **11428664**; has carefully examined the plans and specifications, which are acknowledged to be part of the proposal, the special provisions, the proposal, the form of contract, and the forms of contract payment bond and contract performance bond; and thoroughly understands the stipulations, requirements and provisions. The undersigned bidder agrees to bound upon his execution of the bid and subsequent award to him in accordance with this proposal to provide the necessary contract payment bond and contract performance bond within fourteen days after the written notice of award is received by him. The undersigned Bidder further agrees to provide all necessary machinery, tools, labor, and other means of construction; and to do all the work and to furnish all materials, except as otherwise noted, necessary to perform and complete the said contract in accordance with *the 2012 Standard Specifications for Roads and Structures* by the dates(s) specified in the Project Special Provisions and in accordance with the requirements of the Engineer, and at the unit or lump sum prices, as the case may be, for the various items given on the sheets contained herein.

The Bidder shall provide and furnish all the materials, machinery, implements, appliances and tools, and perform the work and required labor to construct and complete State Highway Contract No. **11428664** in **Lenoir County**, for the unit or lump sum prices, as the case may be, bid by the Bidder in his bid and according to the proposal, plans, and specifications prepared by said Department, which proposal, plans, and specifications show the details covering this project, and hereby become a part of this contract.

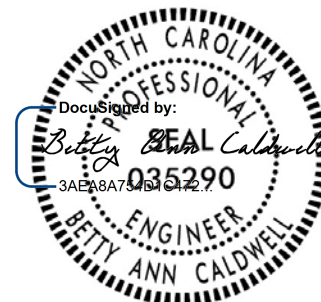
The published volume entitled *North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures, January 2012* with all amendments and supplements thereto, is by reference incorporated into and made a part of this contract; that, except as herein modified, all the construction and work included in this contract is to be done in accordance with the specifications contained in said volume, and amendments and supplements thereto, under the direction of the Engineer.

If the proposal is accepted and the award is made, the contract is valid only when signed either by the Contract Officer or such other person as may be designated by the Secretary to sign for the Department of Transportation. The conditions and provisions herein cannot be changed except over the signature of the said Contract Officer.

The quantities shown in the itemized proposal for the project are considered to be approximate only and are given as the basis for comparison of bids. The Department of Transportation may increase or decrease the quantity of any item or portion of the work as may be deemed necessary or expedient.

An increase or decrease in the quantity of an item will not be regarded as sufficient ground for an increase or decrease in the unit prices, nor in the time allowed for the completion of the work, except as provided for the contract.

A bid bond is not required for this Contract.



10/7/2014

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**AWARD LIMITS**  
**LISTING OF MBE & WBE SUBCONTRACTORS**  
**EXECUTION OF BID FORMS**  
**CONTRACT BID FORM**

# **INSTRUCTIONS TO BIDDERS**

## **PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE PREPARING AND SUBMITTING YOUR BID.**

**All bids shall be prepared and submitted in accordance with the following requirements, except that bids may be prepared by electronic means as described elsewhere in the proposal. Failure to comply with any requirement shall cause the bid to be considered irregular and shall be grounds for rejection of the bid.**

1. The bid sheet furnished by NCDOT with the proposal shall be used and shall not be altered in any manner. **DO NOT SEPARATE THE BID SHEET FROM THE PROPOSAL. THE ENTIRE PROPOSAL MUST BE RETURNED.**
2. All entries on the bid sheet, including signatures, shall be written in ink.
3. The Bidder shall submit a unit price for every item on the bid form. The unit prices for the various contract items shall be written in figures. **\*\*\*Unit Prices shall be rounded off by the bidder to contain no more than FOUR decimal places.\*\*\***
4. An amount bid shall be entered on the bid sheet for every item. The amount bid for each item shall be determined by multiplying each unit bid by the quantity for that item, and shall be written in figures in the "Amount Bid" column of the sheet.
5. The total amount bid shall be written in figures in the proper place on the bid sheet. The total amount shall be determined by adding the amounts bid for each item.
6. Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the Bidder shall initial the change in ink.
7. The bid shall be properly executed. All bids shall show the following information:
  - a. Name of individual, firm, corporation, partnership, or joint venture submitting bid.
  - b. Name and signature of individual or representative submitting bid and position or title.
  - c. Name, signature, and position or title of witness.
  - d. Federal Identification Number (or Social Security Number of Individual)
  - e. Contractor's License Number (if Applicable)
8. Bids submitted by corporations shall bear the seal of the corporation.
9. The bid shall not contain any unauthorized additions, deletions, or conditional bids.
10. The bidder shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
11. **THE PROPOSAL WITH THE BID SHEET STILL ATTACHED SHALL BE PLACED IN A SEALED ENVELOPE AND SHALL HAVE BEEN DELIVERED TO AND RECEIVED IN THE DIVISION TWO ENGINEER'S OFFICE AT 105 PACTOLUS HIGHWAY, GREENVILLE, NC 27834 BY 11:00 AM ON WEDNESDAY, OCTOBER 22, 2014.**
12. The sealed bid must display the following statement on the front of the sealed envelope:

**ATTN: SARAH LENTINE  
QUOTATION FOR 11428664 (ON-CALL SNOW & ICE REMOVAL IN LENOIR COUNTY)  
TO BE OPENED AT 11:00 AM, WEDNESDAY, OCTOBER 22, 2014**

13. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope shall be addressed as follows:

**NC DEPARTMENT OF TRANSPORTATION  
ATTN: SARAH LENTINE  
PO BOX 1587  
GREENVILLE, NC 27835-1587**

### **AWARD OF CONTRACT**

**The award of the contract, if it be awarded, will be made to the lowest responsible bidder in accordance with Section 102 (*excluding 102-10*) of the Standard Specifications for Roads and Structures, 2012. The lowest responsible bidder will be notified that his bid has been accepted and that he has been awarded the contract. NCDOT reserves the right to reject all bids.**

## PROJECT SPECIAL PROVISIONS

### GENERAL

#### DESCRIPTION:

This contract is for contracted snow and ice removal along various routes as needed in Lenoir County. The Contractor may be called upon to work in various routes in adjacent counties, as needed. The Contractor's operations will be used to supplement the Department's internal operations in order to provide optimum coverage in the designated county.

The hourly quantities shown in this contract are estimated and are only for comparison of bids. The actual quantities may vary and no minimum amount of work is guaranteed. The Contractor shall furnish all labor, materials, and equipment necessary for the execution of said work.

#### MANDATORY PRE-BID CONFERENCE:

In order to bid on this contract, all prospective bidders must attend the Pre-Bid Conference to be held on **Monday October 13, 2014** at the **District 3 Engineer's Conference Room** located at **1629 Hwy 258 South, Kinston, NC**. **This meeting will begin promptly at 2:00 PM**. Prospective bidders arriving after the **2:00 PM** starting time will not be allowed to bid. The Conference will be conducted by Department personnel for the purpose of providing additional information about the project and to give all bidders an opportunity to ask any questions they may have. **Only bids received from the bidders who have attended and properly registered at the Pre-Bid Conference will be considered.**

Attendance at the Pre-Bid Conference will not meet the requirements of proper registration unless the individual attending has registered with the following information:

1. The individual writes his/her name on the official roster.
2. The individual writes in the name and address of the company he/she represents.
3. Only one company is shown as being represented by the individual attending.
4. The individual is an officer or permanent employee of the firm they represent.

Prospective bidders should bring a copy of the proposal with them to the meeting.

#### CONTRACT TIME:

The date of availability for this contract is **December 1, 2014**.

The completion date for this contract is **November 30, 2015**.

### **INTERMEDIATE CONTRACT TIME NUMBER 1 AND LIQUIDATED DAMAGES:**

The Engineer will notify the Contractor to mobilize equipment in preparation for work when impending inclement weather is forecast and/or when timing of precipitation is forecast. The Engineer will notify the Contractor a minimum of four (4) hours before equipment is needed for operation. If the equipment is not mobilized and ready for operation or standby at the required time, the Contractor will be subject to liquidated damages.

The liquidated damages are **One Hundred Dollars (\$100.00) per hour per truck, until the equipment is at the designated department facility.**

### **TERM OF THE CONTRACT:**

The Contractor shall submit his bid for one year. At the option of the Department of Transportation, based on the Contractor's satisfactory performance of the terms contained herein this contract may be extended for four (4) additional periods of one (1) year each up to a maximum total contract time of five (5) years, with the same terms and conditions. Each renewal year, the Equipment Operating Rate, defined elsewhere in this contract, will be increased by three (3) percent. Only the Equipment Operating Rate will be adjusted; no adjustment will be applied to the Outfitting Fee item, or the payment rate for training sessions or staging as outlined elsewhere in this contract. The Engineer will notify the Contractor in writing by October 1 if the contract may be extended. The Contractor must notify the Engineer in writing by October 15 of his acceptance or rejection of this offer. Failure on the part of the Contractor to reply will be received as a rejection of contract extension.

### **TERMINATION FOR CONVENIENCE:**

If for any reason the Department finds it necessary to terminate the contract, the Contractor shall be given a written notice at least 60 days before termination. In the event of termination, the Contractor will be paid for any completed work and a prorated portion of the Outfitting Fee will be refunded to the Department, as described in the "Outfitting Fee" Special Provision of this contract.

### **NON-EXCLUSIVE CONTRACT:**

The Department may, as it deems to be in the best interest of the State and the Department of Transportation, execute more than one contract based on this proposal. The Contractor(s) understands and agrees, by signature on the Purchase Order Contract Bid Form, that this agreement **does not** constitute an exclusive contract. If awarded, the contracts will be executed with the lowest responsible bidders. The Department of Transportation reserves the right to make multiple awards for the services provided by this contract. Furthermore, the Department reserves the right to reject all bids received.

**COOPERATION BETWEEN CONTRACTORS:**

105-7

The Contractor's attention is directed to Article 105-7 of the *2012 Standard Specifications*.

*This contract is for storm related recovery work, and is not an exclusive contract. The Contractor must cooperate with State forces and other Contractors as directed by the Engineer.*

The Contractor on this project shall cooperate with the Contractor working within or adjacent to the limits of this project to the extent that the work can be carried out to the best advantage of all concerned.

**AUTHORITY OF THE ENGINEER:**

(01-30-14)

105-1

SPD 01-460

The Engineer for this project shall be the Division Engineer, Division 2, Division of Highways, North Carolina Department of Transportation, acting directly or through his duly authorized representative.

The Engineer will decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of the work; all questions which may arise as to the interpretation of the contract; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor. His decision shall be final and he shall have executive authority to enforce and make effective such decisions and orders as the Contractor fails to carry out promptly.

**PROSECUTION OF WORK:**

Section 108 of the *2012 Standard Specifications* shall apply with the following additions:

The Contractor will be required to prosecute the work in a continuous and uninterrupted manner from the time he begins the work until completion and final acceptance. The Contractor will not be permitted to suspend his operations except for reasons beyond his control or except where the Engineer has authorized a suspension of the Contractor's operations. The Contractor shall not perform snow and ice control activities for other entities while employed under this contract for any particular winter weather event until he is released by the Engineer.

**PRESERVATION OF PROPERTY:**

The Contractor shall exercise care to avoid damage to all public and private property and facilities. Any damage to properties, such as mailboxes, fences, gates, vehicles, driveways, etc. shall immediately be restored to the previously existing condition. No payment will be made to the Contractor for such restorative work.



**SAFETY VESTS:**

All Contractor's personnel, all subcontractors and their personnel, and any material suppliers and their personnel must wear an OSHA approved reflective vest or outer garment at all times while on the project.

**INSPECTION:**

All work shall be subject to inspection by the Engineer at any time. Routinely, the Engineer will make periodic inspections of the completed work. It will be the responsibility of the Contractor to keep the Engineer informed of his work efforts and when work is considered accomplished.

**SUPERVISION BY CONTRACTOR:**

At all times during the life of the project the Contractor shall provide one permanent employee who shall have the authority and capability for overall responsibility of the project and who shall be personally available at the work site within 24 hours notice. Such employee shall be fully authorized to conduct all business with the subcontractors, to negotiate and execute all supplemental agreements, and to execute the orders or directions of the Engineer.

At all times that work is actually being performed, the Contractor shall have present on the project one competent individual who is authorized to act in a supervisory capacity over all work on the project, including work subcontracted. The individual who has been so authorized shall be experienced in the type of work being performed and shall be fully capable of managing, directing, and coordinating the work; of reading and thoroughly understanding the contract; and receiving and carrying out directions from the Engineer or his authorized representatives. He shall be an employee of the Contractor unless otherwise approved by the Engineer.

The Contractor may, at his option, designate one employee to meet the requirements of both positions. However, whenever the designated employee is absent from the work site, an authorized individual qualified to act in a supervisory capacity on the project shall be present.

**CONTRACT PAYMENT AND PERFORMANCE BOND:**

A performance bond in the amount of one hundred percent (100%) of the contract amount, conditioned upon the faithful performance of the contract in accordance with specifications and conditions of the contract is required for Construction contracts of \$500,000 or more. Such bond shall be solely for the protection of the North Carolina Department of Transportation and the State of North Carolina.

A payment bond in the amount of one hundred percent (100%) of the contract amount, conditioned upon the prompt payment for all labor or materials for which the Contractor, or his subcontractors, are liable is required for Construction contracts greater than \$500,000. The payment bond shall be solely for the protection of persons or firms furnishing materials or performing labor for this contract for which the Contractor is liable.

The successful bidder, within ten (10) days after notice of award, shall provide the Department with a contract payment bond and a contract performance bond each in an amount equal to 100 percent of the amount of the contract.

**LIABILITY INSURANCE:**

(1-30-14)

107-15

SPD 01-550

Provide liability insurance in accordance with Article 107-15 of the *2012 Standard Specifications*.

Revise the *2012 Standard Specifications* as follows:

**Page 1-60, Article 107-15 Liability Insurance**, line 23, replace the first sentence of the fourth paragraph with the following:

Upon award of the contract, provide evidence of the above insurance requirements to the Engineer.

**WORKER'S COMPENSATION COVERAGE:**

Pursuant to N.C.G.S. § 97-19, all contractors of the Department of Transportation are required, prior to beginning services, to show proof of coverage issued by a workers' compensation insurance carrier, or a certificate of compliance issued by the Department of Insurance for self-insured subcontractors stating that it has complied with N.C.G.S. § 97-93 irrespective of whether subcontractors have regularly in service fewer than three employees in the same business within the State of North Carolina, and subcontractors shall be hereinafter liable under the Workers' Compensation Act for payment of compensation and other benefits to its employees for any injury or death due to an accident arising out of and in the course of performance of the work insured by the subcontractor.

**SUBLETTING OF CONTRACT:**

The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this contract or any portion thereof; or his right, title, or interest therein; without written consent of the Engineer. Subletting of this contract or any portion of the contract shall conform to the requirements of Article of 108-6 of the Standard Specifications

**DEFAULT OF CONTRACT:**

The Department of Transportation shall have the right to declare a default of contract for breach by the Contractor of any material term or condition of the contract. Default of contract shall be in accordance with the terms, conditions, and procedures of Article 108-9 of the Standard Specifications.

**BANKRUPTCY:**

The Department of Transportation, at its option, may terminate the contract upon filing by the Contractor of any petition for protection under the provisions of the Federal Bankruptcy Act.

**DEBARMENT STATEMENT:**

The Contractor certifies and understands that by his/her signature on the Bid Form that he/she and the contracting firm he/she represents has not been banned, debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.

**CLAIMS FOR ADDITIONAL COMPENSATION OR EXTENSION OF TIME:**

Any claims for additional compensation and/or extensions of the completion date shall be submitted to the Division Engineer in writing, with detailed justification, **prior** to submitting the final invoice payment. Once an invoice is received and accepted that is marked as "Final", the Contractor shall be barred from recovery.

**PROMPT PAYMENT:**

**Prompt Payment of Monies Due Subcontractors, Second Tier Subcontractors and Material Suppliers**

Contractors at all levels, prime, subcontractor, or second tier contractor, shall within seven calendar days of receipt of monies, resulting from work performed on the project or services rendered, pay subcontractors, second tier subcontractors, or material suppliers, as appropriate. This seven-day period begins upon knowledgeable receipt by the contracting firm obligated to make a subsequent periodic payment or final payment. These prompt payment requirements will be met if each firm mails the payment to the next level firm by evidence of postmark within the seven-day period.

This provision for prompt payment shall be incorporated into each subcontract or second tier subcontract issued for work performed on the project or for services provided. Failure of any entity to make prompt payment as defined herein may result in (1) withholding of money due to that entity in the next partial payment until such assurances are made satisfactory to this provision; or (2) removal of an approved contractor from the pre-qualified bidders list or the removal of other entities from the approved subcontractors list.

**PAYMENT AND RETAINAGE:**

The Contractor may submit requests for partial payments on a monthly basis, or other interval as approved by the Engineer. Compensation for all pay items shall be in accordance with the Standard Specifications. The amount of partial payments will be based on the work accomplished and accepted by the last day of the approved pay period.

Upon satisfactory completion of the work and acceptance by the Department, the contractor shall submit invoices in triplicate for each job site according to materials used. All invoices shall have a separate invoice number and include the Requisition and Purchase Order Number of the appropriate contract. All invoice items and unit costs shall correspond to contract pay items. In the event of error or discrepancy in items or unit costs, the Department may return the invoice to the contractor for correction. The invoice shall be completely and legibly filled out with all appropriate information and shall be signed by an authorized representative of the Contractor.

Request for payment shall be made by Contractor's Invoice submitted to:

**NC Department of Transportation  
Attention: Mr. Len White  
135 East First Street  
Kinston, NC 28504**

Due to the nature of the contract, no retainage will be withheld. However, the Department reserves the right to withhold payment for a specific location until after successful completion of the work as verified by the final inspection of that location.

**INDEMNIFICATION:**

The Contractor shall defend, indemnify and hold harmless the North Carolina Department of Transportation, its officers and employees from any claim, demand, suit, liability, judgment and expense (including attorney's fees and other costs of litigation) arising out of or relating to injury, disease, or death of persons or damage to or loss of property resulting from or in connection with the negligent performance of this contract by the Contractor, its agents, employees, and subcontractors or any one for whom the Contractor may be responsible. The obligations, indemnities and liabilities assumed by the Contractor under this paragraph shall not extend to any liability caused by the negligence of the Department of Transportation or its employees. The Contractor's liability shall not be limited by any provisions or limits of insurance set forth in this contract.

The Contractor shall indemnify and hold harmless the Department of Transportation from any claim, demand, suit, liability, judgment, and expense involving damage or loss to the Contractor's equipment (including vandalism, theft, fire, and acts of God) arising out of or relating to work performed under this agreement. The obligations, indemnities and liabilities assumed by the Contractor under this paragraph shall not extend to any liability caused by the negligence of the Department of Transportation or its employees. The Contractor's liability shall not be limited by any provisions or limits of insurance set forth in this contract.

The Contractor further agrees to indemnify the Department of Transportation for any damages to the roadway, highway signs, highway equipment and other property owned or in possession of the Department of Transportation, brought about by reason of the negligent operation of the equipment. The Contractor further agrees to indemnify and save harmless the Department of Transportation, its officers and employees from any claims or amounts recovered by any of the Contractor's employees under the Workmen's Compensation Act.

**POSTED WEIGHT LIMITS:**

The Contractor's attention is directed to the fact that many primary and secondary roads and bridges are posted with weight limits less than the legal limit. The Contractor will not be allowed to exceed the posted weight limits in transporting materials or equipment to the project.

**NO MAJOR CONTRACT ITEMS:**

(2-19-02)(Rev. 8-21-07)

104

SP1 G31

None of the items included in this contract will be major items.

**NO SPECIALTY ITEMS:**

(7-1-95)

108-6

SP1 G34

None of the items included in this contract will be specialty items (see Article 108-6 of the 2012 Standard Specifications).

**MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE**

**(DIVISIONS):**

(10-16-07)(Rev. 5-21-13)

102-15(J)

SP1 G67

**Description**

The purpose of this Special Provision is to carry out the North Carolina Department of Transportation's policy of ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with State funds.

**Definitions**

*Additional MBE/WBE Subcontractors* - Any MBE/WBE submitted at the time of bid that will not be used to meet either the MBE or WBE goal. No submittal of a Letter of Intent is required.

*Committed MBE/WBE Subcontractor* - Any MBE/WBE submitted at the time of bid that is being used to meet either the MBE or WBE goal by submission of a Letter of Intent. Or any MBE or WBE used as a replacement for a previously committed MBE or WBE firm.

*Contract Goals Requirement* - The approved MBE and WBE participation at time of award, but not greater than the advertised contract goals for each.

*Goal Confirmation Letter* - Written documentation from the Department to the bidder confirming the Contractor's approved, committed MBE and WBE participation along with a listing of the committed MBE and WBE firms.

*Manufacturer* - A firm that operates or maintains a factory or establishment that produces on the premises, the materials or supplies obtained by the Contractor.

*MBE Goal* - A portion of the total contract, expressed as a percentage, that is to be performed by committed MBE subcontractor(s).

*Minority Business Enterprise (MBE)* - A firm certified as a Disadvantaged Minority-Owned Business Enterprise through the North Carolina Unified Certification Program.

*Regular Dealer* - A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are

bought, kept in stock, and regularly sold to the public in the usual course of business. A regular dealer engages in, as its principal business and in its own name, the purchase and sale or lease of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns and operates distribution equipment for the products. Brokers and packagers are not regarded as manufacturers or regular dealers within the meaning of this section.

*North Carolina Unified Certification Program (NCUCP)* - A program that provides comprehensive services and information to applicants for MBE/WBE certification. The MBE/WBE program follows the same regulations as the federal Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26.

*United States Department of Transportation (USDOT)* - Federal agency responsible for issuing regulations (49 CFR Part 26) and official guidance for the DBE program.

*WBE Goal* - A portion of the total contract, expressed as a percentage, that is to be performed by committed WBE subcontractor(s).

*Women Business Enterprise (WBE)* - A firm certified as a Disadvantaged Women-Owned Business Enterprise through the North Carolina Unified Certification Program.

#### **Forms and Websites Referenced in this Provision**

*Payment Tracking System* - On-line system in which the Contractor enters the payments made to MBE and WBE subcontractors who have performed work on the project.  
<https://apps.dot.state.nc.us/Vendor/PaymentTracking/>

*DBE-IS Subcontractor Payment Information* - Form for reporting the payments made to all MBE/WBE firms working on the project. This form is for paper bid projects only.  
<http://www.ncdot.org/doh/forms/files/DBE-IS.xls>

*RF-1 MBE/WBE Replacement Request Form* - Form for replacing a committed MBE or WBE.  
<http://connect.ncdot.gov/projects/construction/Construction%20Forms/DBE%20MBE%20WBE%20Replacement%20Request%20Form.pdf>

*SAF Subcontract Approval Form* - Form required for approval to sublet the contract.  
<http://connect.ncdot.gov/projects/construction/Construction%20Forms/Subcontract%20Approval%20Form%20Rev.%202012.zip>

*JC-1 Joint Check Notification Form* - Form and procedures for joint check notification. The form acts as a written joint check agreement among the parties providing full and prompt disclosure of the expected use of joint checks.  
<http://connect.ncdot.gov/projects/construction/Construction%20Forms/Joint%20Check%20Notification%20Form.pdf>

*Letter of Intent* - Form signed by the Contractor and the MBE/WBE subcontractor, manufacturer or regular dealer that affirms that a portion of said contract is going to be performed by the signed MBE/WBE for the amount listed at the time of bid.

<http://connect.ncdot.gov/letting/LetCentral/Letter%20of%20Intent%20to%20Perform%20as%20a%20Subcontractor.pdf>

*Listing of MBE and WBE Subcontractors Form* - Form for entering MBE/WBE subcontractors on a project that will meet this MBE and WBE goals. This form is for paper bids only.

[http://connect.ncdot.gov/municipalities/Bid%20Proposals%20for%20LGA%20Content/09%20MBE-WBE%20Subcontractors%20\(State\).doc](http://connect.ncdot.gov/municipalities/Bid%20Proposals%20for%20LGA%20Content/09%20MBE-WBE%20Subcontractors%20(State).doc)

*Subcontractor Quote Comparison Sheet* - Spreadsheet for showing all subcontractor quotes in the work areas where MBEs and WBEs quoted on the project. This sheet is submitted with good faith effort packages.

<http://connect.ncdot.gov/business/SmallBusiness/Documents/DBE%20Subcontractor%20Quote%20Comparison%20Example.xls>

## **MBE and WBE Goal**

The following goals for participation by Minority Business Enterprises and Women Business Enterprises are established for this contract:

(A) Minority Business Enterprises **0.0** %

- (1) *If the MBE goal is more than zero*, the Contractor shall exercise all necessary and reasonable steps to ensure that MBEs participate in at least the percent of the contract as set forth above as the MBE goal.
- (2) *If the MBE goal is zero*, the Contractor shall make an effort to recruit and use MBEs during the performance of the contract. Any MBE participation obtained shall be reported to the Department.

(B) Women Business Enterprises **0.0** %

- (1) *If the WBE goal is more than zero*, the Contractor shall exercise all necessary and reasonable steps to ensure that WBEs participate in at least the percent of the contract as set forth above as the WBE goal.
- (2) *If the WBE goal is zero*, the Contractor shall make an effort to recruit and use WBEs during the performance of the contract. Any WBE participation obtained shall be reported to the Department.

## **Directory of Transportation Firms (Directory)**

Real-time information is available about firms doing business with the Department and firms that are certified through NCUCP in the Directory of Transportation Firms. Only firms identified

in the Directory as MBE and WBE certified shall be used to meet the MBE and WBE goals respectively. The Directory can be found at the following link. <https://partner.ncdot.gov/VendorDirectory/default.html>

The listing of an individual firm in the directory shall not be construed as an endorsement of the firm's capability to perform certain work.

### **Listing of MBE/WBE Subcontractors**

At the time of bid, bidders shall submit all MBE and WBE participation that they anticipate to use during the life of the contract. Only those identified to meet the MBE goal and the WBE goal will be considered committed, even though the listing shall include both committed MBE/WBE subcontractors and additional MBE/WBE subcontractors. Any additional MBE/WBE subcontractor participation submitted at the time of bid will be used toward overall race-neutral goals. Only those firms with current MBE and WBE certification at the time of bid opening will be acceptable for listing in the bidder's submittal of MBE and WBE participation. The Contractor shall indicate the following required information:

**Blank forms will not be deemed to represent zero participation.** Bids submitted that do not have MBE and WBE participation indicated on the appropriate form will not be read publicly during the opening of bids. The Department will not consider these bids for award and the proposal will be rejected.

- (A) *If either the MBE or WBE goal is more than zero,*
- (1) Bidders, at the time the bid proposal is submitted, shall submit a listing of MBE/WBE participation, including the names and addresses on *Listing of MBE and WBE Subcontractors* contained elsewhere in the contract documents in order for the bid to be considered responsive. Bidders shall indicate the total dollar value of the MBE and WBE participation for the contract.
  - (2) If bidders have no MBE or WBE participation, they shall indicate this on the *Listing of MBE and WBE Subcontractors* by entering the word "None" or the number "0." This form shall be completed in its entirety.
  - (3) The bidder shall be responsible for ensuring that the MBE/WBE is certified at the time of bid by checking the Directory of Transportation Firms. If the firm is not certified at the time of the bid-letting, that MBE's or WBE's participation will not count towards achieving the corresponding goal.
- (B) *If either the MBE or WBE goal is zero,* bidders, at the time the bid proposal is submitted, shall enter the word "None"; or the number "0"; or if there is participation, add the value on the *Listing of MBE and WBE Subcontractors* contained elsewhere in the contract documents.



## **MBE or WBE Prime Contractor**

When a certified MBE or WBE firm bids on a contract that contains MBE and WBE goals, the firm is responsible for meeting the goals or making good faith efforts to meet the goals, just like any other bidder. In most cases, a MBE or WBE bidder on a contract will meet one of the goals by virtue of the work it performs on the contract with its own forces. However, all the work that is performed by the MBE or WBE bidder and any other similarly certified subcontractors will count toward the goal. The MBE or WBE bidder shall list itself along with any MBE or WBE subcontractors, if any, in order to receive credit toward the goals.

For example, on a proposed contract, the WBE goal is 10%, and the MBE goal is 8%. A WBE bidder puts in a bid where they will perform 40% of the contract work and have a WBE subcontractor which will perform another 5% of the work. Together the two WBE firms submit on the *Listing of MBE and WBE Subcontractors* a value of 45% of the contract which fulfills the WBE goal. The 8% MBE goal shall be obtained through MBE participation with MBE certified subcontractors or documented through a good faith effort. It should be noted that you cannot combine the two goals to meet an overall value. The two goals shall remain separate.

MBE/WBE prime contractors shall also follow Sections A or B listed under *Listing of MBE/WBE Subcontractors* just as a non-MBE/WBE bidder would.

## **Written Documentation – Letter of Intent**

The bidder shall submit written documentation for each MBE/WBE that will be used to meet the MBE and WBE goals of the contract, indicating the bidder's commitment to use the MBE/WBE in the contract. This documentation shall be submitted on the Department's form titled *Letter of Intent*.

The documentation shall be received in the office of the Engineer no later than 12:00 noon of the sixth calendar day following opening of bids, unless the sixth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Engineer no later than 12:00 noon on the next official state business day.

If the bidder fails to submit the Letter of Intent from each committed MBE and WBE to be used toward the MBE and WBE goals, or if the form is incomplete (i.e. both signatures are not present), the MBE/WBE participation will not count toward meeting the MBE/WBE goal. If the lack of this participation drops the commitment below either the MBE or WBE goal, the Contractor shall submit evidence of good faith efforts for the goal not met, completed in its entirety, to the Engineer no later than 12:00 noon of the eighth calendar day following opening of bids, unless the eighth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Engineer no later than 12:00 noon on the next official state business day.

## **Submission of Good Faith Effort**

If the bidder fails to meet or exceed either the MBE or the WBE goal, the apparent lowest responsive bidder shall submit to the Department documentation of adequate good faith efforts made to reach that specific goal(s).

One complete set and 4 copies of this information shall be received in the office of the Engineer no later than 12:00 noon of the sixth calendar day following opening of bids, unless the sixth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Engineer no later than 12:00 noon on the next official state business day.

Note: Where the information submitted includes repetitious solicitation letters, it will be acceptable to submit a representative letter along with a distribution list of the firms that were solicited. Documentation of MBE/WBE quotations shall be a part of the good faith effort submittal. This documentation may include written subcontractor quotations, telephone log notations of verbal quotations, or other types of quotation documentation.

## **Consideration of Good Faith Effort for Projects with MBE/WBE Goals More Than Zero**

Adequate good faith efforts mean that the bidder took all necessary and reasonable steps to achieve the goal which, by their scope, intensity, and appropriateness, could reasonably be expected to obtain sufficient MBE/WBE participation. Adequate good faith efforts also mean that the bidder actively and aggressively sought MBE/WBE participation. Mere *pro forma* efforts are not considered good faith efforts.

The Department will consider the quality, quantity, and intensity of the different kinds of efforts a bidder has made. Listed below are examples of the types of actions a bidder will take in making a good faith effort to meet the goals and are not intended to be exclusive or exhaustive, nor is it intended to be a mandatory checklist.

- (A) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising, written notices, use of verifiable electronic means through the use of the NCDOT Directory of Transportation Firms) the interest of all certified MBEs/WBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within at least 10 days prior to bid opening to allow the MBEs/WBEs to respond to the solicitation. Solicitation shall provide the opportunity to MBEs/WBEs within the Division and surrounding Divisions where the project is located. The bidder must determine with certainty if the MBEs/WBEs are interested by taking appropriate steps to follow up initial solicitations.

- (B) Selecting portions of the work to be performed by MBEs/WBEs in order to increase the likelihood that the MBE and WBE goals will be achieved.
  - (1) Where appropriate, break out contract work items into economically feasible units to facilitate MBE/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
  - (2) Negotiate with subcontractors to assume part of the responsibility to meet the contract MBE/WBE goals when the work to be sublet includes potential for MBE/WBE participation (2<sup>nd</sup> and 3<sup>rd</sup> tier subcontractors).
- (C) Providing interested MBEs/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (D)
  - (1) Negotiating in good faith with interested MBEs/WBEs. It is the bidder's responsibility to make a portion of the work available to MBE/WBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE/WBE subcontractors and suppliers, so as to facilitate MBE/WBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of MBEs/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs/WBEs to perform the work.
  - (2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE/WBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using MBEs/WBEs is not in itself sufficient reason for a bidder's failure to meet the contract MBE or WBE goals, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidding contractors are not, however, required to accept higher quotes from MBEs/WBEs if the price difference is excessive or unreasonable.
- (E) Not rejecting MBEs/WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associates and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
- (F) Making efforts to assist interested MBEs/WBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or bidder.

- (G) Making efforts to assist interested MBEs/WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (H) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; Federal, State, and local minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBEs/WBEs. Contact within 7 days from the bid opening NCDOT's Business Development Manager in the Business Opportunity and Work Force Development Unit to give notification of the bidder's inability to get MBE or WBE quotes.
- (I) Any other evidence that the bidder submits which shows that the bidder has made reasonable good faith efforts to meet the MBE and WBE goal.

In addition, the Department may take into account the following:

- (1) Whether the bidder's documentation reflects a clear and realistic plan for achieving the MBE and WBE goals.
- (2) The bidders' past performance in meeting the MBE and WBE goals.
- (3) The performance of other bidders in meeting the MBE and WBE goals. For example, when the apparent successful bidder fails to meet the goals, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts the apparent successful bidder could have met the goals. If the apparent successful bidder fails to meet the MBE and WBE goals, but meets or exceeds the average MBE and WBE participation obtained by other bidders, the Department may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made a good faith effort.

If the Department does not award the contract to the apparent lowest responsive bidder, the Department reserves the right to award the contract to the next lowest responsive bidder that can satisfy to the Department that the MBE and WBE goals can be met or that an adequate good faith effort has been made to meet the MBE and WBE goals.

### **Non-Good Faith Appeal**

The Engineer will notify the contractor verbally and in writing of non-good faith. A contractor may appeal a determination of non-good faith made by the Goal Compliance Committee. If a contractor wishes to appeal the determination made by the Committee, they shall provide written notification to the Engineer. The appeal shall be made within 2 business days of notification of the determination of non-good faith.

## Counting MBE/WBE Participation Toward Meeting MBE/WBE Goals

### (A) Participation

The total dollar value of the participation by a committed MBE/WBE will be counted toward the contract goal requirements. The total dollar value of participation by a committed MBE/WBE will be based upon the value of work actually performed by the MBE/WBE and the actual payments to MBE/WBE firms by the Contractor.

### (B) Joint Checks

Prior notification of joint check use shall be required when counting MBE/WBE participation for services or purchases that involves the use of a joint check. Notification shall be through submission of Form JC-1 (*Joint Check Notification Form*) and the use of joint checks shall be in accordance with the Department's Joint Check Procedures.

### (C) Subcontracts (Non-Trucking)

A MBE/WBE may enter into subcontracts. Work that a MBE subcontracts to another MBE firm may be counted toward the MBE contract goal requirement. The same holds for work that a WBE subcontracts to another WBE firm. Work that a MBE subcontracts to a non-MBE firm does not count toward the MBE contract goal requirement. Again, the same holds true for the work that a WBE subcontracts to a non-WBE firm. If a MBE or WBE contractor or subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of standard industry practices, it shall be presumed that the MBE or WBE is not performing a commercially useful function. The MBE/WBE may present evidence to rebut this presumption to the Department. The Department's decision on the rebuttal of this presumption may be subject to review by the Office of Inspector General, NCDOT.

### (D) Joint Venture

When a MBE or WBE performs as a participant in a joint venture, the Contractor may count toward its contract goal requirement a portion of the total value of participation with the MBE or WBE in the joint venture, that portion of the total dollar value being a distinct clearly defined portion of work that the MBE or WBE performs with its forces.

### (E) Suppliers

A contractor may count toward its MBE or WBE requirement 60 percent of its expenditures for materials and supplies required to complete the contract and obtained from a MBE or WBE regular dealer and 100 percent of such expenditures from a MBE or WBE manufacturer.

(F) **Manufacturers and Regular Dealers**

A contractor may count toward its MBE or WBE requirement the following expenditures to MBE/WBE firms that are not manufacturers or regular dealers:

- (1) The fees or commissions charged by a MBE/WBE firm for providing a *bona fide* service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided the fees or commissions are determined to be reasonable and not excessive as compared with fees and commissions customarily allowed for similar services.
- (2) With respect to materials or supplies purchased from a MBE/WBE, which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site (but not the cost of the materials and supplies themselves), provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

**Commercially Useful Function**

(A) **MBE/WBE Utilization**

The Contractor may count toward its contract goal requirement only expenditures to MBEs and WBEs that perform a commercially useful function in the work of a contract. A MBE/WBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the MBE/WBE shall also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable) and paying for the material itself. To determine whether a MBE/WBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the MBE/WBE credit claimed for its performance of the work, and any other relevant factors.

(B) **MBE/WBE Utilization in Trucking**

The following factors will be used to determine if a MBE or WBE trucking firm is performing a commercially useful function:

- (1) The MBE/WBE shall be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and

there shall not be a contrived arrangement for the purpose of meeting the MBE or WBE goal.

- (2) The MBE/WBE shall itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- (3) The MBE/WBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- (4) The MBE may subcontract the work to another MBE firm, including an owner-operator who is certified as a MBE. The same holds true that a WBE may subcontract the work to another WBE firm, including an owner-operator who is certified as a WBE. When this occurs, the MBE or WBE who subcontracts work receives credit for the total value of the transportation services the subcontracted MBE or WBE provides on the contract. It should be noted that every effort shall be made by MBE and WBE contractors to subcontract to the same certification (i.e., MBEs to MBEs and WBEs to WBEs), in order to fulfill the goal requirement. This, however, may not always be possible due to the limitation of firms in the area. If the MBE or WBE firm shows a good faith effort has been made to reach out to similarly certified transportation service providers and there is no interest or availability, and they can get assistance from other certified providers, the Engineer will not hold the prime liable for meeting the goal.
- (5) The MBE/WBE may also subcontract the work to a non-MBE/WBE firm, including from an owner-operator. The MBE/WBE who subcontracts the work to a non-MBE/WBE is entitled to credit for the total value of transportation services provided by the non-MBE/WBE subcontractor not to exceed the value of transportation services provided by MBE/WBE-owned trucks on the contract. Additional participation by non-MBE/WBE subcontractors receives credit only for the fee or commission it receives as a result of the subcontract arrangement. The value of services performed under subcontract agreements between the MBE/WBE and the Contractor will not count towards the MBE/WBE contract requirement.
- (6) A MBE/WBE may lease truck(s) from an established equipment leasing business open to the general public. The lease must indicate that the MBE/WBE has exclusive use of and control over the truck. This requirement does not preclude the leased truck from working for others during the term of the lease with the consent of the MBE/WBE, so long as the lease gives the MBE/WBE absolute priority for use of the leased truck. This type of lease may count toward the MBE/WBE's credit as long as the driver is under the MBE/WBE's payroll.

- (7) Subcontracted/leased trucks shall display clearly on the dashboard the name of the MBE/WBE that they are subcontracted/leased to and their own company name if it is not identified on the truck itself. Magnetic door signs are not permitted.

### **MBE/WBE Replacement**

When a Contractor has relied on a commitment to a MBE or WBE firm (or an approved substitute MBE or WBE firm) to meet all or part of a contract goal requirement, the contractor shall not terminate the MBE/WBE for convenience. This includes, but is not limited to, instances in which the Contractor seeks to perform the work of the terminated subcontractor with another MBE/WBE subcontractor, a non-MBE/WBE subcontractor, or with the Contractor's own forces or those of an affiliate. A MBE/WBE may only be terminated after receiving the Engineer's written approval based upon a finding of good cause for the termination.

All requests for replacement of a committed MBE/WBE firm shall be submitted to the Engineer for approval on Form RF-1 (*Replacement Request*). If the Contractor fails to follow this procedure, the Contractor may be disqualified from further bidding for a period of up to 6 months.

The Contractor shall comply with the following for replacement of a committed MBE/WBE:

#### **(A) Performance Related Replacement**

When a committed MBE is terminated for good cause as stated above, an additional MBE that was submitted at the time of bid may be used to fulfill the MBE commitment. The same holds true if a committed WBE is terminated for good cause, an additional WBE that was submitted at the time of bid may be used to fulfill the WBE goal. A good faith effort will only be required for removing a committed MBE/WBE if there were no additional MBEs/WBEs submitted at the time of bid to cover the same amount of work as the MBE/WBE that was terminated.

If a replacement MBE/WBE is not found that can perform at least the same amount of work as the terminated MBE/WBE, the Contractor shall submit a good faith effort documenting the steps taken. Such documentation shall include, but not be limited to, the following:

- (1) Copies of written notification to MBEs/WBEs that their interest is solicited in contracting the work defaulted by the previous MBE/WBE or in subcontracting other items of work in the contract.
- (2) Efforts to negotiate with MBEs/WBEs for specific subbids including, at a minimum:
  - (a) The names, addresses, and telephone numbers of MBEs/WBEs who were contacted.



- (b) A description of the information provided to MBEs/WBEs regarding the plans and specifications for portions of the work to be performed.
  - (3) A list of reasons why MBE/WBE quotes were not accepted.
  - (4) Efforts made to assist the MBEs/WBEs contacted, if needed, in obtaining bonding or insurance required by the Contractor.
- (B) Decertification Replacement
- (1) When a committed MBE/WBE is decertified by the Department after the SAF (*Subcontract Approval Form*) has been received by the Department, the Department will not require the Contractor to solicit replacement MBE/WBE participation equal to the remaining work to be performed by the decertified firm. The participation equal to the remaining work performed by the decertified firm will count toward the contract goal requirement.
  - (2) When a committed MBE/WBE is decertified prior to the Department receiving the SAF (*Subcontract Approval Form*) for the named MBE/WBE firm, the Contractor shall take all necessary and reasonable steps to replace the MBE/WBE subcontractor with another similarly certified MBE/WBE subcontractor to perform at least the same amount of work to meet the MBE/WBE goal requirement. If a MBE/WBE firm is not found to do the same amount of work, a good faith effort must be submitted to NCDOT (see A herein for required documentation).

### **Changes in the Work**

When the Engineer makes changes that result in the reduction or elimination of work to be performed by a committed MBE/WBE, the Contractor will not be required to seek additional participation. When the Engineer makes changes that result in additional work to be performed by a MBE/WBE based upon the Contractor's commitment, the MBE/WBE shall participate in additional work to the same extent as the MBE/WBE participated in the original contract work.

When the Engineer makes changes that result in extra work, which has more than a minimal impact on the contract amount, the Contractor shall seek additional participation by MBEs/WBEs unless otherwise approved by the Engineer.

When the Engineer makes changes that result in an alteration of plans or details of construction, and a portion or all of the work had been expected to be performed by a committed MBE/WBE, the Contractor shall seek participation by MBEs/WBEs unless otherwise approved by the Engineer.

When the Contractor requests changes in the work that result in the reduction or elimination of work that the Contractor committed to be performed by a MBE/WBE, the Contractor shall seek

additional participation by MBEs/WBEs equal to the reduced MBE/WBE participation caused by the changes.

### **Reports and Documentation**

A SAF (*Subcontract Approval Form*) shall be submitted for all work which is to be performed by a MBE/WBE subcontractor. The Department reserves the right to require copies of actual subcontract agreements involving MBE/WBE subcontractors.

When using transportation services to meet the contract commitment, the Contractor shall submit a proposed trucking plan in addition to the SAF. The plan shall be submitted prior to beginning construction on the project. The plan shall include the names of all trucking firms proposed for use, their certification type(s), the number of trucks owned by the firm, as well as the individual truck identification numbers, and the line item(s) being performed.

Within 30 calendar days of entering into an agreement with a MBE/WBE for materials, supplies or services, not otherwise documented by the SAF as specified above, the Contractor shall furnish the Engineer a copy of the agreement. The documentation shall also indicate the percentage (60% or 100%) of expenditures claimed for MBE/WBE credit.

### **Reporting Minority and Women Business Enterprise Participation**

The Contractor shall provide the Engineer with an accounting of payments made to all MBE and WBE firms, including material suppliers and contractors at all levels (prime, subcontractor, or second tier subcontractor). This accounting shall be furnished to the Engineer for any given month by the end of the following month. Failure to submit this information accordingly may result in the following action:

- (A) Withholding of money due in the next partial pay estimate; or
- (B) Removal of an approved contractor from the prequalified bidders' list or the removal of other entities from the approved subcontractors list.

While each contractor (prime, subcontractor, 2nd tier subcontractor) is responsible for accurate accounting of payments to MBEs/WBEs, it shall be the prime contractor's responsibility to report all monthly and final payment information in the correct reporting manner.

Failure on the part of the Contractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from further bidding until the required information is submitted.

Failure on the part of any subcontractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from being approved for further work on future projects until the required information is submitted.

Contractors reporting transportation services provided by non-MBE/WBE lessees shall evaluate the value of services provided during the month of the reporting period only.

At any time, the Engineer can request written verification of subcontractor payments.

The Contractor shall report the accounting of payments on the Department's DBE-IS (*Subcontractor Payment Information*) with each invoice. Invoices will not be processed for payment until the DBE-IS is received.

### **Failure to Meet Contract Requirements**

Failure to meet contract requirements in accordance with Subarticle 102-15(J) of the *2012 Standard Specifications* may be cause to disqualify the Contractor.

### **OUTSOURCING OUTSIDE THE USA:**

(9-21-04) (Rev. 5-16-06)

SP1 G150

All work on consultant contracts, services contracts, and construction contracts shall be performed in the United States of America. No work shall be outsourced outside of the United States of America.

*Outsourcing* for the purpose of this provision is defined as the practice of subcontracting labor, work, services, staffing, or personnel to entities located outside of the United States.

The North Carolina Secretary of Transportation shall approve exceptions to this provision in writing.

### **GIFTS FROM VENDORS AND CONTRACTORS:**

(12-15-09)

107-1

SP1 G152

By Executive Order 24, issued by Governor Perdue, and *N.C. G.S. § 133-32*, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and *G.S. § 133-32*.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors

should contact other State Agencies to determine if those agencies have adopted Executive Order 24.

**EMPLOYMENT:**

(11-15-11) (Rev. 1-17-12)

108, 102

SP1 G184

Revise the *2012 Standard Specifications* as follows:

**Page 1-20, Subarticle 102-15(O)**, delete and replace with the following:

**(O)** Failure to restrict a former Department employee as prohibited by Article 108-5.

**Page 1-65, Article 108-5 Character of Workmen, Methods, and Equipment, line 32**, delete all of line 32, the first sentence of the second paragraph and the first word of the second sentence of the second paragraph.

**STATE HIGHWAY ADMINISTRATOR TITLE CHANGE:**

(9-18-12)

SP1 G185

Revise the *2012 Standard Specifications* as follows:

Replace all references to “State Highway Administrator” with “Chief Engineer”.

## **PROJECT SPECIAL PROVISIONS**

### **ROADWAY**

#### **GENERAL:**

The Contractor shall furnish equipment in good operating condition and operated by properly trained and qualified personnel. The personnel operating the equipment shall be employees of the Contractor or approved Subcontractor and the Contractor shall be responsible for all operators during the performance of the contract. The personnel shall be subject to the directions of the Department of Transportation. The Department may refuse delivery or may reject any equipment found to be defective and/or inadequately operated.

The Contractor shall conform to the guidelines as set forth in the “Department of Transportation’s Snow and Ice Control Plans” regarding policies, operational practices, and use of designated chemical/abrasive storage sites, etc. Copies of this information will be provided upon request.

#### **EQUIPMENT REQUIREMENTS:**

The Contractor shall follow the following equipment requirements and specifications for the term of this contract:

A minimum of four (4) multi-axle dump trucks, with operators, equipped with 12.0-ft. snowplow, and 10.0 cubic yard (minimum truck capacity) material spreader.

Upon approval of the Engineer, the Contractor may provide additional units in accordance with the terms and conditions of this contract.

All snowplows provided under this agreement shall be hydraulic powered, reversible, hydraulic angling, moldboard-type plows, with a dual trip spring assembly, which will automatically return the plow to the normal plowing position. The trip spring assembly is intended to reduce the potential for damage to the plowing equipment resulting from collision with roadway structures, such as, but not limited to, manholes and valve boxes. The Department will not be responsible for damage to the Contractor’s equipment resulting from collisions with such structures.

All material spreaders provided under this agreement shall be truck engine driven, hydraulic pump powered, in-body style spreaders with a calibrated, adjustable, locking feed gate which controls the amount of material being discharged.

A copy of the DOT specifications for snowplows and material spreaders will be made available to the Contractor upon request.

The snowplows and material spreaders will be inspected and approved by the Engineer during the scheduled dry run(s). The Engineer will also periodically inspect all equipment provided. If, at any time, the Engineer finds that the equipment is not satisfactory, or has not been maintained

in operating condition, the Contractor will repair or replace the unsatisfactory equipment at the Contractor's cost

Operators of all trucks shall have a Commercial Driver's License of the appropriate class. The Contractor shall provide enough operators, per piece of equipment provided under this agreement, to operate 24 hours per day during a storm event. Operators are limited to a maximum of one 12-hour shift within a 24-hour period.

All trucks provided by the Contractor shall be equipped with warning lights visible from 360 degrees in accordance with NCDOT standards. All trucks shall have headlights mounted to provide forward lighting over the snowplow. Lighting shall be installed and adjusted so as to minimize glare. Communication devices shall be available in each piece of equipment to accommodate continuous communication between operators and the Contractor's designated supervisor. All equipment shall also be equipped with operable back-up warning devices.

The Contractor shall be responsible for all costs or charges incurred in the operation and maintenance of the equipment during the term of the contract including, but not limited to: fuel, oil, snow plow blades, tire chains, equipment repairs, communication equipment, etc. The Contractor will be compensated for equipment operation and incidentals at the Equipment Operating Rate defined below.

The Contractor shall be responsible for the equipment provided in this contract at all times and at all locations during the term of the contract. The Contractor shall have no claim against the Department for any expense involving damage or loss to the Contractor's equipment (including vandalism, theft, fire, and acts of God) arising out of, or relating to, work performed under this contract.

### **EQUIPMENT OPERATION FOR SNOW AND ICE REMOVAL:**

#### **Description**

The Contractor shall furnish the Department the fully operated equipment described in this contract as needed during inclement weather to perform snow and ice control activities at times and locations in Lenoir County, as directed by the Engineer.

The established equipment operating rate for snow and ice removal shall be full compensation for labor, equipment, and incidentals necessary to complete the work. This operating rate will be increased by three percent (3%) for each one year extension as indicated in the Schedule of Values.

#### **Measurement and Payment**

*Equipment Operation for Snow and Ice Removal* will be measured and paid for as the actual number of hours of satisfactory operation. All charges shall be determined to the nearest one-quarter hour (15 minute) period based upon the time the equipment was in actual productive operation or authorized stand-by time. The Contractor will not be paid for downtime due to meals, equipment failure, accidents, or other conditions.

Payment will be made under:

<b>Pay Item</b>	<b>Pay Unit</b>
Equipment Operation for Snow and Ice Removal	Hour

**FUEL PRICE ADJUSTMENT:**

Revise the 2012 *Standard Specifications* as follows:

**Page 1-83 Subarticle 109-8, add the following:**

The base index price for ULTRA-LOW SULFUR DIESEL is \$ **2.9552** per gallon.

The pay items and the fuel factor used in calculating adjustments to be made will be as follows:

The fuel price adjustment will apply while performing plowing operations. **The three hours allowed by the special provision for mobilization and demobilization will not apply.** Likewise, time accumulated as part of staging, i.e. waiting on the storm to arrive will not apply. The fuel adjustment factor was derived based upon historical cycle times to cover bare pavement routes. This was compared against current fuel factors for hauling operations that are based on a gallon/ton unit.

The following formula will be used to calculate the appropriate payment.

$$S = (A - B)(QF)$$

- Where:
- S = Fuel Price Adjustment for partial payment
  - B = Base Index Price
  - A = Average terminal price
  - Q = Partial payment quantity (\$)for contract item
  - F = Fuel factor for contract item

The item(s) of work and the fuel factor used in calculating adjustments to be made are as follows:

<b>Description</b>	<b>Units</b>	<b>Fuel Usage Factor Diesel</b>
Hours of Application (Excludes mobilization and staging hours)	Hr.	0.45

The Contractor will need to bill the Department after each storm event. Each invoice should itemize hours spent plowing verses staging and mobilization since only the former is eligible for the fuel adjustment.

**MOBILIZATION AND DEMOBILIZATION:**

**Description**

Mobilization and Demobilization for each piece of equipment in each weather event will be paid three hours at the same rate as *Equipment Operation for Snow and Ice Removal*. These three hours will be paid as additional operating hours for each piece of fully operated equipment provided under this contract and shall be considered full compensation for all costs to mobilize and demobilize the equipment provided under this contract. Mobilization shall include rigging the dump truck with the specified appurtenances and having the trucks ready for operation (loading and plowing) at the designated Department facility. Demobilization shall include the cleanup of the trucks and appurtenances at the conclusion of the current storm event and unrigging the specified appurtenances from the dump trucks.

**Measurement and Payment**

*Mobilization and Demobilization* will be measured and paid for as 3 hours of additional equipment operation.

Payment will be made under:

<b>Pay Item</b>	<b>Pay Unit</b>
Mobilization and Demobilization	Hour

**TRAINING:**

**Description**

The Department shall provide training session(s) to familiarize all of the Contractor’s personnel (both operators and supervisors) with snow removal and ice control methods, equipment, and assigned routes. Training sessions consist of classroom style instruction on snow removal and ice control methods and materials, snowplow and spreader operation, calibration, and safety issues. Training session(s) will be scheduled and completed as determined by the Engineer and the Contractor will be given a minimum two weeks’ notice of scheduled training sessions.

**Measurement and Payment**

Payment for training session(s) shall be at the established rate of \$35.00 per hour for each person in attendance. The Department will pay the Contractor for a maximum of two operators per piece of equipment provided under this agreement and for a number of Contractor supervisors as determined by the Engineer. Payment will only be made for regularly scheduled training sessions provided by the Department. No payment will be made for training provided to the Contractor’s personnel due to operator or supervisor turnover or absence from regularly scheduled training. The cost for *Training is not subject to annual 3% increase* and will remain at the established rate for the duration of the contract.



Payment will be made under:

<b>Pay Item</b>	<b>Pay Unit</b>
Training	Hour

**DRY RUN/CALIBRATION:**

The Department shall conduct dry run(s) to familiarize all of the Contractor’s personnel (both operators and supervisors) with snow removal and ice control methods, equipment, and assigned routes. Dry runs include the use of all required equipment. At a dry run, equipment is inspected, calibrated, and plowing routes are reviewed and driven for operators to note potential plowing patterns and changes. Dry run(s) will be scheduled and completed as determined by the Engineer. The Department will provide the Contractor with a minimum two weeks’ notice of scheduled dry runs.

**Measurement and Payment**

Payment for dry run(s) shall be at the same rate as *Equipment Operation for Snow and Ice Removal* for each piece of equipment used in the dry run(s). The Contractor will also receive compensation for mobilization/demobilization as described in this contract. This rate will be increased by three percent (3%) for each one year extension as indicated in the Schedule of Values.

Payment will be made under:

<b>Pay Item</b>	<b>Pay Unit</b>
Dry Run/Calibration	Hour

**OUTFITTING FEE:**

**Description**

An Outfitting Fee for investment costs associated with the purchase and installation of the equipment appurtenances (spreaders, snow plows, plow blades, etc.) specified herein will be paid to the Contractor. The unit bid price will be spread over the total, optional, renewable five (5) year term of the contract.

The snowplows and material spreaders will be inspected and approved by the Engineer during the scheduled dry run(s). The Engineer will also periodically inspect all equipment provided. If at any time the Engineer finds that the equipment is not satisfactory, or has not been maintained in operating condition, the Contractor shall repair or replace the unsatisfactory equipment at the Contractor’s cost. If the Contractor does not repair or replace the equipment within a reasonable timeframe, as established by the Engineer, this may constitute grounds for termination of the contract and the Contractor may be invoiced for a portion of, or all, Outfitting Fee paid for said equipment. All equipment covered by this pay item will remain the property of the Contractor upon the expiration or termination of the contract. Costs associated with the maintenance and

repair of the equipment and appurtenances shall be considered incidental to the operating costs of the equipment.

**Measurement and Payment**

Upon completion of all the training, dry run(s), and satisfactory inspection as established by the Engineer for the term year, one payment will be made to the Contractor in an amount of Fifty percent (50%) of the unit price bid in the First year, Thirty percent (30%) in the Third year, and Twenty percent (20%) in the Fifth year during the term of this contract for each piece of equipment provided under this contract.

Payment will be made under:

<b>Pay Item</b>	<b>Pay Unit</b>
Outfitting Fee	Each

**DEICING CHEMICAL SUPPLIES:**

The Department of Transportation will provide all necessary deicing chemical materials and/or abrasives necessary for snow and ice control operations. The Contractor's equipment will be loaded with deicing materials/abrasives in the same manner, and at the same locations as the Department of Transportation's equipment. The contractor shall return all unused materials to the Department.

## SCHEDULE OF VALUES

<b>YEAR 1</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1	Outfitting Fee	4	EA	50% UNIT BID PRICE	50% AMOUNT BID
2	Equipment Operation	1000	HR	\$100.00	\$100,000.00
3	Mobilization and Demobilization	90	HR	\$100.00	\$9,000.00
4	Training	40	HR	\$35.00	\$1,400.00
5	Dry Run / Calibration	30	HR	\$100.00	\$3,000.00
<b>YEAR 2</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1	Outfitting Fee	4	EA	\$0.00	\$0.00
2	Equipment Operation	1000	HR	\$103.00	\$103,000.00
3	Mobilization and Demobilization	90	HR	\$103.00	\$9,270.00
4	Training	40	HR	\$35.00	\$1,400.00
5	Dry Run / Calibration	30	HR	\$103.00	\$3,090.00
<b>YEAR 3</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1	Outfitting Fee	4	EA	30% UNIT BID PRICE	30% AMOUNT BID
2	Equipment Operation	1000	HR	\$106.00	\$106,000.00
3	Mobilization and Demobilization	90	HR	\$106.00	\$9,540.00
4	Training	40	HR	\$35.00	\$1,400.00
5	Dry Run / Calibration	30	HR	\$106.00	\$3,180.00
<b>YEAR 4</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1	Outfitting Fee	4	EA	\$0.00	\$0.00
2	Equipment Operation	1000	HR	\$109.00	\$109,000.00
3	Mobilization and Demobilization	90	HR	\$109.00	\$9,810.00
4	Training	40	HR	\$35.00	\$1,400.00
5	Dry Run / Calibration	30	HR	\$109.00	\$3,270.00
<b>YEAR 5</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL</b>
1	Outfitting Fee	4	EA	20% UNIT BID PRICE	20% AMOUNT BID
2	Equipment Operation	1000	HR	\$112.00	\$112,000.00
3	Mobilization and Demobilization	90	HR	\$112.00	\$10,080.00
4	Training	40	HR	\$35.00	\$1,400.00
5	Dry Run / Calibration	30	HR	\$112.00	\$3,360.00

**STANDARD SPECIAL PROVISION**  
**AVAILABILITY OF FUNDS – TERMINATION OF CONTRACTS**

(5-20-08)

Z-2

*General Statute 143C-6-11. (h) Highway Appropriation* is hereby incorporated verbatim in this contract as follows:

(h) Amounts Encumbered. – Transportation project appropriations may be encumbered in the amount of allotments made to the Department of Transportation by the Director for the estimated payments for transportation project contract work to be performed in the appropriation fiscal year. The allotments shall be multiyear allotments and shall be based on estimated revenues and shall be subject to the maximum contract authority contained in *General Statute 143C-6-11(c)*. Payment for transportation project work performed pursuant to contract in any fiscal year other than the current fiscal year is subject to appropriations by the General Assembly. Transportation project contracts shall contain a schedule of estimated completion progress, and any acceleration of this progress shall be subject to the approval of the Department of Transportation provided funds are available. The State reserves the right to terminate or suspend any transportation project contract, and any transportation project contract shall be so terminated or suspended if funds will not be available for payment of the work to be performed during that fiscal year pursuant to the contract. In the event of termination of any contract, the contractor shall be given a written notice of termination at least 60 days before completion of scheduled work for which funds are available. In the event of termination, the contractor shall be paid for the work already performed in accordance with the contract specifications.

Payment will be made on any contract terminated pursuant to the special provision in accordance with Subarticle 108-13(E) of the *2012 Standard Specifications*.

## STANDARD SPECIAL PROVISION

### ERRATA

(1-17-12) (Rev. 10-15-13)

Z-4

Revise the *2012 Standard Specifications* as follows:

#### **Division 2**

**Page 2-7, line 31, Article 215-2 Construction Methods**, replace “Article 107-26” with “Article 107-25”.

**Page 2-17, Article 226-3, Measurement and Payment, line 2**, delete “pipe culverts,”.

**Page 2-20, Subarticle 230-4(B), Contractor Furnished Sources, change references as follows:** **Line 1**, replace “(4) Buffer Zone” with “(c) Buffer Zone”; **Line 12**, replace “(5) Evaluation for Potential Wetlands and Endangered Species” with “(d) Evaluation for Potential Wetlands and Endangered Species”; and **Line 33**, replace “(6) Approval” with “(4) Approval”.

#### **Division 4**

**Page 4-77, line 27, Subarticle 452-3(C) Concrete Coping**, replace “sheet pile” with “reinforcement”.

#### **Division 6**

**Page 6-7, line 31, Article 609-3 Field Verification of Mixture and Job Mix Formula Adjustments**, replace “30” with “45”.

**Page 6-10, line 42, Subarticle 609-6(C)(2)**, replace “Subarticle 609-6(E)” with “Subarticle 609-6(D)”.

**Page 6-11, Table 609-1 Control Limits**, replace “Max. Spec. Limit” for the Target Source of  $P_{0.075}/P_{be}$  Ratio with “1.0”.

**Page 6-40, Article 650-2 Materials**, replace “Subarticle 1012-1(F)” with “Subarticle 1012-1(E)”

#### **Division 8**

**Page 8-23, line 10, Article 838-2 Materials**, replace “Portland Cement Concrete, Class B” with “Portland Cement Concrete, Class A”.

#### **Division 10**

**Page 10-74, Table 1056-1 Geotextile Requirements**, replace “50%” for the UV Stability (Retained Strength) of Type 5 geotextiles with “70%”.

#### **Division 12**

**Page 12-7, Table 1205-3**, add “FOR THERMOPLASTIC” to the end of the title.

**Page 12-8, Subarticle 1205-5(B), line 13**, replace “Table 1205-2” with “Table 1205-4”.

**Page 12-8, Table 1205-4 and 1205-5**, replace “THERMOPLASTIC” in the title of these tables with “POLYUREA”.

**Page 12-9, Subarticle 1205-6(B), line 21**, replace “Table 1205-4” with “Table 1205-6”.

**Page 12-11, Subarticle 1205-8(C), line 25**, replace “Table 1205-5” with “Table 1205-7”.

### **Division 15**

**Page 15-4, Subarticle 1505-3(F) Backfilling, line 26,** replace “Subarticle 235-4(C)” with “Subarticle 235-3(C)”.

**Page 15-6, Subarticle 1510-3(B), after line 21,** replace the allowable leakage formula with the following:  $W = LD\sqrt{P} \div 148,000$

**Page 15-6, Subarticle 1510-3(B), line 32,** delete “may be performed concurrently or” and replace with “shall be performed”.

**Page 15-17, Subarticle 1540-3(E), line 27,** delete “Type 1”.

### **Division 17**

**Page 17-26, line 42, Subarticle 1731-3(D) Termination and Splicing within Interconnect Center,** delete this subarticle.

Revise the *2012 Roadway Standard Drawings* as follows:

**1633.01 Sheet 1 of 1, English Standard Drawing for Matting Installation,** replace “1633.01” with “1631.01”.

## **STANDARD SPECIAL PROVISION**

### **PLANT AND PEST QUARANTINES**

#### **(Imported Fire Ant, Gypsy Moth, Witchweed, And Other Noxious Weeds)**

(3-18-03) (Rev. 10-15-13)

Z-04a

#### **Within Quarantined Area**

This project may be within a county regulated for plant and/or pests. If the project or any part of the Contractor's operations is located within a quarantined area, thoroughly clean all equipment prior to moving out of the quarantined area. Comply with federal/state regulations by obtaining a certificate or limited permit for any regulated article moving from the quarantined area.

#### **Originating in a Quarantined County**

Obtain a certificate or limited permit issued by the N.C. Department of Agriculture/United States Department of Agriculture. Have the certificate or limited permit accompany the article when it arrives at the project site.

#### **Contact**

Contact the N.C. Department of Agriculture/United States Department of Agriculture at 1-800-206-9333, 919-733-6932, or <http://www.ncagr.gov/plantind/> to determine those specific project sites located in the quarantined area or for any regulated article used on this project originating in a quarantined county.

#### **Regulated Articles Include**

1. Soil, sand, gravel, compost, peat, humus, muck, and decomposed manure, separately or with other articles. This includes movement of articles listed above that may be associated with cut/waste, ditch pulling, and shoulder cutting.
2. Plants with roots including grass sod.
3. Plant crowns and roots.
4. Bulbs, corms, rhizomes, and tubers of ornamental plants.
5. Hay, straw, fodder, and plant litter of any kind.
6. Clearing and grubbing debris.
7. Used agricultural cultivating and harvesting equipment.
8. Used earth-moving equipment.
9. Any other products, articles, or means of conveyance, of any character, if determined by an inspector to present a hazard of spreading imported fire ant, gypsy moth, witchweed or other noxious weeds.

**STANDARD SPECIAL PROVISION**

**MINIMUM WAGES**

(7-21-09)

Z-5

**FEDERAL:** The Fair Labor Standards Act provides that with certain exceptions every employer shall pay wages at the rate of not less than SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

**STATE:** The North Carolina Minimum Wage Act provides that every employer shall pay to each of his employees, wages at a rate of not less than SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all skilled labor employed on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all intermediate labor employed on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all unskilled labor on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

This determination of the intent of the application of this act to the contract on this project is the responsibility of the Contractor.

The Contractor shall have no claim against the Department of Transportation for any changes in the minimum wage laws, Federal or State. It is the responsibility of the Contractor to keep fully informed of all Federal and State Laws affecting his contract.



## **STANDARD SPECIAL PROVISION**

### **ON-THE-JOB TRAINING**

(10-16-07) (Rev. 5-21-13)

Z-10

#### **Description**

The North Carolina Department of Transportation will administer a custom version of the Federal On-the-Job Training (OJT) Program, commonly referred to as the Alternate OJT Program. All contractors (existing and newcomers) will be automatically placed in the Alternate Program. Standard OJT requirements typically associated with individual projects will no longer be applied at the project level. Instead, these requirements will be applicable on an annual basis for each contractor administered by the OJT Program Manager.

On the Job Training shall meet the requirements of 23 CFR 230.107 (b), 23 USC – Section 140, this provision and the On-the-Job Training Program Manual.

The Alternate OJT Program will allow a contractor to train employees on Federal, State and privately funded projects located in North Carolina. However, priority shall be given to training employees on NCDOT Federal-Aid funded projects.

#### **Minorities and Women**

Developing, training and upgrading of minorities and women toward journeyman level status is a primary objective of this special training provision. Accordingly, the Contractor shall make every effort to enroll minority and women as 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.

#### **Assigning Training Goals**

The Department, through the OJT Program Manager, will assign training goals for a calendar year based on the contractors' past three years' activity and the contractors' anticipated upcoming year's activity with the Department. At the beginning of each year, all contractors eligible will be contacted by the Department to determine the number of trainees that will be assigned for the upcoming calendar year. At that time the Contractor shall enter into an agreement with the Department to provide a self-imposed on-the-job training program for the calendar year. This agreement will include a specific number of annual training goals agreed to by both parties. The number of training assignments may range from 1 to 15 per contractor per calendar year. The Contractor shall sign an agreement to fulfill their annual goal for the year. A sample agreement is available at [www.ncbowd.com/section/on-the-job-training](http://www.ncbowd.com/section/on-the-job-training).

## Training Classifications

The Contractor shall provide on-the-job training aimed at developing full journeyman level workers in the construction craft/operator positions. Preference shall be given to providing training in the following skilled work classifications:

Equipment Operators	Office Engineers
Truck Drivers	Estimators
Carpenters	Iron / Reinforcing Steel Workers
Concrete Finishers	Mechanics
Pipe Layers	Welders

The Department has established common training classifications and their respective training requirements that may be used by the contractors. However, the classifications established are not all-inclusive. Where the training is oriented toward construction applications, training will be allowed in lower-level management positions such as office engineers and estimators. Contractors shall submit new classifications for specific job functions that their employees are performing. The Department will review and recommend for acceptance to FHWA the new classifications proposed by contractors, if applicable. New classifications shall meet the following requirements:

Proposed training classifications are reasonable and realistic based on the job skill classification needs, and

The number of training hours specified in the training classification is consistent with common practices and provides enough time for the trainee to obtain journeyman level status.

The Contractor may allow trainees to be trained by a subcontractor provided that the Contractor retains primary responsibility for meeting the training and this provision is made applicable to the subcontract. However, only the Contractor will receive credit towards the annual goal for the trainee.

Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. The number of trainees shall be distributed among the work classifications on the basis of the contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment.

No employee shall be employed as a trainee in any classification in which they have successfully completed a training course leading to journeyman level status or in which they have been employed as a journeyman.

## **Records and Reports**

The Contractor shall maintain enrollment, monthly and completion reports documenting company compliance under these contract documents. These documents and any other information as requested shall be submitted to the OJT Program Manager.

Upon completion and graduation of the program, the Contractor shall provide each trainee with a certification Certificate showing the type and length of training satisfactorily completed.

## **Trainee Interviews**

All trainees enrolled in the program will receive an initial and Trainee/Post graduate interview conducted by the OJT program staff.

## **Trainee Wages**

Contractors shall compensate trainees on a graduating pay scale based upon a percentage of the prevailing minimum journeyman wages (Davis-Bacon Act). Minimum pay shall be as follows:

60 percent	of the journeyman wage for the first half of the training period
75 percent	of the journeyman wage for the third quarter of the training period
90 percent	of the journeyman wage for the last quarter of the training period

In no instance shall a trainee be paid less than the local minimum wage. The Contractor shall adhere to the minimum hourly wage rate that will satisfy both the NC Department of Labor (NCDOL) and the Department.

## **Achieving or Failing to Meet Training Goals**

The Contractor will be credited for each trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and who receives training for at least 50 percent of the specific program requirement. Trainees will be allowed to be transferred between projects if required by the Contractor's scheduled workload to meet training goals.

If a contractor fails to attain their training assignments for the calendar year, they may be taken off the NCDOT's Bidders List.

## **Measurement and Payment**

No compensation will be made for providing required training in accordance with these contract documents.

**\*AWARD LIMITS ON MULTIPLE PROJECTS\***

It is the desire of the Proposer to be awarded contracts, the value of which will not exceed a total of \$ \_\_\_\_\_, for those projects indicated below on which bids are being opened on the same date as shown in the Proposal Form. Individual projects shall be indicated by placing the project number and county in the appropriate place below. Projects not selected will not be subject to an award limit.

\_\_\_\_\_  
(Project Number)

\_\_\_\_\_  
(County)

\_\_\_\_\_  
(Project Number)

\_\_\_\_\_  
(County)

\_\_\_\_\_  
(Project Number)

\_\_\_\_\_  
(County)

\_\_\_\_\_  
(Project Number)

\_\_\_\_\_  
(County)

\*If a Proposer desires to limit the total amount of work awarded to him in this letting, he shall state such limit in the space provided above in the second line of this form.

It is agreed that in the event that I am (we are) the successful bidder on indicated projects, the total value of which is more that the above stipulated award limits, the Board of Transportation will award me (us) projects from among those indicated which have a total value not exceeding the award limit and which will result in the best advantage to the Department of Transportation.

\_\_\_\_\_  
\*\*Signature of Authorized Person

\*\*Only those persons authorized to sign bids under the provisions of Article 102-8, Item 7, shall be authorized to sign this form.





County Lenoir

**EXECUTION OF BID  
NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**CORPORATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

*N.C.G.S. § 133-32* and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

**SIGNATURE OF CONTRACTOR**

\_\_\_\_\_ Full name of Corporation

\_\_\_\_\_ Address as Prequalified

Attest \_\_\_\_\_  
Secretary/Assistant Secretary  
*Select appropriate title*

By \_\_\_\_\_  
President/Vice President/Assistant Vice President  
*Select appropriate title*

\_\_\_\_\_ Print or type Signer's name

\_\_\_\_\_ Print or type Signer's name

**CORPORATE SEAL**

**AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_ Signature of Notary Public

of \_\_\_\_\_ County

State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

**NOTARY SEAL**

County Lenoir

**EXECUTION OF BID  
NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**PARTNERSHIP**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

*N.C.G.S. § 133-32* and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

**SIGNATURE OF CONTRACTOR**

\_\_\_\_\_  
Full Name of Partnership

\_\_\_\_\_  
Address as Prequalified

By \_\_\_\_\_

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Print or type Signer's name

\_\_\_\_\_  
Print or type Signer's name

**AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**NOTARY SEAL**

\_\_\_\_\_  
Signature of Notary Public

of \_\_\_\_\_ County

State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



County Lenoir

**EXECUTION OF BID  
NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**LIMITED LIABILITY COMPANY**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

*N.C.G.S. § 133-32* and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

**SIGNATURE OF CONTRACTOR**

\_\_\_\_\_ Full Name of Firm

\_\_\_\_\_ Address as Prequalified

\_\_\_\_\_ Signature of Witness

\_\_\_\_\_ Signature of Member/Manager/Authorized Agent  
*Select appropriate title*

\_\_\_\_\_ Print or type Signer's name

\_\_\_\_\_ Print or type Signer's Name

**AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the

**NOTARY SEAL**

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_ Signature of Notary Public

of \_\_\_\_\_ County

State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



County Lenoir

**EXECUTION OF BID  
NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**INDIVIDUAL DOING BUSINESS UNDER A FIRM NAME**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

*N.C.G.S. § 133-32* and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

**SIGNATURE OF CONTRACTOR**

Name of Contractor

\_\_\_\_\_ Individual name

Trading and doing business as

\_\_\_\_\_ Full name of Firm

\_\_\_\_\_ Address as Prequalified

\_\_\_\_\_ Signature of Witness

\_\_\_\_\_ Signature of Contractor, Individually

\_\_\_\_\_ Print or type Signer's name

\_\_\_\_\_ Print or type Signer's name

**AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the

**NOTARY SEAL**

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_ Signature of Notary Public

of \_\_\_\_\_ County

State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

County Lenoir

**EXECUTION OF BID  
NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**INDIVIDUAL DOING BUSINESS IN HIS OWN NAME**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

*N.C.G.S. § 133-32* and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

**SIGNATURE OF CONTRACTOR**

Name of Contractor \_\_\_\_\_  
Print or type Individual name

\_\_\_\_\_  
Address as Prequalified

\_\_\_\_\_  
Signature of Contractor, Individually

\_\_\_\_\_  
Print or type Signer's Name

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print or type Signer's name

**AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

**NOTARY SEAL**

\_\_\_\_\_  
Signature of Notary Public

of \_\_\_\_\_ County

State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## DEBARMENT CERTIFICATION

Conditions for certification:

1. The prequalified bidder shall provide immediate written notice to the Department if at any time the bidder learns that his certification was erroneous when he submitted his debarment certification or explanation filed with the Department, or has become erroneous because of changed circumstances.
2. 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 provision, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. A copy of the Federal Rules requiring this certification and detailing the definitions and coverages may be obtained from the Contract Officer of the Department.
3. The prequalified bidder agrees by submitting this form, that he will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in NCDOT contracts, unless authorized by the Department.
4. For Federal Aid projects, the prequalified bidder further agrees that by submitting this form he will include the Federal-Aid Provision titled *Required Contract Provisions Federal-Aid Construction Contract (Form FHWA PR 1273)* provided by the Department, without subsequent modification, in all lower tier covered transactions.
5. The prequalified bidder may rely upon a certification of a participant in a lower tier covered transaction that he is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless he knows that the certification is erroneous. The bidder may decide the method and frequency by which he will determine the eligibility of his subcontractors.
6. 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 provision. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
7. Except as authorized in paragraph 6 herein, the Department may terminate any contract if the bidder 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 by the Federal Government.

### DEBARMENT CERTIFICATION

The prequalified bidder certifies to the best of his knowledge and belief, that he and his 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 three-year period preceding this proposal been convicted of or had a civil judgment 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 b. of this certification; and
- d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- e. Will submit a revised Debarment Certification immediately if his status changes and will show in his bid proposal an explanation for the change in status.

If the prequalified bidder cannot certify that he is not debarred, he shall provide an explanation with this submittal. An explanation will not necessarily result in denial of participation in a contract.

Failure to submit a non-collusion affidavit and debarment certification will result in the prequalified bidder's bid being considered non-responsive.

Check here if an explanation is attached to this certification.

# North Carolina Department of Transportation BID FORM

**CONTRACT:** 11428664  
**WBS ELEMENT:** 36050.054, 36053.054  
**COUNTY:** Lenoir  
**ROUTES:** Various  
**DESCRIPTION:** On-call Snow & Ice Removal

**BID OPENING: October 22, 2014**

ITEM	SECT	DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT BID
1	SP	OUTFITTING FEE	4	EA		

**TOTAL BID FOR PROJECT:** \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

ADDRESS \_\_\_\_\_

Federal Identification Number \_\_\_\_\_ Contractors License Number \_\_\_\_\_

Authorized Agent \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**THIS SECTION TO BE COMPLETED BY NC DEPARTMENT OF TRANSPORTATION**

*This bid has been reviewed in accordance with Article 103-1 of the Standard Specifications for Roads and Structures 2012.*

*Reviewed by NCDOT* \_\_\_\_\_ *Date* \_\_\_\_\_  
*Division Contract Officer*

*Accepted by NCDOT* \_\_\_\_\_ *Date* \_\_\_\_\_  
*Division Engineer*