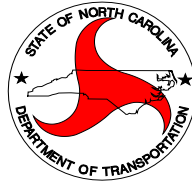


**STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**



REQUEST FOR PROPOSAL

DATE AND TIME OF BID OPENING: AUGUST 5, 2024 AT 2:00 P.M.

BID QUESTIONS: JULY 19, 2024 AT 5:00 P.M.

BID PROPOSAL NO.: 54-MKB-13-PR6611

WBS ELEMENT NO.: 13RE.101138

COUNTY: BUNCOMBE – DIVISION 13

**LOCATION: I-26, EAST AND WESTBOUND LANES, MILE MARKER 41,
SOUTH OF ASHEVILLE**

**TYPE OF WORK: PROFESSIONAL LAWN AND GROUNDS MAINTENANCE OF
REST AREAS**

DATE OF AVAILABILITY: SEPTEMBER 1, 2024

COMPLETION DATE: AUGUST 31, 2025

PROPOSAL
FOR THE CONSTRUCTION OF
BID NO. 54-MKB-13-PR6611 IN BUNCOMBE COUNTY – DIVISION 13, NORTH CAROLINA
JULY 12, 2024
DEPARTMENT OF TRANSPORTATION,
RALEIGH, NORTH CAROLINA

The Bidder has carefully examined the location of the proposed work to be known as **BID NO 54-MKB-13-PR6611**; 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 thoroughly understands the stipulations, requirements and provisions. The undersigned bidder agrees to be bound upon his execution of the bid and subsequent award to him by the Department of Transportation in accordance with this proposal. Payment and performance bonds are not required on this project. 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 *2024 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 **BID NO. 54-MKB-13-PR6611**, 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 2024* 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 or Division Engineer.

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.

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PROJECT SPECIAL PROVISIONS

PROJECT

Buncombe County Rest Areas (pair) on I-26, East and Westbound Lanes, Mile Marker 41, South of Asheville.

SCOPE OF CONTRACT

The N.C. Department of Transportation (hereinafter referred to as “Department”) is seeking the services of a landscape/grounds maintenance company to provide professional rest area lawn and grounds maintenance consisting of but not limited to labor, supervision, equipment and supplies as specified herein. The intent of these specifications and requirements is to state and define the terms and conditions under which the Contractor shall provide the management, supervision, and manpower capable of performing work at the highest standards of horticultural excellence necessary to provide these services in a professional and workmanlike manner. This document is intended as a benchmark of the Department’s minimum standards for rest area lawn and grounds maintenance.

The Department places significant value on the safety and treatment of travelers who visit rest areas. All travelers are to be treated as customers and the Contractor shall emphasize safety and customer service at all times. The provisions of the services required as part of this solicitation ultimately reflect upon the Department and the State of North Carolina as a whole. This proposal, as written, is to be binding by the State and the Contractor.

MANDATORY PRE-BID

Please be advised that any references in the RFP to pre-bid language will not apply as a pre-bid will not be held for this contract. If bidders have questions, they will be addressed in an addendum. The Bidder is encouraged to make his/her own observations of the sites to determine the items identified in this contract as the Contractor's responsibility.

BID QUESTIONS

Purpose: Upon review of the bid documents, bidders may have questions to clarify or interpret the bid in order to submit the best bid possible. To accommodate the Bid Questions process, bidders shall submit by email any such questions **no later than Friday, July 19, 2024 at 5:00 PM**. A response to bidder questions will be in the form of an addendum.

Instructions: Written questions shall be emailed to **Mike Beaver mkbeaver@ncdot.gov** by the date and time specified above. Bidders will enter “**54-MKB-13-PR6611 – Questions**” as the subject for the email. Questions received prior to the submission deadline date, the State’s response, and any additional terms deemed necessary by the State will be documented and included in an addendum to be posted on Connect NCDOT: **<https://connect.ncdot.gov/letting/Pages/Roadside-Environmental.aspx>** and on the electronic Vendor Portal (eVP), **<https://evp.nc.gov>**. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this RFP, shall be considered authoritative or binding. Bidders shall be entitled to rely only on written material contained in an Addendum to this RFP.

The Contractor must sign the addendum signature page(s) where indicated and the entire addendum should be returned with the bid package. Please return the entire addendum, but failure to return the executed signature page(s) of the addendum may result in disqualification of bid.

ELIGIBILITY TO BID

Only Bidders who have a current and valid North Carolina Ground Applicator Pesticide License, subclassification in Ornamental and Turf Pest Control, issued by NCDA in Bidder’s (an actual employee of the company) name and company name, at bid opening will be considered eligible to bid on this project. A bid received from a Bidder who does not have a current and valid license issued by NCDA (an actual employee of

the company) will be rejected as an irregular bid and will not be considered for award. If the licensee is not the Bidder then proof must be given that the licensee is an actual employee of the company.

INTERESTED PARTIES LIST NOT REQUIRED:

(6-21-22)(Rev. 2-20-24)

102

SP1 G02

Revise the *Standard Specifications* as follows:

The *Interested Parties List* sign up process is not applicable to this contract.

Page 1-13, Article 102-3 PROPOSALS AND INTERESTED PARTIES LIST, lines 12-15, delete the first paragraph.

Page 1-14, Article 102-8 PREPARATION AND SUBMISSION OF BIDS, lines 43-44, delete the first sentence of the first paragraph.

PREQUALIFICATION

The Department encourages and promotes the growth, development, and continuation of competent Contractors that can perform the work necessary under this contract. The Department's procurement process is built on the principle of competition. The Department believes that the specifications and requirements under this contract are reasonable to satisfy the need for services requested, but are not unduly restrictive, in order to encourage competition in the open market. In furtherance of these principles, bidders are not required to be prequalified for this contract. All references to "prequalification" of bidders are hereby waived for this contract.

CONTRACT TIME AND COMPLETION DATE

The date of availability for this contract will be September 1, 2024. The completion date for this contract is one (1) year from date of availability.

This project is to be awarded, if the award is to be made in the discretion of the Department, within thirty (30) days after the opening of bids.

Extension of Contract: At the sole option and discretion of the contracting agency, North Carolina Department of Transportation (NCDOT), and upon written notification, this contract may be extended for four (4) additional periods, one (1) year each, unless a shorter time is mutually agreed upon by the parties, (maximum of five (5) years total), to include leap year when applicable. Extensions for additional term(s) are not guaranteed. Upon receipt of notification, the Contractor will be given fifteen (15) days to reply as to acceptance or rejection of an extension. If a reply is not received from the Contractor within fifteen (15) days, NCDOT reserves the right not to extend. Each line item bid price for "Provide Professional Lawn and Grounds Maintenance" will be increased for each one (1) year extension by one (1) percent of the current price. Each line item bid price for Furnish and Apply landscape materials will not be subject to the one (1) percent price increase. No changes in the terms, conditions, etc. of this contract will be made when an extension to the contract is implemented. The Contractor will be notified ninety (90) days before expiration of the contract if NCDOT chooses not to offer an extension.

This project is being let in accordance with G.S. 136-28.1, however, this Proposal is not seeking "informal bids" rather, it is being advertised formally and is seeking bids from any and all eligible bidders.

NOTE: In order to extend the contract, proof of insurance coverage must be received by the Department's Purchasing Office thirty (30) days prior to the expiration of the current contract.

MULTI-YEAR MAINTENANCE CONTRACTS:

(4-20-21) (Rev. 4-19-22)

SP1 G76

This contract is a multi-year maintenance contract let pursuant to the provisions of N.C. General Statute §136-28.1(b). In accordance with N.C. General Statute §136-28.1(b), an award in a maintenance contract may be for an amount less but shall not exceed \$5,000,000 per year. No payments in excess of this amount will be disbursed, in accordance with the Statute.

PERFORMANCE GUARANTEE

Per G.S. 136-28.10, contract payment and performance bonds may be waived. For this project, the contract payment bond will be waived. In lieu of a contract performance bond, a performance guarantee will be required.

For the first year of this contract, the Contractor agrees to a Performance Guarantee consisting of five (5) per cent less than the amount of the line item bid price for “Provide Professional Lawn and Grounds Maintenance”. This is the amount of monthly compensation before any non-compliance or performance deductions. The Performance Guarantee will not be deducted for extensions and will be refunded without interest, pending the project site review, by the Contracting Agency at the end of the initial contract unless an extension has been effected in which case the Performance Guarantee will be refunded at the completion of the final contract extension. In cases of default, the Performance Guarantee will not be refunded to the Contractor.

QUANTITIES ESTIMATED

The quantities for Furnish and Apply landscape materials shown on the itemized bid form are considered to be approximate only and are given as the basis for comparison of bids. For accounting purposes only a purchase order may contain quantity amounts and they SHALL NOT be construed as minimum quantities. Quantities shall be determined solely by the Department on an “as needed” basis.

AUTHORITY OF THE ENGINEER

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

The published volume entitled **North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures**, with all amendments and supplements thereto, is by reference incorporated into and made a part of this contract. Unless otherwise modified, all the 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.

AWARD OF CONTRACT

“The North Carolina Department of Transportation, in accordance with the provisions of *Title VI of the Civil Rights Act of 1964* (78 Stat. 252) and the Regulations of the Department of Transportation (*49 C.F.R., Part 21*), issued pursuant to such act, hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the ground of race, color, or national origin”.

All eligible proposals will be evaluated and acceptance made of the bid judged in the discretion of the contracting agency to determine the lowest responsible bidder for the purpose intended. The Contracting Agency using its discretion, will determine whether a bidder is a “responsible” bidder. In determining whether a bidder is “responsible, the Contracting Agency will evaluate, the bid price, completeness and content of the bid, Bidder’s

experience, ability of the Bidder and staff to perform the services required, Bidder's past performance, references, operations plan including completed personnel and materials outlines, and Bidder's financial stability. After opening bids and prior to award, the Contracting Agency may also seek additional information from any or all bidders regarding the bidder's proposal, qualifications, experience, and ability to perform the required work prior to determining whether a bidder is a "responsible" bidder. No changes in bid price or price negotiations will be allowed after bids are opened and prior to an award. After the Contracting Agencies evaluation, the award of the contract, if awarded, will be made to the lowest responsible bidder. The lowest responsible bidder will be notified that his bid has been accepted and that he has been awarded the contract. If a Bidder is awarded a contract, he/she will be expected to perform the work. Failure to perform may result in the Bidder being held in default of contract. In the event of default, the Department may, in its discretion, contact the next lowest responsible bidder to determine whether that next lowest responsible bidder is willing and able to complete the contract at its bid price.

Unless otherwise allowed by the Engineer, any formal protest to any proposed bid shall be made in writing (email is acceptable) to the Engineer for the project within five (5) days of bid opening and shall clearly indicate that it is a "bid protest." The protest must list each item that the protester believes is grounds for rendering a bid defective. The Engineer will evaluate the protest and determine, in his/her discretion, whether any further action should be taken. Further action may consist of, but not limited to, seeking additional information and/or clarification from any and all bidders regarding the alleged complaint/protest, rejecting any or all bids, finding any or all bids irregular, finding any or all bidders "not responsible", holding a possible informal meeting to discuss the protest, or other actions in the discretion of the Engineer. After further evaluation the Engineer will notify the protesting party what further action, if any, will be taken with regard to the protest. All awards are final and are not subject to further review.

INSURANCE

The Contractor shall be liable for any losses resulting from a breach of the terms of this contract. The Contractor shall be liable for any losses due to the negligence or willful misconduct of its agents, assigns and employees including any sub-contractors which causes damage to others for which the Department is found liable under the Torts Claims Act, or in the General Courts of Justice, provided the Department provides prompt notice to the Contractor and that the Contractor has an opportunity to defend against such claims. The Contractor shall not be responsible for punitive damages.

The Contractor shall at its sole cost and expense obtain and furnish to the Department an original standard *Association for Cooperative Operations Research and Development (ACORD)* certificate of liability insurance evidencing commercial general liability with a limit for bodily injury and property damage in the amount of \$5,000,000 per occurrence and \$5,000,000 general aggregate, covering the Contractor from claims or damages for bodily injury, personal injury, or for property damages that may arise from operating under the contract by the employees and agents of the Contractor. The required limit of insurance may be obtained by a single general liability policy or the combination of a general liability and excess liability or umbrella policy. The State of North Carolina shall be named as an additional insured on this commercial general liability policy. The policy may contain the following language as relates to the State as an additional insured: "This insurance with respect to the additional insured applies only to the extent that the additional insured is held liable for your or your agent's acts or omissions arising out of and in the course of operations performed for the additional insured."

The Contractor shall maintain all legally required insurance coverage, including without limitation, worker's compensation and vehicle liability, in the amounts required by law. Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Contractor shall at all times comply with the terms of such insurance policies.

Upon execution of the contract, provide evidence of the above insurance requirements to the Engineer. Insurance coverage shall be maintained during the life of this contract and shall extend to operations performed by the contractor or his subcontractors, and by anyone employed directly or indirectly by either of them.

The Contractor shall take out and maintain during the life of this contract Worker's Compensation Insurance for all of his employees employed at the site(s) of the project, in the amounts required by law. In case any work is sublet, the Contractor shall require the Subcontractor similarly to provide Worker's Compensation Insurance for all the latter's employees employed at the site(s) of the project, unless such employees are covered by the protection afforded by the Contractor.

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.

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 take out and maintain during the life of this contract such Public Liability and Property Damage Insurance as shall protect him and Subcontractors performing work covered by this contract from claims for damage or property damages which may arise from operations under this contract. This insurance shall protect the Contractor whether such operations are done by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them.

The Contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the contract.

Proof of insurance from the Insurance Company as described above, for the period of the contract, shall be furnished to the Engineer prior to beginning of service. In addition to proof of insurance, the Contractor's policy shall include provisions whereby the Insurance Company will notify NCDOT thirty (30) days prior to the policy being cancelled.

SUBLETTING OF CONTRACT

All work as outlined under this contract shall be performed by employees of the Contractor or by an approved Subcontractor. Any requests for subcontracting must be submitted in writing to the Engineer a minimum of thirty (30) days prior to the proposed implementation of the subcontract. Subcontracting of required personnel staffing (including supervisor) will not be permitted in this contract. The approval of any subcontract will not release the Contractor of liability under the contract, nor will the subcontractor or the second tier subcontractor have any claim against NCDOT by reason of the approval of the subcontract.

Failure of the Contractor to comply with any of the provisions of this article may be justification for disqualifying the Contractor from further bidding. Subletting of this contract or any portion of the contract shall conform to the requirements of Article of 108-6 of the Standard Specifications.

PERFORMANCE OF WORK

The Contractor's attention is directed to the need for the timely performance of services provided for under this contract. The aesthetic appearance of the site and its reflection on the North Carolina Department of Transportation as well as the safety and convenience of the public is the essence of the service.

TEMPORARY SUSPENSION OF THE WORK

The Engineer or his representative will observe operations and may suspend work for unsafe activities or conditions. Work will not resume until the unsafe condition has been eliminated or corrected. Failure to comply with any of the requirements for safety and traffic control of this contract shall result in suspension of work as provided in Article 108-7 of the Standard Specifications.

SITE INVESTIGATION AND REPRESENTATION:

By signing the proposal documents, the Contractor acknowledges that:

- (A) He understands the nature of the work and general and local conditions, particularly those bearing on transportation;
- (B) He is familiar with the availability and cost of labor and materials;
- (C) He will to adhere to State regulations for safety and security of property, roads, and facilities;
- (D) He is able to prosecute the work in accordance with all applicable local, state and federal rules and regulations, and;
- (E) He has thoroughly investigated the project site(s).

Any failure on the part of the Contractor to acquaint himself with all available information shall not relieve him from the responsibility of any aspect of the contracting process. No adjustment in contract time or contract prices will be made due to the Contractor's negligence to familiarize himself with the contract or project site(s).

CONTRACT CANCELLATION POLICIES

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.

CANCELLATION BY DEPARTMENT (DEFAULT)

The general reputation and performance of the Contractor is a reflection on the Department of Transportation. This contract may be cancelled at any time by reason of unsatisfactory performance, failure to maintain a valid pesticide license, or other default of the Contractor upon five- (5) day's prior written notice by the Department. In addition, this contract may be cancelled immediately by written notification upon receipt of substantiated notification and verification that the Contractor has failed to properly pay in a timely or reasonable manner employees, suppliers, or businesses used in the completion of the contractual requirements contained in this proposal, or if the Contractor is found to be issuing checks not covered by sufficient funds. In such instances, the Department may request that the successful bidder be debarred from doing business with the Department, the state, and /or any of its subdivisions. Formal complaints may be filed with the NC Department of Labor, the Secretary of State, and the Attorney General's Office.

CONTRACTOR DEFAULT

When a Contractor defaults on an existing Custodial Operations and Maintenance and/or Professional Lawn and Grounds Maintenance Rest Area Contract, the Contractor will not be considered for award of future contracts or extensions of current contracts, until the defaulted Contractor can demonstrate as indicated below that he/she is capable of meeting the requirements outlined in the new Custodial Operations and Maintenance and/or Professional Lawn and Grounds Maintenance Rest Area Proposal.

After a period of one (1) year from the date of default notification, a defaulted Contractor is eligible to present to the Department documentation that he/she is indeed capable of meeting the requirements outlined in the new Custodial Operations and Maintenance and/or Professional Lawn and Grounds Maintenance Rest Area Proposal.

Documentation shall consist of:

- 1) Affidavits from a minimum of three (3) contracting firms that the Contractor has provided satisfactory performance of comparable custodial and/or grounds services within the past year;
- 2) Affidavits from a minimum of three (3) suppliers that the Contractor has paid said suppliers in a timely manner as set forth by the suppliers within the past year; and
- 3) Audited financial statements from the past year verifying that the Contractor is in good financial standing.

AVAILABILITY OF FUNDS – TERMINATION OF CONTRACTS

(5-20-08)(Rev. 1-16-24)

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(D) of the *Standard Specifications*.

CANCELLATION DUE TO DISCONTINUATION OF SERVICE

In the event that the Department feels that it is in the State's best interest to temporarily discontinue use of the rest area facilities to serve the public, due to damages done to the facility or roadway by acts of God, vandalism, or major renovation work deemed necessary by the Department, the Department will give the Contractor thirty (30) days written notice of cancellation of the contract.

LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

LAWS TO BE OBSERVED

In accordance with 107-1 of the *Standard Specifications*. The Contractor shall keep himself fully informed of all Federal and State laws, all local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority which may in any manner affect those engaged or employed in the work, or which in any way affect the conduct of the work. He shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall indemnify and hold harmless the Board of Transportation and the Department of Transportation and their agents and employees from any claim or liability arising from or based on the violation of any such law, ordinance, regulations, order, or decree, by the Contractor or by his agents and employees.

RESPONSIBILITY FOR DAMAGE CLAIMS

In accordance with 107-14 of the *Standard Specifications*. The Contractor shall indemnify and save harmless the Board of Transportation and its members and the Department of Transportation and its officers, agents, and employees from all suits, actions, or claims of any character brought for any injury or damages received or

sustained by any person, persons, or property by reason of any act of the Contractor, Subcontractor, its agents or employees, in the performance of the contract.

SAFETY AND ACCIDENT PROTECTION

In accordance with 107-21 of the Standard Specifications. The Contractor shall comply with all applicable Federal, State, and local laws, ordinances, and regulations governing safety, health, and sanitation, and shall provide all safeguards, safety devices, and protective equipment, and shall take any other needed actions, on his own responsibility that are reasonably necessary to protect the life and health of employees on the job and the safety of the public, and to protect property in connection with the performance of the work covered by the contract.

WAGES AND CONDITIONS OF EMPLOYMENT

In accordance with 107-22 of the Standard Specifications. The Contractor's attention is directed to the provisions and requirements of any and all public statutes which regulate hours or conditions of employment on public work. Such provisions and requirements that are appropriate, in accordance with the intent of the particular law, act, or statute, will be applicable to all work performed by the Contractor with his own organization and with the assistance of workmen under his immediate superintendence, and to all work performed by subcontract. It will be the responsibility of the Contractor to ascertain the appropriate application of such provisions and requirements to the work.

LAWN AND GROUNDS MAINTENANCE OF REST AREAS

DESCRIPTION

The Contractor is to perform lawn and grounds maintenance operations as specified herein to insure the facilities below are maintained in a safe, attractive, and clean, manner at all times. This contract includes all planted and undeveloped areas within the rest area boundaries.

NAME AND LOCATION OF FACILITIES

NC Department of Transportation Rest Areas (pair) on I-26 in Buncombe County, East/Westbound Lane, Mile Marker 41, South of Asheville.

Note: All provisions and requirements included in this proposal apply to each site, eastbound lane and westbound lane.

TERMS AND DEFINITIONS

1. Safe: A condition free of hazards and not having a potential for personal injury or harm.
2. Clean: Free of impurities or foreign matter not normally a part of the original component.
3. Operable: Capable of being used as originally intended.
4. Engineer: The Division Engineer of the Highway Division in which the project is located, acting directly or through his duly authorized representative.

PROJECT PRE-WORK CONFERENCE

Following the award of a contract and prior to beginning work, the Engineer will schedule a project Pre-Work Conference with the Contractor, consisting of a document review and a site review.

Pre-Work Document Review: The Engineer will review for approval the Contractor's proposed supervisor, work plan, national criminal background checks, staffing, equipment, materials list, etc. to insure compliance with contract.

The Contractor National Criminal Background Check Certification form and national criminal background record information shall be submitted for all potential employees, including all Contractor officers, owners, partners and/or managers and all personnel who will represent the contracting company.

If a criminal background identifies a possible criminal offense, the criminal background shall include the name of the offense, date of offense, and disposition of the offense. If requested by NCDOT, and at the Contractor's expense, the Contractor shall also provide any additional information regarding the criminal background of any potential employee.

Note: In some situations, a National Criminal Background Check may not include all the necessary information for offenses that occurred in the State of North Carolina. For a list of companies that can provide criminal background checks for offenses in the State of North Carolina please visit the N.C. Administrative Office of Courts website:

<https://www.nccourts.gov/help-topics/court-records/criminal-background-check>

The Contractor shall furnish a resume of the proposed supervisor including the supervisor's name, work experience, a copy of the N.C. Pesticide License issued by NCDA, address, and phone number to insure compliance with the contract.

Pre-Work Site Review: The Contractor and NCDOT Personnel shall conduct a thorough review/inspection of the project site and a general statement as to overall appearance of rest area grounds and landscaping.

Post-Work Site Review: On or just prior to the completion date of this contract, or in the event of default of contract or termination of contract, the Contractor and NCDOT Personnel shall conduct a thorough follow-up inspection of the rest area in order to make a comparison of the site as to conditions when the Contractor began work. A general statement is to be made by DOT as to overall appearance of rest area grounds and landscaping. The overall rest area general appearance and maintenance is to be same or better at completion of contract as when contract began. The Contractor will be required to mow, remove leaves/weeds, replace plants, prune, fertilize, seed, etc., as determined by the inspections above. Any of the requested work not performed by the Contractor will be made by NCDOT and cost withheld/deducted from final payment.

PERSONNEL REQUIREMENTS

- A. **General:** During performance of the contract, the Contractor shall provide qualified and trained personnel capable to satisfy all the requirements of this contract. The Contractor is to make a review of the contract requirements for work included herein and in conjunction with actual job site conditions. The required staffing shall not be less than specified; however, the Contractor is responsible for all work included herein. While on duty, Contractor's personnel shall work consistently on the duties as described herein.

The Contractor is required to have a valid North Carolina Ground Applicator Pesticide License with Ornamental and Turf pest control sub-classification, issued by the NCDA, in Contractor's (an actual employee of the company) name and the company name, throughout the term of this contract. Failure of the Contractor to maintain a valid license shall be considered default of this contract.

The Contractor shall keep himself fully informed of all federal, state and local laws and regulations governing the safe and proper handling, application, transportation, storage, and disposal of pesticides and fully comply with all such laws and regulations.

The Contractor's personnel are to be polite and assist the traveling public with information and aid in such a manner as to reflect favorably on the State and Contractor providing the service. The Contractor shall be responsible for the behavior of its employees in relation to the public and shall take all necessary and appropriate steps to ensure its employees behave in accordance with the provisions of the contract. The Department reserves the right to require the Contractor to replace any employee who displays unacceptable personal conduct, displays unsatisfactory job performance or is a potential threat to the safety of the

traveling public. Unacceptable personal conduct includes, but is not limited to, conduct which constitutes a violation of state or federal law or conduct which is inconsistent with the job requirements of this contract.

All rest area staff shall be a minimum of eighteen (18) years of age.

The Department places significant value on the safety of the traveling public. The Contractor is required to perform nationwide criminal background checks on all potential employees, including all Contracting officers, owners, partners, and/or managers and all personnel who will be representing the contracting company using a service that provides national background checks. All costs associated with the background checks shall be at the Contractor's expense. Employees with a disqualifying criminal background are prohibited from working at rest areas maintained by NCDOT.

An individual is prohibited from working at rest areas maintained by NCDOT due to a disqualifying criminal background if:

- (a) **The individual has previously been found guilty of having the status of an habitual felon, N.C.G.S. 14-7.1,**
- (b) **The individual has a history of convictions for felony or misdemeanor assaultive behavior or felony or misdemeanor convictions for weapons charges,**
- (c) **The individual has outstanding arrest warrants that he/she has become aware of, or pending criminal court cases and has not notified the Contractor within 24 hours of awareness,**
- (d) **The individual has a pending habitual impaired driving offense, N.C.G.S. 20-138.5,**
- (e) **The individual has a prior sex offender conviction,**
- (f) **The individual has conviction(s) that once submitted to the Department by the Contractor for review after the award of the contract, but before the start of the contract, or prior to the renewal of the contract, where the Department objects based on the nature of the individual's conviction(s) and the need to protect the safety of the traveling public.**

Contractor shall submit national criminal background checks referenced above and Contractor National Criminal Background Check Certification for each new employee. Should the Contractor retain employees from a previous contract, Contractor shall submit new background checks for each retained employee and Contractor National Criminal Background Check Certification.

After obtaining the national criminal background check referenced above on all potential employees, the Contractor shall submit the Contractor National Criminal Background Check Certification form and national criminal background record information at the Project Pre-Work Conference. **No employee is to begin work at the rest area under the new contract without undergoing the national criminal background check referenced above.** Upon yearly renewal of an existing contract, the Contractor shall provide updated national criminal background checks of its employees, including all Contracting officers, owners, partners, and/or managers and all personnel who will be representing the contracting company, along with the Contractor National Criminal Background Check Certification, thirty (30) days prior to the expiration of the current contract year.

Contractor must have each employee notify Contractor within 24 hours when he/she has been convicted of a felony or a misdemeanor, and Contractor must notify NCDOT within 24 hours of that employee's notification. The Department reserves the right to request a new national criminal background check for any employee at any time.

Noncompliance with the requirements of the Contractor National Criminal Background Check Certification referenced above shall be grounds for contract cancellation.

- B. Staffing:** The Contractor shall provide sufficient man hours and personnel to satisfy the contract objectives at all times, but not less than the following man hours per week on site (both sites combined):

Forty (40) man hours per week during the months of March through November,

Eight (8) man hours per week during the months of December through February.

NOTE: Failure to complete the required minimum number of man hours per week on site as specified will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

Employees shall be trained in proper grounds maintenance procedures (e.g., proper mowing, correct pesticide application, correct pruning methods, etc.). At least one (1) fluent English speaking employee shall be on site at all times.

NOTE: Employees from the janitorial staff will not be permitted to perform services under the grounds maintenance contract and employees from the grounds maintenance staff will not be permitted to perform services under the janitorial contract during the same time period. For example, a grounds maintenance employee will not be permitted to fill in for a janitorial employee during any part of a shift. Such action would be considered non-compliance of the janitorial contract and the janitorial Contractor would be assessed the standard deduction for "Attendant Not On Duty".

- C. Supervisor:** The Contractor shall provide a supervisor for direct on site supervision of rest area workers. A high level of importance is placed on proper supervision. The supervisor shall be on site at all times. The supervisor shall speak and write fluent English.

NOTE: Failure of the supervisor to be on site, supervising employees as specified will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

The Contractor's Supervisor shall be available by telephone and/or mobile 24 hours a day for immediate contact. The supervisor shall have the authority to take immediate action to correct conditions determined by the Department to be unsafe, or reflecting unfavorably on the State of North Carolina and the Contractor.

NOTE: If the Contractor's Supervisor does not respond within 24 hours of contact, the Division reserves the right to have the work performed with other forces. The cost of the work so performed, including materials, labor, and equipment will be deducted from payment due the Contractor.

Experience: The Contractor's supervisor shall have a minimum of one (1) years' experience as a supervisor in grounds maintenance.

License: The supervisor is required to have a valid and current North Carolina Commercial Ground Applicator Pesticide License with Ornamental and Turf pest control sub-classification, issued by the NCDA, in the supervisor's name, throughout the term of this contract. Any supervisor that fails to maintain a valid license shall be replaced immediately.

The supervisor shall keep himself fully informed of all federal, state and local laws and regulations governing the safe and proper handling, application, transportation, storage, and disposal of pesticides and fully comply with all such laws and regulations.

Supervisor's Time Off: The Contractor can designate a substitute Supervisor, upon approval from the Engineer, who can work in the Supervisor's absence for not more than four (4) weeks annually. The substitute Supervisor shall have a valid and current North Carolina Commercial Ground Applicator Pesticide License with Ornamental and Turf pest control sub-classification, issued by the NCDA. The

Engineer shall be notified a minimum of twenty-four (24) hours prior to a supervisor taking time off.

Replacement of Supervisor: The Engineer shall be contacted immediately in the event the Supervisor position becomes vacant for any reason. The Contractor shall submit a written request to the Engineer for the replacement of the Supervisor. The request shall contain the individual's name, a resume outlining individual's grounds maintenance experience, and a copy of individual's valid and current pesticide license issued by NCDA. A substitute Supervisor shall be designated in the meantime. The substitute Supervisor shall have a valid and current pesticide license issued by NCDA.

Supervisor's Weekly Work Report: The Supervisor shall complete the weekly work report and leave on site at a designated place at each rest area or with the Engineer's Representative after each visit.

NOTE: Failure to complete and leave the Supervisor's Weekly Work Report on each site as specified will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

Contractor's Monthly Work Plan: The Contractor shall submit a monthly work plan, outlining the tasks to be completed for the upcoming month. The plan shall be submitted by the last day of the preceding month.

NOTE: Failure to submit Contractor's Monthly Work Plan will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

Records: In addition, the Engineer has the right to request copies of pesticide application records at any time during the term of this contract.

NOTE: Falsification of information, including, but not limited to Supervisor's Weekly Work Report, Contractor's Monthly Work Plan, pesticide application records, etc., will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

GENERAL REQUIREMENTS

SAFETY PRECAUTIONS

- A. Safety and Accident Protection: Contractor shall be required to supply all safety personal protective equipment (PPE) for employees to use/wear. PPE shall consist of, but not limited to: face masks, ear protection, safety glasses, safety vest (meeting ANSI/ISEA 107-2004 Class 2 standards), safety toe shoes, and outside working gloves. Contractor shall follow all applicable orders, rules, policies, regulations, and/or OSHA standards, including using/wearing PPE.

Contractor's staff shall not cross the highway either on foot or on equipment. Travel to and from the site and travel from one site to another for facility pairs, shall be by vehicle and must comply with all applicable laws, including crossing at an interchange, and not the median. All staff shall wear safety vests at all times.

The Contractor shall fulfill the requirements of this contract in a manner that ensures that all public access areas are free of potential hazards or risks that may cause injury, health or safety risks, or damage to assets. All accidents, injuries and near misses shall be reported to the Engineer immediately. All staff on duty will be required to submit a written statement to the Department describing the incident.

It is the Contractor's responsibility to ensure that all employees are trained to meet OSHA training requirements, all equipment meets OSHA standards, and all PPE is used/worn as required. In the event of an OSHA inspection which results in fines to the Contractor, NCDOT will reimburse Contractor only for those fines imposed as a result of a violation of OSHA standards in the structure of the facility itself. Any

fines imposed as a result of the activities of the Contractor's employees, the Contractor's equipment, or PPE which are in violation of OSHA standards shall be the responsibility of the Contractor.

- B. Materials and Equipment: The Contractor shall provide all materials, equipment and supplies, adequate in quantity and of a high commercial quality, necessary for professionally performing all work in this contract, regardless of the estimated quantities proposed in their bid. All equipment used shall be commercial grade and of sufficient size to complete tasks effectively and in a timely manner. All equipment shall be in good working order capable of being used as originally intended, including all guards and safety attachments. All mowing equipment shall have deflector shields or bag attachments in place at all times. All blades shall be sharpened. The Contractor's company name shall be conspicuously displayed on each service vehicle.

By submission of a bid package the bidder agrees that, during the performance of the contract, they shall be able to supply a minimum of the following commercial grade for use as needed. For mowing equipment a 60" cut commercial riding mower with deflector shield and leaf collection attachment that can be adjusted to the specified mowing height. A small push or self-propelled mower with bag attachments that can be adjusted to the specified mowing height is required for areas around the buildings. For the aerating equipment a tractor mounted 3-point hitch core type aerator and a commercial walk behind core type aerator for areas around the buildings. For the spreading of grass seed, fertilizer and limestone, a tractor mounted 3-point hitch fertilizer spreader or drop spreader and a commercial ride-on spreader and/or a commercial walk behind spreader for areas around the buildings. For the lawn herbicide applicator is a 50 (fifty) gallon capacity commercial sprayer designed to evenly distribute herbicide lawn products. A minimum of one (1) commercial style backpack leaf blower and one (1) commercial style edger or commercial style trimmer with edger attachment is required.

The label and SDS for each product used shall be brought to the rest areas at all times the Contractor is using the product. All containers, applicators and bottles shall be labeled with the product they contain. Containers shall be securely closed when not in use. Strictly adhere to label/SDS requirements for safe use of products.

- C. Temporary Traffic Control (TTC) Prior to beginning any maintenance operations, the Contractor shall place approved 48" x 48" warning signs with stands and orange cones in the rest area. Signs stating "Mowing Ahead", "Workers" or the symbol thereof, or other MUTCD TTC standard signs approved by the Engineer, shall be placed at each entrance to the facility. Additional signs may be required at the direction of the Engineer. Orange 36" MUTCD TTC standard cones shall be placed around each corner of Contractor's parked trucks and trailers and may be required in other areas where work is being performed at the direction of the Engineer.
- D. Fire extinguisher, first aid kit and hazardous spill kit: These items shall be furnished by the Contractor and readily available at all times when work is being performed at the rest area. Contractor shall ensure personnel are trained in the proper use of these items.

In the event of an emergency, Contractor's personnel are to contact local emergency services. Staff is not to act as emergency medical personnel, unless properly certified to do so. Contractor shall report all emergency events to the Engineer immediately.

Note: Contractor is responsible for any injury or damages received or sustained by any person, persons, or property by reason of any act of the Contractor, Subcontractor, its agents or employees, in the performance of the contract.

- E. Illegal Activity: In the event of illegal activity such as solicitation, robbery, assault, vandalism, etc., Contractor's personnel are to contact local emergency services. All illegal activity shall be reported to the Engineer immediately.

NOTE: Failure to follow any safety precaution as specified will result in immediate documentation of

reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

UNIFORMS

- A. General: The uniform is a valuable point of employee recognition by the traveling public. Therefore, a high emphasis will be placed on employees wearing neat and clean uniforms at all times while working, and a reduction in daily compensation will be applied when employees are not in specified uniform.

The uniform shall be worn by all personnel including the supervisor. The uniform shall be complete, as outlined below, and shall be in good condition, neat and clean.

- B. Standard Uniform: The Contractor shall provide uniforms consisting of shirt (with identification showing the Company's name/logo), trousers or jeans (waist to ankle), safety vest (meeting ANSI/ISEA 107-2004 Class 2 standards), and safety toe shoes. All uniform components shall be approved by the Engineer prior to the start of contract/work.

Orange clothing in lieu of safety vest is not acceptable. Shirts shall be worn to fit and shall remain buttoned (when applicable) and tucked into the trousers/jeans at all times. Trousers/jeans shall be worn to fit with no holes or tears. Hats are optional, but if chosen to be worn, must be of a uniform type with company name/logo on the front. A plain, black or orange toboggan type knit hat may be worn during cold weather only. No other forms of head covering will be permitted. Coats shall either have the Company's name/logo or a pin on type identification badge with Company's name/logo. A hat with Company's name/logo may be used for identification purposes in lieu of a uniform company coat.

NOTE: Failure of any employee to be in specified uniform will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

OTHER

- A. Renovation/Landscaping Work: Painting, construction, major repairs, or landscaping may be required to be done by others during the life of this contract. The Contractor shall be required to cooperate with other Contractors or state forces in the execution of all work.
- B. Repairs: All equipment and materials necessary for performance of this contract shall be the responsibility of the Contractor. Contractor shall be responsible for routine maintenance repairs and damage to equipment and materials in connection with performance of this contract.

MAINTENANCE OF GROUNDS

GENERAL

The term "GROUNDS" includes, but is not limited to, plant beds, individual trees and shrubs, lawns, drives, walkways, parking, picnic, graveled, and undeveloped areas within the NCDOT rest area site. The Contractor shall pursue the work diligently with workers in sufficient numbers, abilities, and supervision, and with equipment, materials, and methods of maintenance as may be required to complete the work herein described. Contractor shall provide all necessary equipment and materials for the maintenance of these areas. The required maintenance shall not be less than specified; however, the Contractor is responsible for maintaining conditions as specified herein. All work shall be performed as specified and as directed by the Engineer.

The rest area site shall be considered as the area between the main roadway shoulder (rest area side) to the control access fence; from the beginning of the entrance ramp into the rest area and to the end of the exit ramp from the rest area. This includes all slopes, drainage ditches, and stormwater control measures such as dry/wet detention basins, bioretention areas, bio-filtration conveyance devices, permeable pavement, and hazardous spill basins.

Maintenance of stormwater control measures located on the site shall be coordinated with the Engineer and in accordance with NCDOT's Stormwater Control Inspection and Maintenance Manual.

- A. Mowing Cycle: For the purpose of this contract a mowing cycle shall consist of mowing, trimming, edging, and cleanup as a result of these operations.
- B. Schedule: All work shall be scheduled on a weekly basis on the same day(s) between 7:00 AM Monday and 12:00 NOON Thursday. Every effort shall be made to adhere to the same weekly scheduled day(s). However, on occasions an alternative schedule may be required. In such cases, the Engineer shall be notified and must grant approval before an alternative schedule is begun.
- C. Time Restrictions: All work described herein shall be completed on the same scheduled day(s) each week. No work shall be performed on non-scheduled days, Fridays, Saturdays, Sundays and/or holidays unless approved in advance by the Engineer. The Contractor shall only perform the work described in this contract proposal during the hours of 7:00 am to 3:30 pm unless otherwise approved by the Engineer.
- D. Timing of Operations: Timing of operations shall be as specified unless weather conditions exist that require the Engineer to schedule a more optimal time for success. Operations shall be as directed by the Engineer and shall be coordinated with the Engineer. The Engineer shall be notified a minimum of 48 hours in advance and given the opportunity to be present for lawn herbicide application, fertilization, aeration, overseeding, repair seeding, mulching, pruning, and any other as directed.

LAWNS

All lawn areas are to be maintained so as to provide a superior stand of turf.

- A. Mowing of Turfgrass:
 - 1. Special precautions shall be used when mowing during maintenance operations.
 - 2. All debris or litter in lawn shall be removed prior to mowing.
 - 3. A minimum of one (1) mowing cycle shall be performed each week as directed by the Engineer throughout the year in order to maintain a clean, neat appearance. Mowing may be required more than once per week or not at all as directed by the Engineer.
 - 4. Mowing shall be completed in a neat, uniformly cut manner. Gapped or rolled down, uncut streaks of turfgrass will not be considered acceptable. **The height of the mowing cut shall be no less than four (4) inches, not to exceed five (5) inches between mowings, and shall be approved by the Engineer.** The Contractor shall not "scalp" any areas of turfgrass. The Contractor shall not mow lawns while the turf is wet.
 - 5. The lawn around the service building has been sodded in Zoysia grass and shall be mown to no less than 2 inches, not to exceed 3 inches between mowings. No riding equipment will be permitted around the service buildings. No zero turn mowers shall be allowed on the Zoysia grass.
 - 6. All ramps shall be mown and/or trimmed to the top/bottom of the slopes and/or wood line to maintain an attractive appearance and prevent encroachment of invasive growth.
 - 7. All mowing equipment shall have deflector shields or bag attachments in place at all times. Excess clippings shall be removed from turf areas, sidewalks, drives, etc. and blown or washed off building sides, glass surfaces, structures or other fixed objects after each mowing. DO NOT hit trees, light poles, sign posts, picnic accessories, buildings, etc. with mowers. All mowing and trimming operations shall be conducted so that clippings are not thrown onto any mulched area around trees or plant beds. Contractor shall promptly remove all clippings thrown into any mulched area as a result of mowing/trimming operations.
 - 8. All elements of a mowing cycle shall be COMPLETED WITHIN A 36-HOUR PERIOD. No

partial mowing will be allowed unless the weather forces delays. If rain or wet turf conditions exist, the Contractor shall finish the cycle as soon as favorable conditions exist.

NOTE: Failure to mow as directed by the Engineer throughout the year, grass not mown as specified, or mowing cycle not completed within a 36 hour period will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

B. Fertilization of Turfgrass:

The application of fertilizer shall be coordinated with the Engineer and timed with adequate soil moisture in non-irrigated areas. The Engineer shall be notified a minimum of 48 hours in advance and given the opportunity to be present. Fertilizer and lime shall be placed by the approved equipment specified herein. At no time shall the fertilizer or lime be dropped in bulk on the rest area grounds.

1. Fertilize Zoysia grass with one (1) pound of nitrogen per 1,000 square feet in May and late June/early July. Fertilize with 1/2 pound of nitrogen per 1,000 square feet in August. Use 16-4-8 or similar mixture approved by the Engineer. In October or November apply 1 pound per 1000 square feet of potassium only. Use 1.6 pounds of muriate of potash or 2 pounds per 1000 square feet of potassium sulfate or 5 pounds per 1000 square feet of sul-po-mag.
2. Fertilize Fescue lawn in February. Apply 100 lb per acre of slow-release nitrogen. Use 10-20-20 or similar rate mixture approved by Engineer.

C. Aeration/Overseeding: All seeds shall meet NCDOT specifications. These specifications and a list of approved varieties will be given to the successful Contractor upon award of contract.

All mown turf areas shall be aerated in late August/early September with a core type aerator to provide oxygen to the root systems of the turf thus increasing the availability of nutrients to the root system and creating a proper seedbed for fall overseeding. Overseeding shall be done in early September immediately following aeration. Seed shall be of the same mixture and application rate as repair seeding. Aeration and overseeding shall be coordinated with the Engineer. The Engineer shall be notified a minimum of 48 hours in advance and given the opportunity to be present.

D. Repair Seeding: **ABSOLUTELY NO TURF SEED SHALL BE DISTRIBUTED INTO THE BIO-RETENTION/HAZARDOUS SPILL BASIN.** Repair seeding shall be coordinated with the Engineer. The Engineer shall be notified a minimum of 48 hours in advance and given the opportunity to be present.

1. Repair seeding shall be done as required to re-establish turf or worn or bare areas. The Contractor shall close these areas until a turf can be established. The repair seeding shall be done promptly at the locations and times directed by the Engineer. The work of repair seeding shall include seedbed preparation with a core aerator when directed by the Engineer; the furnishing, placing, and covering of fertilizer and seed; and the furnishing and placing of grain straw mulch is required; all in accordance with these specifications.
2. Repair seeding shall occur at a rate of 5 pounds turf type hybrid tall fescue, 1/2 pound hard fescue, 1/2 pound Bluegrass. In addition 10 pounds 10-20-20 fertilizer, and 1 bale clean grain straw. All rates are per 1000 square feet. Germination is expected in 10-14 days. No repair seeding to be done on Zoysia sod.
3. Seedbed preparation will be required unless otherwise permitted by the Engineer. A seedbed preparation as extensive as that performed for the original seeding and mulching will not be required. The degree of preparation shall be sufficient to retain the seed against displacement by wind, rain, or surface runoff, and shall be acceptable to the Engineer. The acceptable degree of seedbed preparation will depend on the location, soil conditions, and drainage conditions at the site. As a general rule, the soil shall be scarified or otherwise loosened to a depth of not less than 4

inches, unless approved otherwise by the Engineer.

4. No fertilizer shall be distributed and no seed shall be sown when the Engineer determines that conditions are unfavorable for such operations. Fertilizer and seed shall be covered and mulch held in place in a manner acceptable to the Engineer. Covering shall be such that it will prevent displacement by wind, rain, or surface runoff except that covering may be eliminated when directed by the Engineer. Mulch shall be grain straw.
- E. Weed Control: All lawn areas shall be treated once per year with a pre-emergent annual grass control herbicide (February 1st through March 15th) and once per year with a post-emergent broadleaf weed herbicide (April through May). Additional spraying of herbicides for weed control shall be required by the Engineer or elected to be used by the Contractor. Upon notification by the Engineer to apply additional herbicides, Contractor shall have one (1) week to complete the required application. See Pesticide Usage for specifications.
- F. Insect and Disease Control: All lawn areas shall be monitored for the infestation of insects or appearance of diseases. Notify NCDOT immediately upon discovery. The Contractor is responsible for treatment. Timing and product selection shall be approved by the Engineer. See Pesticide Usage for specifications.
1. All lawn areas shall be monitored for the infestation of insects or appearance of diseases. Notify NCDOT immediately upon discovery. The Contractor is responsible for treatment.
 2. A treatment for fire ants shall be broadcast on lawn and plantbed areas near the service and vending buildings in May. The entire site is to be spot treated as needed throughout the year.

EDGING/TRIMMING/MOWING

- A. Lawns: All curbs, sidewalks, concrete pads, etc., shall be edged with an edger each mowing cycle during the growing season or as directed by the Engineer, in order to maintain a clean, neat appearance. Contractor shall not edge with herbicide.
- B. Shrub Beds: All bed lines shall be kept edged in a clean and neat manner throughout the year as directed by the Engineer. Contractor shall not edge with herbicide.
- C. Trimming: Trimming around trees, shrubs, signs, poles, guardrail, & any other structures shall be performed during each mowing cycle as necessary. Care should be taken to protect the trunks and stems of all plants as well as structures. Contractor shall not trim with herbicide.
- D. Slopes/Drainage Ditches/Stormwater Control Measures: Slopes, drainage ditches, and stormwater control measures, on the site shall be maintained to an acceptable appearance, as determined by the Engineer. Slopes, drainage ditches, and stormwater control measures shall be mown and/or trimmed in conjunction with the routine mowing cycle, and as needed or appropriate, and as directed by the Engineer throughout the year. Hazardous spill basins shall be mown and/or trimmed as needed, and as directed by the Engineer, however, not less than two (2) times each year so as not to allow any wood growth. Do not allow any woody growth in stormwater control devices located on-site. Leaves, seed pods, etc. shall be kept out of ditches, swales, storm drainage inlets, etc. All debris (branches, stalks, clippings, etc.) shall be removed from the stormwater control measures and disposed of.

Herbicide use in drainage ditches, near storm drain inlets, and stormwater control measures shall be only at the direction of the Engineer. The Contractor shall not trim around rip rap with herbicide.

- E. Paved and Storage Areas: These areas include all surfaced and graveled areas along drives and walkways, and around buildings, dumpsters, and picnic accessories, etc. Contractor shall be responsible for edging these areas properly, spraying all joints/cracks/gravel, preventing encroachment of naturalized areas, and keeping these areas free of leaves, grass/shrub clippings, shrub/tree branches/limbs, etc. DO NOT allow pesticide runoff or mulch, leaves, clippings, etc. to go into drop inlets.

PLANTINGS

NOTE: Any damage done by the Contractor to the new and replacement of new plants/planting will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

EXISTING PLANTINGS:

A. Plant Replacement:

1. Dead and or diseased plants (trees, shrubs, flowers, forbs and grasses) are to be removed by the Contractor when directed by NCDOT and replaced. Replacement plants/planting shall be maintained by the Contractor. The replacement planting shall require higher maintenance (watering, weeding, fertilization, etc.) than the established planting, the amount to be determined by the Engineer. The replacement plants will be provided by DOT with exception as specified in Damages. The Contractor shall provide labor for installation and maintenance. Large, mature trees over eight (8) inches DBH will be removed by others.
2. The division may expand the existing plantings with the Contractor. These areas are to be maintained as specified above for replacement plants/plantings. Payment for installation and additional maintenance shall be negotiated under supplemental agreement prior to installation.
3. The Division may expand/renovate the existing plantings by separate contract. The planting contract will include a warranty period. The Contractor will not be responsible for the new planting during the planting and warranty period. At such time the warranty period expires the Division will be responsible for the maintenance of the new planting or may negotiate with the Contractor for maintenance under supplemental agreement.

NOTE: Damage of plantings (per plant), replacement planting not performed as specified, and/or higher maintenance not performed as specified, will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

- B. Weed Control: Beds shall be kept free of weeds at all times. Three (3) pre-emergent herbicide applications shall be performed on plant beds (March, June and September). See Pesticide Usage for specifications. Hand weeding and post emergent pesticide applications shall be necessary, as weeds will not be permitted to remain in beds.
- C. Insect and Disease Control: All plantings shall be monitored for the infestation of insects or appearance of diseases. Notify NCDOT immediately upon discovery. The Contractor is responsible for treatment. See Pesticide Usage for specifications.
- D. Fertilization: All plant material shall be fertilized according to individual plant requirements once per year with a complete analysis slow release fertilizer specially formulated for ornamental plantings. Fertilizer shall be applied between January 1 and February 28 of each year with rate and analysis as listed on Plant Bed Fertilization Requirements. The Engineer shall be notified a minimum of 48 hours in advance and given the opportunity to be present.
- E. Pruning: Pruning shall be performed using acceptable horticultural practices and must be approved in advance by the Engineer. The Engineer shall be notified a minimum of 48 hours in advance and given the opportunity to be present. Dead stems, branches and limbs of all plant material and all safety hazards are to be pruned immediately. Trees and shrubs shall be pruned with sharpened tools of the appropriate size to make clean cuts. All debris (branches, stalks, clippings, etc.) shall be removed from the site or cut into small pieces and disposed of in the undeveloped areas specified by the Engineer.

Spring and/or summer blooming trees and shrubs shall be pruned within 60 days after flowering. Non-

blooming deciduous species shall be pruned/thinned after leaf drop. Evergreens shall be pruned between March 1 and April 15 with touch-up pruning as needed between June 1 and August 30.

Shrubs shall be trimmed and shaped as directed by the Engineer to improve safety, to maintain form and vigor, and so as not to interfere with pedestrian access to nature trails, sidewalks, benches, picnic facilities, etc. Trees shall be pruned as directed by the Engineer to improve safety, so as not to obscure area lighting, signage, and to prevent overhanging onto structures, sidewalks and other similar hard surface areas, benches, etc. and to ensure structural stability. All pruning shall be done in a manner to maintain the natural form and shape of the plant species as closely as possible.

Daylilies around buildings and small beds shall have the scapes removed by hand after they have browned. Large outlying beds of daylilies shall be mown after flowering to a height of not less than five (5) inches and no more than eight (8) inches in order to remove dead flower stalks and rejuvenate foliage. Excess debris shall be removed from bed. Daylily beds shall be mown to the ground after the first killing frost, between October 15 and November 15, and all debris shall be removed.

Allow forbs (herbaceous plant material) to die-back at season's end. In early spring before green-up, cut dead top growth back as close to ground as possible without damaging the crown. Remove stalks from forbs in late winter if directed to do so by the Engineer. Retain the top-growth (browned) foliage of native and ornamental grasses in the landscape as long as possible to benefit from the ornamental qualities of their dormant stage. In early spring before green-up, prune back to twelve (12) inches, dead top-growth of all native and ornamental grasses, except those that are evergreen.

Contractor shall complete any other pruning directed by the Engineer within 30 days of notification.

- F. Mulching: Contractor shall furnish and place mulch prior to start of the yearly mowing activities and replenish according to the following specifications. Prior to start of yearly mowing cycle, before the placement of mulch, all bed areas shall be edged with a mechanical bed edger. Bulk loads of mulch dropped on site shall be placed the same day.
1. The mulch shall be double shredded pine bark mulch, clean and void of sticks, cones, leaves or any extraneous materials. Mulch shall come from a single source unless otherwise approved by the Engineer. The Contractor shall present a sample to the Engineer for approval prior to beginning mulch applications. The Engineer shall be given the opportunity to be present for all mulch applications.
 2. Upon notification of the Engineer, the Contractor shall place the mulch around all individual landscape plants and bedded shrub areas within the rest area site as directed by the Engineer. This mulching shall be performed by February 28 of each year. Contractor shall confirm with the Engineer actual amount of mulch required prior to placement each year.
 3. Additional mulch shall be placed around all individual landscape plants and bedded shrub areas around the service and vending buildings and along the front entrance in May prior to the Memorial Day Holiday.
 4. Mulch shall be placed and maintained to ensure a uniform four (4) inch depth covering the entire mulched area. The diameter of the mulch ring for individual trees, shrubs, etc. in lawn areas shall be:
 - 12 inch diameter plants and less - 3 foot ring
 - 12-24 inch diameter plants - 4 foot ring
 - 24 inch diameter or larger - 5 foot ring
 5. Mulch shall be tapered and not placed against the tree or shrub trunk so as to cause insect damage to the trunk or to promote adventitious root development. Mulch shall not be placed against buildings so as to allow insect damage to wooden exteriors. Following mulching operations, Contractor shall lift any branches or leaves of desirable plants which have been covered with mulch.

6. Mulch shall be replenished as required to maintain the specified depth, or as directed by the Engineer.

PESTICIDE USAGE

Spraying of pesticides for weed, insect or fungus control may be required by NCDOT or elected to be used by the Contractor, upon approval by the Engineer. Contractor shall be responsible for removal of all invasive pests. Special precautions shall be used when applying pesticides during maintenance operations. **DO NOT allow drift or runoff of pesticides. Unapproved use or off target damage shall not be permitted.**

NOTE: Any pesticide usage on the site shall be by or under the direct on site supervision of a valid licensed Commercial Ground Applicator (currently licensed by the N. C. Department of Agriculture), with an Ornamental and Turf (L) sub-classification. The person(s) name and a copy of their current license(s) shall be given to the Engineer a minimum of two (2) weeks prior to the application of any pesticides. All pesticide products, rates, timing, and area of application shall be used in accordance with the label and shall have been approved by the Engineer a minimum of 48 hours prior to their use. The Engineer shall be given a minimum of 48 hours prior notification and shall be given the opportunity to be present for all applications.

NOTE: Application of pesticide on the site by an applicator not licensed as specified above, or without direct on site supervision of a licensed applicator as specified above, pesticides not applied when specified or directed by the Engineer, use of a product (including, rate, timing, and area of application) without prior approval, use of a product inconsistent with the label, or unapproved use and/or off target damage, will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

The Engineer has the right to request copies of pesticide application records at any time during the term of this contract.

HERBICIDE APPLICATION:

Post-emergent weed control:

Non-selective weed control can be accomplished in ornamental planting areas and dormant Zoysia (November through February) by the following: Apply "FarmWorks 41% Glyphosate Plus Concentrate With Surfactant Grass And Weed Killer" or equivalent liquid Glyphosate plus surfactant product, containing not less than "41% Glyphosate, N-(phosphonomethyl)glycine, in the form of its isopropylamine salt," mixed in water to prepare a solution of between (but not less than) 2.5% herbicide product, and 10% herbicide product; as directed according to weed species to be controlled on the herbicide label. Apply herbicide solution at a rate of 3 to 40 gallons per acre in a manner that will supply not less than 2 quarts (64 oz) of 41% Glyphosate herbicide per acre or no less than 2 pounds of active ingredient per acre. This is equivalent to no less than 1.47 liquid ounces of liquid 41% Glyphosate product per 1000 square feet.

Control of most broadleaf weeds can be accomplished in the following manner: Apply "Gordon's Amine 400 2,4-D Weed Killer" or equivalent "Dimethylamine salt of 2,4-dichlorophenoxyacetic acid herbicide:" Broadcast over cool season turfgrasses at a rate that will deliver 1.38 to 1.39 oz pounds of active ingredient, 2,4-dichlorophenoxyacetic acid per acre or 0.032 pounds per 1000 square feet. Spot spray weeds within Zoysiagrass turf at a rate that will deliver between 0.93 and 1.26 pounds active ingredient per acre, or 0.021 pounds to 0.029 pounds per 1000 square feet as specified on product label.

Post-emergent of grass weeds in turf can be accomplished by applying Fusilade II herbicide or equivalent, containing Fluazifop-P-butyl Butyl (R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate at the rate specified on the label, or by spot spraying using a glyphosate product as specified within this contract.

Grass weeds in plant beds can be controlled using “Volunteer Herbicide” or appropriately labeled equivalent herbicide, containing the active ingredient “Clethodim: (E)-2-[1-[[[3-chloro-2-propenyl]oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one.” When used, this herbicide shall be mixed with a surfactant at the rate of 0.32 oz per gallon of total solution, and shall be applied in such a manner as to supply between (not less than) 0.13 to 0.25 pounds of active ingredient per acre, or 0.003 to 0.005 pounds of active ingredient per 1000 square feet.

Yellow Nutsedge can be controlled in all turfgrass areas by broadcast or spot spraying “SedgeHammer” Herbicide or appropriately labeled equivalent herbicide with the active ingredient “Halosulfuron-methyl, methyl 3-chloro-5-(4,6-dimethoxypyrimidin-2-ylcarbamoylsulfamoyl) -1-methylpyrazole-4-carboxylate.” This same herbicide is acceptable for use in plant beds if spot spray method is employed. When used, this herbicide shall be applied in a manner as to supply between (but not less than) 2/3 to 1-1/3 weight-ounces product per acre. This is equal to between 0.5 and 1.0 weight-ounces of active ingredient, Halosulfuron per acre, or 0.011 and 0.022 weight-ounces of active ingredient per 1000 square feet. When spot treatments are made using this product in either turf or planting areas, a non-ionic surfactant shall be used at a rate of 1/3 ounce per gallon of herbicide solution.

Pre-emergent weed control selection:

Prodiamine 65, or appropriately labeled equivalent herbicide, applied in such a manner that between (but not less than) 0.64 pounds and 1.5 pounds of the active ingredient, Prodiamine are supplied per acre, or 0.015 pounds to 0.034 pounds of Prodiamine per 1000 square feet. This can be applied to turf and planting areas of tolerant species.

Isoxaben 75, Snapshot Herbicide, or similar product, containing the active ingredient isoxaben may be applied over areas of both warm and cool season turfgrass in a manner as to supply between (but not less than) 0.49 and 1 pound active ingredient, Isoxaben per acre, or 0.01 to 0.023 pounds per 1000 square feet. This herbicide cannot be used over rest area plantings, as it is known to cause harm to some of the existing landscape plant species.

Pendulum Aquacap or equivalent herbicide can be applied to areas of turf and ornamental plantings in such a manner as to supply between (but not less than) 2 to 3.8 pounds of active ingredient, pendimethalin per acre or 0.05 pounds to 0.087 pounds of pendimethalin per 1000 square feet.

Other herbicide mixtures will be permissible upon approval from the engineer. Requested herbicide formulations, application method(s), and rates which product(s) will be applied shall be submitted in writing to the engineer for approval no less than two full business days prior to application.

CLEAN UP

The following activities shall be performed, at a minimum, once per week year round. Snow removal is by others.

- A. Roadways: All curbs and gutters shall be blown as needed, but especially after all mowing, edgings, and plant bed maintenance.
- B. Parking Lots: All curbs in parking lot areas shall be blown to remove minor trash and debris during each visit. The Contractor is responsible for removal of all grass clippings, etc., caused by edging or mowing operations.
- C. Grounds:
 1. All grounds shall be policed for litter and debris a minimum of once per week, year round.
 2. Rest area shall be checked after every storm in order to remove minor debris, leaves, etc. The Contractor is responsible for removal of limbs and damaged/fallen trees less than eight (8) inches in diameter, the extent of which will be determined by the Engineer. Extensive storm damage beyond the scope of the contract may be handled by supplemental agreement or by others as

determined the Engineer. The Department will be responsible for preparing, removing, and disposing of large limbs or trees greater than eight (8) inches in diameter.

3. All debris, leaves, limbs, seed pods such as sweet gum balls and pine cones, etc. shall be removed from site by the Contractor, or if approved by the Engineer, cut into small pieces and disposed of in the undeveloped areas specified by the Engineer.

D. Leaf/Seed Pod Removal:

1. Leaves and seed pods such as sweet gum balls and pine cones, etc. shall be removed from all grounds weekly or as directed by the Engineer. Leaves shall be removed as much as possible from all plant beds without disturbing the mulch. Leaves shall not be blown into the wood line.
2. All leaves/seed pods shall be removed from the site by the Contractor.
3. No leaves/seed pods, clippings or branches/limbs are to be placed in waterways, drainage ditches, hazardous spill basins, bio-retention areas, or any other stormwater device.

NOTE: Failure to remove leaves and/or seed pods once a week or as directed by the Engineer, will result in immediate documentation of reduction in compensation as specified in Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

- E. Undeveloped/Natural Areas: These areas shall be kept from encroaching into lawn/developed areas. Woodland edges shall be kept clean from weedy growth. A fifty (50) foot perimeter into the woods shall be kept free of trash, debris, dead/broken limbs, etc. New growth of weeds, briars, trees, vines, etc. shall be removed as directed by the Engineer.

LANDSCAPE LIGHTING

The Contractor shall report all problems/repairs to the Engineer immediately. Any damage done to the lighting by the Contractor shall be the responsibility of the Contractor as specified in Damages.

EQUIPMENT IDLING GUIDELINES:

(1-19-21)

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SP1 G096

Exercise reduced fuel consumption and reduced equipment emissions during the construction of all work associated with this contract. Employees engaged in the construction of this project should turn off vehicles when stopped for more than thirty (30) minutes and off-highway equipment should idle no longer than fifteen (15) consecutive minutes.

These guidelines for turning off vehicles and equipment when idling do not apply to:

1. Idling when queuing.
2. Idling to verify the vehicle is in safe operating condition.
3. Idling for testing, servicing, repairing or diagnostic purposes.
4. Idling necessary to accomplish work for which the vehicle was designed (such as operating a crane, mixing concrete, etc.).
5. Idling required to bring the machine system to operating temperature.
6. Emergency vehicles, utility company, construction, and maintenance vehicles where the engines must run to perform needed work.
7. Idling to ensure safe operation of the vehicle.
8. Idling when the propulsion engine is providing auxiliary power for other than heating or air conditioning. (such as hydraulic systems for pavers)
9. When specific traffic, safety, or emergency situations arise.
10. If the ambient temperature is less than 32 degrees Fahrenheit. Limited idling to provide for the safety of vehicle occupants (e.g. to run the heater).

11. If the ambient temperature is greater than 90 degrees Fahrenheit. Limited idling to provide for the safety of vehicle occupants of off-highway equipment (e.g. to run the air conditioning) no more than 30 minutes.
12. Diesel powered vehicles may idle for up to 30 minutes to minimize restart problems.

Any vehicle, truck, or equipment in which the primary source of fuel is natural gas or electricity is exempt from the idling limitations set forth in this special provision.

PLANT AND PEST QUARANTINES

(Imported Fire Ant, Gypsy Moth, Witchweed, Emerald Ash Borer, Guava Root Knot Nematode, And Other Noxious Weeds)

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, 919-707-3730, or <https://www.ncagr.gov/plantindustry/Plant/quaran/table2.htm> 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, emerald ash borer, guava root knot nematode, or other noxious weeds.

COOPERATION BETWEEN CONTRACTORS

The Department reserves the right at any time to contract for and perform other or additional work on or near the work covered by the contract. The Department has a separate custodial maintenance contract for this facility. The grounds Contractor will be required to cooperate with the custodial Contractor during the performance of his duties at the rest area.

When separate or additional contracts are let within the limits of any one project, each Contractor shall conduct his

work so as not to interfere with or hinder the progress or completion of the work being performed by other Contractors. Contractors working within the limits of the same project shall cooperate with each other. Each Contractor shall conduct his operations in such a manner as to avoid damaging any work being performed by others or which others have completed.

The Department will under no circumstances be liable for any claim for additional compensation due to acts of one Contractor holding up the work of another. The Department will under no circumstances be liable for any damages experienced by one Contractor as a result of the presence and operations of other Contractors working within the limits of the same project.

DAMAGES

The Contractor shall be held liable for all damage done, as a result of his operation or his Subcontractors, to fixed objects such as, but not limited to, signs, posts, buildings, and all vegetation including turf, trees, shrubs, flower beds and desirable natural growth. Damage shall include among other things; skinning, scraping, breaking of tree limbs or gouging of trees or shrubs, and rutting, scalping or tearing turf.

Costs associated with damages caused by the Contractor to plant material will be assessed based on current cost to replace with like material of equal size or an equivalent combination. Such cost shall be deducted from the Contractors monthly invoice. All turf damage repairs shall be made by the Contractor as herein specified. Seed shall meet purity and germination requirements as specified by the Engineer. Only friable topsoil shall be used to fill any depressions, ruts, etc., prior to seeding. All other property damage will be assessed for actual replacement costs including labor, materials, and equipment.

Cost associated with damages caused by the Contractor's operation shall be deducted from monthly invoice payments or the Contractor will be required to repair the damages at his cost as directed by the Engineer. This is in addition to any compensation reduction assessed as a result of poor or non-performance of duties outlined in this contract.

Contractor is responsible for any injury or damages received or sustained by any person, persons, or property by reason of any act of the Contractor, Subcontractor, its agents or employees, in the performance of the contract.

DEPARTMENT RESPONSIBILITIES

- A. **Administration:** The Department will provide personnel for administering the terms and conditions of this Agreement to ensure all services associated with these specifications have been performed to the satisfaction of the Department. The Department will demand strict conformance to this Agreement and shall enforce the standards of this Agreement.
- B. **Inspections:** The Department's field representative will conduct frequent, unscheduled inspections and complete an inspection form noting conditions and compliance with contract provisions and quality of workmanship. A copy of the form shall be left on site with an additional copy sent to the Contractor. These inspections will be performed at a minimum frequency of one time weekly.
- C. **Renovation Work:** If the Department deems it appropriate to do renovation work to the facility during the life of the contract, the Contractor will not be in any way responsible for this work or its cost. The Contractor will be required to cooperate with any other Contractor doing work for the Department on the site.
- D. **Grounds, Parking Lot and Roadway:** The Department will be responsible for placement and repairs to pavements, sidewalks, curbs, area lights, (walkway, roadway and parking areas) roadway signs and pavement markings.
- E. **Water:** The Department will be responsible for providing a deep well water supply or municipal water supply. Water shall only be available for Contractor duties being performed on the rest area

site, not for work that Contractor is performing at alternate locations or job sites.

- F. Utilities: All public utility services contracted by DOT will be paid for by DOT.
- G. Contractor Personnel: The Department will not be responsible in any way to the Contractor's personnel for damages, destruction or loss, from any cause, to the Contractor's equipment, supplies, materials or tools or the personal property of the Contractor's personnel. The Contractor will be responsible for all repairs, regardless of cost, resulting from the negligence of the Contractor or Contractor's employees. The Department will not participate in the cost of such repairs.

PERFORMANCE OF WORK

The Contractor's attention is directed to the need for the timely performance of services provided for under this contract. The aesthetic appearance of the site and its reflection on the North Carolina Department of Transportation as well as the safety and convenience of the public is the essence of the service. When the Department observes the Contractor has failed to adequately perform any of the services for which the Contractor is responsible, the Engineer or his designee will take the following action in his/her discretion:

Grounds Services

- A. Non-Compliance: When services (mulching, pruning, weeding, etc.) are not provided in accordance with the contract, the Contractor will be notified and directed to perform the services within 24 hours.

NOTE: The ten (10) non-compliance issues that will not be subject to the notification and direction to "perform the services within 24 hours" policy but will result in immediate documentation of reduction in compensation have been specified herein and are so noted on pages 28-29, Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site.

- B. Follow-up on Non Compliance: An inspection of non-compliance items will be made at the conclusion of the 24 hours by the Department. The Contractor's supervisory employee will be asked to accompany the Department's representative during the inspection. If the inspection shows the item or items have been corrected or satisfactory and continuous progress is being made, the previous notice will be rescinded; however, if non-compliance still remains, the supervisor will be given notification in writing with copy of non-compliance faxed/emailed/mailed to the Contractor's company address.
- C. Reduced Compensation: Should the follow-up inspection show the item(s) remain in non-compliance, the Contractor's monthly compensation will be reduced in accordance with the Standard Compensation Reduction Schedule included under Compensation.
- D. Service(s) Restored: The Contractor shall be responsible for notifying the Department when items have been corrected.
- E. Services Restored by DOT: If the Contractor fails to prosecute the work as directed or fails to perform the work in a safe, satisfactory manner, the Engineer may proceed to have the work performed with other forces. The cost of the work so performed including materials, labor, and equipment will be deducted from payment due the Contractor on his contract.
- F. Contract Cancellation: Continued non-compliance by the Contractor will be considered unsatisfactory performance and may be grounds for contract cancellation.

Standard Compensation Reduction Schedule for Lawn & Grounds Maintenance at Each Rest Area Site		
Grounds Maintenance Employees		Each Week/Instance
1.	* Safety precautions not followed as specified (per person).	\$100.00
2.	* Not in specified uniform (per employee).	\$50.00
3.	* Required minimum number of man hours not completed as specified (per hour).	\$200.00
4.	* Supervisor’s Weekly Work Report not completed and left on each site as specified.	\$200.00
5.	* Contractor’s Monthly Work Plan not submitted as specified.	\$200.00
6.	* Supervisor not on site.	\$100.00
7.	* Falsification of information.	\$100.00
8.	* Work performed outside of time restrictions as specified.	\$500.00
Grounds Maintenance		Each Week/Instance
1.	* Grass not mown as directed by the Engineer throughout the year. Grass not mown as specified. Non-adherence to the 36 hour stipulation without cause.	\$1500.00
2.	Edging, trimming/mowing and/or cleanup of mowing cycle not performed as specified.	\$500.00
3.	Debris/trash or excess grass clippings left after mowing cycle.	\$200.00
4.	Slopes/drainage ditches/hazardous spill basins not properly maintained as specified.	\$1000.00
5.	Fertilization and/or liming not performed as specified.	\$1000.00
6.	Aeration and/or seeding not performed as specified.	\$1000.00
7.	* Application of pesticide on the site by an applicator not licensed or without direct on site supervision of a licensed applicator as specified above, pesticides not applied when specified or directed by the Engineer, use of a product (including rate, timing, and area of application) without prior approval, use of a product inconsistent with the label, or unapproved use and/or off target damage.	\$500.00
8.	Weeds in plantings/excess weeds in lawn.	\$500.00
9.	* Damage of plantings (per plant). Replacement planting not performed as specified. Higher maintenance not performed as specified.	\$200.00
10.	Pruning of trees/shrubs not performed as specified.	\$500.00
11.	Mulch needed and/or not placed as specified.	\$2000.00
12.	Cleanup after storms not performed as specified.	\$1000.00
13.	* Leaves and/or seed pods not removed from all grounds weekly or as directed by the Engineer.	\$1000.00
14.	Undeveloped/natural areas not kept clean as specified.	\$200.00

***Deduction not subject to the 24 hour non-compliance policy.**

**NOTIFICATION OF REST AREA CONTRACT NON-COMPLIANCE
FOR LAWN AND GROUNDS MAINTENANCE**

TO: _____ **FROM:** _____

DATE: _____ **COUNTY:** _____

ROUTE: _____ **EBL** ____ **WBL** ____ **NBL** ____ **SBL** ____

Employee(s) On Duty: _____
(Note: Employee(s) are requested to notify contract supervisor immediately concerning this notice.)

Please be advised that the following item is in Non-Compliance and reduction in compensation is in effect (24 hour limit to correct non-compliance when applicable):

Description of Non-Compliance Item	Date & Time of 1 st Inspection	Date & Time of 2 nd Inspection (Follow-up)	Rescinded? Yes/No	\$ Amount of Reduction

Standard Reductions that are not subject to the 24 hour non-compliance policy as specified are effective immediately. The reduction in compensation for 24 hour limit items begin with the above date and time of the second inspection.

Contractor: Please notify NCDOT when you have corrected item(s).

The above item(s) was/were corrected on the following date and time: _____

NCDOT Inspector Signature 1st Inspection _____

NCDOT Inspector Signature 2nd Inspection _____

Reduction 1: (\$ _____) X (_____ Unit) X (_____ Week/Instance) = \$ _____

Reduction 2: (\$ _____) X (_____ Unit) X (_____ Week/Instance) = \$ _____

Reduction 3: (\$ _____) X (_____ Unit) X (_____ Week/Instance) = \$ _____

Reduction 4: (\$ _____) X (_____ Unit) X (_____ Week/Instance) = \$ _____

If the Contractor fails to perform the work in a satisfactory manner, the Division Engineer may proceed to have the work performed by DOT or with other forces. The cost of the work will be deducted from payment due the Contractor.

Cost of Work Performed by DOT/Other Forces \$ _____

Amount of Total Reduction \$ _____

NCDOT Engineer Signature _____

COMPENSATION

The Department agrees to pay the Contractor the line item price per month for “Provide Professional Lawn and Grounds Maintenance” described herein upon receipt and approval of an invoice for the monthly period invoiced, less the 5% withheld during the first year of the contract as stated in the Performance Guarantee. The Department agrees to pay the Contractor each line item price for Furnish and Apply landscape materials described herein upon receipt and approval of an invoice.

All work or items necessary to complete the work other than those listed on the “Bid Proposal Form” will be considered incidental in nature and no additional compensation shall be made.

Monthly Submittal Data required for processing payment is as follows:

1. Monthly invoice for services rendered.
2. DBE-IS form.

All data must be correct and accurate. In addition to the monthly submittal data listed above, the Engineer may request further information.

NOTE: The contract terms are payable upon receipt. The Contractor is requested to wait ten (10) days after submission of invoice and other required monthly submittal data before contacting NCDOT regarding payment not being received.

Reduction Schedule: This Contract is set up for full 100% payment provided all services are rendered as outlined herein; however, when the Contractor fails to provide any part of the service in accordance with the terms of the contract, adjustments will be made to the monthly compensation on the monthly invoice submitted for payment. The reduction will be calculated according to the Standard Compensation Reduction Schedule for Lawn and Grounds Maintenance at Each Rest Area Site. In addition, any costs incurred for work performed by other forces that is the responsibility of the Contractor will be deducted from the monthly compensation.

BASIS OF PAYMENT

Lawn and grounds maintenance of rest areas and furnish and apply landscape material prices and payments will be full compensation for all work covered in this contract including, but not limited to, furnishing all labor, equipment, transportation, supplies and materials necessary to complete the work for one (1) year, regardless of the estimated quantities in their bid.

Payment will be made under:

ITEM	PAYMENT PER
Provide Professional Lawn and Grounds Maintenance	Month (MON)
Furnish and Apply Mulch	Cubic Yard (CYD)
Furnish and Apply Turfgrass Fertilization	Ton
Furnish and Apply Limestone	Ton
Furnish and Apply Turfgrass Overseeding	Pound (LB)
Furnish and Apply Repair Seeding (Includes All Materials Needed)	Acre (AC)

NOTE:

Minimum Wage: In the event of a Federal or State minimum wage increase, the contract price may be subject to change. The Contractor may be given an increase in contract price equal to his increased verified payroll labor costs resulting from the increase in the minimum wage, provided the Contractor furnishes the Department with correlating cost records which support the contract price increase.

USE OF REST AREAS

- A. In accordance with Article 23 of Chapter 130A of the North Carolina General Statutes. Smoking is prohibited in State government buildings. Therefore, the rest area is non-smoking facility. The Contractor or his employees shall not smoke inside any buildings on the rest area site or outside the buildings near the entrances.
- B. The Contractor is advised that Department is responsible for issuing permits to religious, non-profit, charitable, or educational organizations for solicitation purposes for such activities as providing free coffee to travelers during a specific time frame. **ALL OTHER FORMS OF SOLICITATION ARE PROHIBITED AT REST AREAS.** The Contractor shall not restrict or disrupt any organization with a valid permit from soliciting at the rest area facilities; however, such activity should be reported to the Engineer.
- C. The Contractor shall report all illegal activity to local authorities and the Engineer immediately. All unsanctioned activity shall be reported to the Engineer immediately.
- D. Contractors are advised that rest areas are for the convenience and safety of the traveling motorist and that customer service is of primary importance.
- E. The Contractor shall provide information and assistance to motorists in need of aid or direction, including, but not limited to:
1. Furnishing directions to nearest hospital or emergency medical facility.
 2. Knowing how to get immediate ambulance service.
- F. The Contractor is cautioned concerning the following items:
1. Do not get confrontational with any travelers, including those with pets.
 2. Do not make telephone calls for assistance, except for medical emergency or for law enforcement assistance.
 3. Do not attempt to be emergency medical personnel unless certified to do so. In case of emergencies, contact local emergency services.
 4. Do not bring any illegal drugs, alcohol, guns, knives, explosives, or incendiary devices onto the rest area site(s).
 5. Do not attempt to be a law enforcement officer. Employees will not be permitted to have firearms on the rest area property. Contractor's personnel shall cooperate with duly constituted law enforcement officers in the performance of their duties.
 6. Do not give permission for any activities to be conducted at the rest area.
 7. Do not perform mechanical work on anyone's vehicle.
 8. Do not recommend any specific service station, garage, restaurant, motel, campground or other commercial enterprise.
 9. All misplaced/lost items found at the rest area site shall be reported to the Engineer immediately. Items shall be kept in a secure location until the owner or Department retrieves the items. Each item shall be tagged showing date and place found, description of item and signature of finder.
- G. Employees will not be allowed to have family members, friends, etc. visiting (hanging around) the rest area property while employees are on duty.
- H. The Contractor will not be permitted to set up temporary utility building(s), trailer(s), vehicles, etc. for storage, office, etc. A utility/storage building, used by the janitorial Contractor is located on the site. The grounds maintenance Contractor will not be allowed to store any materials or equipment within the rest area site. Needed materials and equipment should be brought with the Contractor on each site visit. Under no circumstances shall NCDOT be responsible for any theft, vandalism, or damage to the Contractor's equipment or materials.

LAWS**EXECUTIVE ORDER 24**

By **EXECUTIVE ORDER 24**, issued in 2009, 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. Sec. 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."

**G.S. 20-175 (b). PEDESTRIANS SOLICITING RIDES, EMPLOYMENT, BUSINESS OR FUNDS
UPON HIGHWAYS OR STREETS.**

No person shall stand or loiter in the main traveled portion, including the shoulders and median, of any State highway or street, excluding sidewalks, or stop any motor vehicle for the purpose of soliciting employment, business or contributions from the driver or occupant of any motor vehicle that impedes the normal movement of traffic on the public highways or streets: Provided that the provisions of this subsection shall not apply to licensees, employees or contractors of the Department of Transportation or of any municipality engaged in construction or maintenance or in making traffic or engineering surveys.

In the event the solicitation event or the solicitors shall create a nuisance, delay traffic, create threatening or hostile situations, any law enforcement officer with proper jurisdiction may order the solicitations to cease. Any individual failing to follow a law enforcement officer's lawful order to cease solicitation shall be guilty of a Class 2 misdemeanor.

(1937, c. 407, s. 136; 1965, c. 673; 1973, c. 507, s. 5; c. 1330, s. 39; 1977, c. 464, s. 34; 2005-310, s. 1; 2006-250, ss. 7(a), 7(b); 2008-223, s. 1.)

G.S. 14-132. DISORDERLY CONDUCT IN AND INJURIES TO PUBLIC BUILDINGS AND FACILITIES.

- (a) It is a misdemeanor if any person shall:
 - (1) Make any rude or riotous noise, or be guilty of any disorderly conduct, in or near any public building or facility; or
 - (2) Unlawfully write or scribble on, mark, deface, besmear, or injure the walls of any public building or facility, or any statue or monument situated in any public place; or
 - (3) Commit any nuisance in or near any public building or facility.
- (b) Any person in charge of any public building or facility owned or controlled by the State, any subdivision of the State, or any other public agency shall have authority to arrest summarily and without warrant for a violation of this section.
- (c) The term "public building or facility" as used in this section includes any building or facility which is:
 - (1) One to which the public or a portion of the public has access and is owned or controlled by the State, any subdivision of the State, any other public agency, or any private institution or agency of a charitable, educational, or eleemosynary nature; or
 - (2) Dedicated to the use of the general public for a purpose which is primarily concerned with public recreation, cultural activities, and other events of a public nature or character.
 - (3) Designated by the Attorney General in accordance with G.S. 114-20.1.

The term "building or facility" as used in this section also includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility.

(d) Any person who violates any provision of this section is guilty of a Class 2 misdemeanor.

(1829, c. 29, ss. 1, 2; 1842, c. 47; R.C., c. 103, ss. 7, 8; Code, s. 2308; Rev., s. 3742; 1915, c. 269; C.S., s. 4303; 1969, c. 869, s. 7 1/2, c. 1224, s. 2; 1981, c. 499, s. 2; 1993, c. 539, s. 72; 1994, Ex. Sess., c. 24, s. 14(c).)

G.S. 20-161. STOPPING ON HIGHWAY PROHIBITED; WARNING SIGNALS; REMOVAL OF VEHICLES FROM PUBLIC HIGHWAY.

(e)When any vehicle is parked or left standing upon the right-of-way of a public highway, including rest areas, for a period of 24 hours or more, the owner shall be deemed to have appointed any investigating law-enforcement officer his agent for the purpose of arranging for the transportation and safe storage of such vehicle and such investigating law-enforcement officer shall be deemed a legal possessor of the motor vehicle within the meaning of that term as it appears in G.S. 44A-2(d).

(1937, c. 407, s. 123; 1951, c. 1165, s. 1; 1971, c. 294, s. 1; 1973, c. 1330, s. 25; 1985, c. 454, s. 6; 2003-310, s. 1; 2007-360, ss. 4, 5; 2009-104, s. 1; 2010-132, ss. 13, 14, 15.)

19A NCAC 02E

SECTION .0407 - CONTROL AND REGULATION OF ROADSIDE PARKS AND REST AREAS

It shall be unlawful, within any scenic service overlook, rest area or other designated parking area on the primary and secondary roads and highways of the state, for any person, firm or corporation to erect tents, booths, or structures of any kind for camping or any other activity; to create loud music or other objectionable noise; except as permitted pursuant to 19A NCAC 2E .0800 of the North Carolina Administrative Code, to solicit contributions, names, support or for any other purpose; to conduct or participate in public or private auctions and other ceremonies; to distribute tracts, pamphlets, favors or any material, product or literature; to erect displays, signs, or carry on any commercial activity; to use public address systems; to distribute or use alcoholic beverages; to engage in disorderly conduct or use vulgar, obscene or profane language; or, to commit any nuisance producing a material annoyance, inconvenience, hurt, discomfort, or that is dangerous to the life, property and welfare of the traveling public.

History Note: Authority G.S. 136-18(9); 136-125; Eff. July 1, 1978; Amended Eff. October 1, 1991; August 1, 1986.

MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE (DIVISIONS):

(10-16-07)(Rev. 5-9-24)

102-15(J)

SPI 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 the Combined MBE/WBE goal. No submittal of a Letter of Intent is required.

Combined MBE/WBE Goal: A portion of the total contract, expressed as a percentage that is to be performed by committed MBE/WBE subcontractors.

Committed MBE/WBE Subcontractor - Any MBE/WBE submitted at the time of bid that is being used to meet the Combined MBE / 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 Goal Requirement - The approved participation at time of award, but not greater than the advertised Combined MBE/WBE contract goal.

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

Manufacturer - A firm that owns (or leases) and operates or maintains a factory or establishment that produces on the premises, the materials or supplies obtained by the Contractor. A firm that makes minor modifications to the materials, supplies, articles, or equipment is not a manufacturer.

MBE Participation (Anticipated) - A portion of the total contract, expressed as a percentage that is anticipated 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 (or leases), and operates a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in sufficient quantities, 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, concrete or concrete products, gravel, stone, asphalt and petroleum products need not keep such products in stock, if it owns and operates distribution equipment for the products. Any supplement of regular dealers' own distribution equipment shall be by a long-term operating lease and not on an ad hoc or contract-by-contract basis.

Distributor - A firm that engages in the regular sale or lease of the items specified by the contract. A distributor assumes responsibility for the items it purchases once they leave the point of origin (e.g., a manufacturer's facility), making it liable for any loss or damage not covered by the carrier's insurance.

Replacement / Substitution - A full or partial reduction in the amount of work subcontracted to a committed (or an approved substitute) MBE/WBE firm.

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 Participation (Anticipated) - A portion of the total contract, expressed as a percentage that is anticipated 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. <https://connect.ncdot.gov/business/Turnpike/Documents/Form%20DBE-IS%20Subcontractor%20Payment%20Information.pdf>

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

SAF Subcontract Approval Form - Form required for approval to sublet the contract. <https://connect.ncdot.gov/projects/construction/Construction%20Forms/SAF%20Form%20-%20Subcontract%20Approval%20Form%20Revised%202004-19.xlsm>

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 estimated amount (based on quantities

and unit prices) 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 the Combined MBE/WBE goal. This form is for paper bids only.

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

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>

DBE Regular Dealer/Distributor Affirmation Form – Form is used to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively of the cost of materials or supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 49 CFR 26.55 under the contract at issue. A Contractor will submit the completed form with the Letter of Intent.

<https://connect.ncdot.gov/projects/construction/Construction%20Forms/DBE%20Regular%20Dealer-Distributor%20Affirmation%20Form%20-%20USDOT%202024.pdf>

Combined MBE/WBE Goal

The Combined MBE/WBE Goal for this project is **zero %**

The Combined Goal was established utilizing the following anticipated participation for Minority Business Enterprises and Women Business Enterprises:

- (A) Minority Business Enterprises **zero %**
- (1) *If the anticipated MBE participation 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.
 - (2) *If the anticipated MBE participation 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 **zero %**
- (1) *If the anticipated WBE participation 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.
 - (2) *If the anticipated WBE participation 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.

The Bidder is required to submit only participation to meet the Combined MBE/WBE Goal. The Combined Goal may be met by submitting all MBE participation, all WBE participation, or a combination of MBE and WBE participation.

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 Combined MBE / WBE goal. The Directory can be found at the following link.

<https://www.ebs.nc.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 Combined MBE/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 above the goal will follow the banking guidelines found elsewhere in this provision. All other additional MBE/WBE subcontractor participation submitted at the time of bid will be used toward the Department's 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:

(A) Electronic Bids

Bidders shall submit a listing of MBE and WBE participation in the appropriate section of the electronic submittal file.

- (1) Submit the names and addresses of MBE and WBE firms identified to participate in the contract. If the bidder uses the updated listing of MBE and WBE firms shown in the electronic submittal file, the bidder may use the dropdown menu to access the name and address of the firms.
- (2) Submit the contract line numbers of work to be performed by each MBE and WBE firm. When no figures or firms are entered, the bidder will be considered to have no MBE or WBE participation.
- (3) The bidder shall be responsible for ensuring that the MBE and WBE are 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 Combined MBE/WBE goal.

(B) Paper Bids

- (1) *If the Combined MBE/ WBE goal is more than zero,*
 - (a) 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.
 - (b) 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. **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.
 - (c) 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 Combined MBE/WBE goal.
- (2) *If the Combined MBE/WBE Goal is zero,* entries on the *Listing of MBE and WBE Subcontractors* are not required for the zero goal, however any MBE or WBE participation that is achieved during the project shall be reported in accordance with requirements contained elsewhere in the special provision.

MBE or WBE Prime Contractor

When a certified MBE or WBE firm bids on a contract that contains a Combined MBE/WBE Goal, the firm is responsible for meeting the goal or making good faith efforts to meet the goal, just like any other bidder. In most cases, a MBE or WBE bidder on a contract will meet the Combined MBE/WBE goal 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.

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 Combined MBE/WBE goal 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 2:00 p.m. of the fifth calendar day following opening of bids, unless the fifth 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 10:00 a.m. 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 Combined MBE/WBE goal, or if the form is incomplete (i.e. both signatures are not present), the MBE/WBE participation will not count toward meeting the Combined MBE/WBE goal. If the lack of this participation drops the commitment below the Combined MBE/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 2:00 p.m. 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 10:00 a.m. on the next official state business day.

Banking MBE/WBE Credit

If the committed MBE/WBE participation submitted exceeds the algebraic sum of the Combined MBE/WBE goal by \$1,000 or more, the excess will be placed on deposit by the Department for future use by the bidder. Separate accounts will be maintained for MBE and WBE participation and these may accumulate for a period not to exceed 24 months.

When the apparent lowest responsive bidder fails to submit sufficient participation by MBE and WBE firms to meet the advertised goal, as part of the good faith effort, the Department will consider allowing the bidder to withdraw funds to meet the Combined MBE/WBE goal as long as there are adequate funds available from the bidder's MBE and WBE bank accounts.

Submission of Good Faith Effort

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

One complete set and **two** copies of this information shall be received in the office of the Engineer no later than 2:00 p.m. of the fifth calendar day following opening of bids, unless the fifth 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 10:00 a.m. 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 a Combined MBE/WBE Goal 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 that are also prequalified subcontractors. 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 Combined MBE/WBE goal 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 advertised goal when the work to be sublet includes potential for MBE/WBE participation (2nd and 3rd tier subcontractors).
- (C) Providing interested certified MBEs/WBEs that are also prequalified subcontractors 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 the advertised goal 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 advertised goal, 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 the Business Opportunity and Work Force Development Unit at BOWD@ncdot.gov 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 advertised 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 Combined MBE/WBE goal.
- (2) The bidders' past performance in meeting the contract goal.
- (3) The performance of other bidders in meeting the advertised goal. For example, when the apparent successful bidder fails to meet the goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts the apparent successful bidder could have met the goal. If the apparent successful

bidder fails to meet the advertised goal, 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 Combined MBE/WBE goal can be met or that an adequate good faith effort has been made to meet the advertised goal.

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 the Combined MBE/WBE Goal

(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 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 anticipated MBE participation. The same holds for work that a WBE subcontracts to another WBE firm. Work that a MBE/WBE subcontracts to a non-MBE/WBE firm does not count toward the contract goal requirement. 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 MBE or WBE participation breakdown. 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 firms and there is no interest or availability, and they can get assistance from other certified firms, the Engineer will not hold the prime responsible for meeting the individual MBE or WBE breakdown. 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.

(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) Manufacturer, Regular Dealer, Distributor

A Contractor may count toward its MBE/WBE requirement 40 percent of its expenditures for materials or supplies (including transportation costs) from a MBE/WBE distributor, 60 percent of its expenditures for materials or supplies (including transportation costs) from a MBE/WBE regular dealer and 100 percent of such expenditures obtained from a MBE/WBE manufacturer.

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

- (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, regular dealer, nor a distributor count the entire amount of fees or commissions charged that the Department deems to be reasonable, including transportation charges for the delivery of materials or supplies. Do not count any portion of the cost of the materials and supplies themselves.

A Contractor will submit a completed *DBE Regular Dealer/Distributor Affirmation Form* with the Letter of Intent to the Engineer. The Engineer will forward to the State Contractor Utilization Engineer or DBE@ncdot.gov. The State Contractor Utilization Engineer will make a preliminary assessment as to whether a MBE/WBE supplier has the demonstrated capacity to perform a commercially useful function (CUF) on a contract-by-contract basis *prior* to its participation.

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 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 performing and the MBE/WBE credit claimed for its performance of the work, and any other relevant factors. If it is determined that a MBE or WBE is not performing a Commercially Useful Function, the contractor may present evidence to rebut this presumption to the Department.

(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 Combined MBE/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 participation breakdown. 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 responsible for meeting the individual MBE or WBE participation breakdown.
- (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 subcontractor (or an approved substitute MBE or WBE subcontractor) to meet all or part of a contract goal requirement, the contractor shall not terminate the MBE/WBE subcontractor or any portion of its work 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.

The Contractor must give notice in writing both by certified mail and email to the MBE/WBE subcontractor, with a copy to the Engineer of its intent to request to terminate a MBE/WBE subcontractor or any portion of its work, and the reason for the request. The Contractor must give the MBE/WBE subcontractor five (5) business days to respond to the Contractor's Notice of Intent to Request Termination and/or Substitution. If the MBE/WBE subcontractor objects to the intended termination/substitution, the MBE/WBE, within five (5) business days must advise the Contractor and the Department of the reasons why the action should not be approved. The five-day notice period shall begin on the next business day after written notice is provided to the MBE/WBE subcontractor.

A committed MBE/WBE subcontractor may only be terminated or any portion of its work after receiving the Department's written approval based upon a finding of good cause for the proposed termination and/or substitution. Good cause does not exist if the Contractor seeks to terminate a MBE/WBE or any portion of its work that it relied upon to obtain the contract so that the Contractor can self-perform the work for which the MBE/WBE was engaged, or so that the Contractor can substitute another MBE/WBE or non-MBE/WBE contractor after contract award. For purposes of this section, good cause shall include the following circumstances:

- (a) The listed MBE/WBE subcontractor fails or refuses to execute a written contract;
- (b) The listed MBE/WBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the MBE/WBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (c) The listed MBE/WBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
- (d) The listed MBE/WBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (e) The listed MBE/WBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR parts 180, 215 and 1200 or applicable State law;
- (f) The listed MBE/WBE subcontractor is not a responsible contractor;
- (g) The listed MBE/WBE voluntarily withdraws from the project and provides written notice of withdrawal;
- (h) The listed MBE/WBE is ineligible to receive MBE/WBE credit for the type of work required;
- (i) A MBE/WBE owner dies or becomes disabled with the result that the listed MBE/WBE contractor is unable to complete its work on the contract; and
- (j) Other documented good cause that compels the termination of the MBE/WBE subcontractor.

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

(A) Performance Related Replacement

When a committed MBE/WBE is terminated for good cause as stated above, an additional MBE/WBE that was submitted at the time of bid may be used to fulfill the MBE/WBE commitment to meet the Combined MBE/WBE Goal.

A good faith effort will only be required for removing a committed MBE/WBE if there were no additional MBE/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 MBE/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 MBE/WBEs for specific subbids including, at a minimum:
 - (a) The names, addresses, and telephone numbers of MBE/WBEs who were contacted.
 - (b) A description of the information provided to MBE/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 MBE/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 but not the overall goal.
 - (i) If the MBE/WBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract. The Department may continue to count participation equal to the remaining work performed by the decertified firm which will count toward the contract goal requirement and overall goal.
 - (ii) If the MBE/WBE's ineligibility is caused solely by its acquisition by or merger with a non-MBE/WBE during the performance of the contract. The Department may not continue to count the portion of the decertified firm's performance on the contract remaining toward either the contract goal or the overall goal, even if the Contractor has executed a subcontract with the firm or the Department has executed a prime contract with the MBE/WBE that was later decertified.
 - (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 MBE/WBE subcontractor to perform at least the same amount of work to meet the Combined 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).

All requests for replacement of a committed MBE/WBE firm shall be submitted to the Engineer for approval on Form RF-1 (*DBE 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.

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 through the Department's DBE Payment Tracking System.

Failure to Meet Contract Requirements

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

TITLE VI AND NONDISCRIMINATION:

(6-28-77)(Rev 1/16/2024)

Z-6

The North Carolina Department of Transportation is committed to carrying out the U.S. Department of Transportation's policy of ensuring nondiscrimination in the award and administration of contracts.

The provisions of this section related to United States Department of Transportation (US DOT) Order 1050.2A, Title 49 Code of Federal Regulations (CFR) part 21, 23 United States Code (U.S.C.) 140 and 23 CFR part 200 (or 49 CFR 303, 49 U.S.C. 5332 or 49 U.S.C. 47123) are applicable to all North Carolina Department of Transportation (NCDOT) contracts and to all related subcontracts, material supply, engineering, architectural and other service contracts, regardless of dollar amount. Any Federal provision that is specifically required not specifically set forth is hereby incorporated by reference.

(1) Title VI Assurances (USDOT Order 1050.2A, Appendix A)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(a) Compliance with Regulations

The contractor (hereinafter includes consultants) shall comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(b) Nondiscrimination

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

(c) Solicitations for Subcontractors, Including Procurements of Materials and Equipment

In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

(d) Information and Reports

The contractor shall provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor shall so certify to the Recipient or the FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it and/or the FHWA may determine to be appropriate, including, but not limited to:

- (i) Withholding payments to the contractor under the contract until the contractor complies; and/or
- (ii) Cancelling, terminating, or suspending a contract, in whole or in part.

(f) Incorporation of Provisions

The contractor shall include the provisions of paragraphs (a) through (f) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

(2) Title VI Nondiscrimination Program (23 CFR 200.5(p))

The North Carolina Department of Transportation (NCDOT) has assured the USDOT that, as a condition to receiving federal financial assistance, NCDOT will comply with Title VI of the Civil Rights Act of 1964 and all requirements

imposed by Title 49 CFR part 21 and related nondiscrimination authorities to ensure that no person shall, on the ground of race, color, national origin, limited English proficiency, sex, age, or disability (including religion/creed or income-level, where applicable), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs, activities, or services conducted or funded by NCDOT. Contractors and other organizations under contract or agreement with NCDOT must also comply with Title VI and related authorities, therefore:

- (a) During the performance of this contract or agreement, contractors (e.g., subcontractors, consultants, vendors, prime contractors) are responsible for complying with NCDOT's Title VI Program. Contractors are not required to prepare or submit Title VI Programs. To comply with this section, the prime contractor shall:
1. Post NCDOT's Notice of Nondiscrimination and the Contractor's own Equal Employment Opportunity (EEO) Policy in conspicuous locations accessible to all employees, applicants and subcontractors on the jobsite.
 2. Physically incorporate the required Title VI clauses into all subcontracts on federally-assisted and state-funded NCDOT projects, and ensure inclusion by subcontractors into all lower-tier subcontracts.
 3. Required Solicitation Language. The Contractor shall include the following notification in all solicitations for bids and requests for work or material, regardless of funding source:

"The North Carolina Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. In accordance with other related nondiscrimination authorities, bidders and contractors will also not be discriminated against on the grounds of sex, age, disability, low-income level, creed/religion, or limited English proficiency in consideration for an award."
 4. Physically incorporate the FHWA-1273, in its entirety, into all subcontracts and subsequent lower tier subcontracts on Federal-aid highway construction contracts only.
 5. Provide language assistance services (i.e., written translation and oral interpretation), free of charge, to LEP employees and applicants. Contact NCDOT OCR for further assistance, if needed.
 6. For assistance with these Title VI requirements, contact the NCDOT Title VI Nondiscrimination Program at 1-800-522-0453.
- (b) Subrecipients (e.g. cities, counties, LGAs, planning organizations) may be required to prepare and submit a Title VI Plan to NCDOT, including Title VI Assurances and/or agreements. Subrecipients must also ensure compliance by their contractors and subrecipients with Title VI. (23 CFR 200.9(b)(7))
- (c) If reviewed or investigated by NCDOT, the contractor or subrecipient agrees to take affirmative action to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless additional time is granted by NCDOT. (23 CFR 200.9(b)(15))
- (d) The Contractor is responsible for notifying subcontractors of NCDOT's External Discrimination Complaints Process.
1. Applicability

Title VI and related laws protect participants and beneficiaries (e.g., members of the public and contractors) from discrimination by NCDOT employees, subrecipients and contractors, regardless of funding source.
 2. Eligibility

Any person—or class of persons—who believes he/she has been subjected to discrimination based on race, color, national origin, Limited English Proficiency (LEP), sex, age, or disability (and religion in the context of employment, aviation, or transit) may file a written complaint. The law also prohibits intimidation or retaliation of any sort.
 3. Time Limits and Filing Options

Complaints may be filed by the affected individual(s) or a representative and must be filed no later than 180 calendar days after the following:

 - (i) The date of the alleged act of discrimination; or
 - (ii) The date when the person(s) became aware of the alleged discrimination; or

(iii) Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

Title VI and related discrimination complaints may be submitted to the following entities:

- North Carolina Department of Transportation, Office of Civil Rights, Title VI Program, 1511 Mail Service Center, Raleigh, NC 27699-1511; toll free 1-800-522-0453
- Federal Highway Administration, North Carolina Division Office, 310 New Bern Avenue, Suite 410, Raleigh, NC 27601, 919-747-7010
- US Department of Transportation, Departmental Office of Civil Rights, External Civil Rights Programs Division, 1200 New Jersey Avenue, SE, Washington, DC 20590; 202-366-4070

4. Format for Complaints

Complaints must be in writing and signed by the complainant(s) or a representative, and include the complainant’s name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages, including Braille.

5. Discrimination Complaint Form

Contact NCDOT Civil Rights to receive a full copy of the Discrimination Complaint Form and procedures.

6. Complaint Basis

Allegations must be based on issues involving race, color, national origin (LEP), sex, age, disability, or religion (in the context of employment, aviation or transit). “Basis” refers to the complainant’s membership in a protected group category.

TABLE 103-1 COMPLAINT BASIS			
Protected Categories	Definition	Examples	Applicable Nondiscrimination Authorities
Race and Ethnicity	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 23 CFR 200; 49 U.S.C. 5332(b); 49 U.S.C. 47123. <i>(Executive Order 13166)</i>
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.	
National Origin <i>(Limited English Proficiency)</i>	Place of birth. Citizenship is not a factor. <i>(Discrimination based on language or a person’s accent is also covered)</i>	Mexican, Cuban, Japanese, Vietnamese, Chinese	
Sex	Gender. The sex of an individual. <i>Note: Sex under this program does not include sexual orientation.</i>	Women and Men	1973 Federal-Aid Highway Act; 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Age	Persons of any age	21-year-old person	Age Discrimination Act of 1975 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990

<p>Religion (in the context of employment) <i>(Religion/ Creed in all aspects of any aviation or transit-related construction)</i></p>	<p>An individual belonging to a religious group; or the perception, based on distinguishable characteristics that a person is a member of a religious group. In practice, actions taken as a result of the moral and ethical beliefs as to what is right and wrong, which are sincerely held with the strength of traditional religious views. Note: Does not have to be associated with a recognized religious group or church; if an individual sincerely holds to the belief, it is a protected religious practice.</p>	<p>Muslim, Christian, Sikh, Hindu, etc.</p>	<p>Title VII of the Civil Rights Act of 1964; 23 CFR 230; FHWA-1273 Required Contract Provisions. <i>(49 U.S.C. 5332(b); 49 U.S.C. 47123)</i></p>
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(3) Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- (g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- (h) Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- (i) The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- (j) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- (k) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- (l) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- (m) Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq., Pub. L. 88-352), (prohibits employment discrimination on the basis of race, color, religion, sex, or national origin).

(4) Additional Title VI Assurances

***The following Title VI Assurances (Appendices B, C and D) shall apply, as applicable*

(a) Clauses for Deeds Transferring United States Property (1050.2A, Appendix B)

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4.

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the North Carolina Department of Transportation (NCDOT) will accept title to the lands and maintain the project constructed thereon in accordance with the North Carolina General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the NCDOT all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the North Carolina Department of Transportation (NCDOT) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the NCDOT, its successors and assigns.

The NCDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the NCDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

(b) Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program (1050.2A, Appendix C)

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the North Carolina Department of Transportation (NCDOT) pursuant to the provisions of Assurance 7(a):

1. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - (i.) In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
3. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the NCDOT and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

(c) Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program (1050.2A, Appendix D)

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by the North Carolina Department of Transportation (NCDOT) pursuant to the provisions of Assurance 7(b):

1. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, the NCDOT will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
3. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will there upon revert to and vest in and become the absolute property of the NCDOT and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

PROJEJCT SPECIAL PROVISION FORMS

Supervisor's Weekly Work Report, page 52.

Plant Bed Fertilization Requirements, page 53.

DBE-IS form, page 54.

Contractor National Criminal Background Check Certification, page 55.

**NCDOT REST AREA LAWN & GROUNDS MAINTENANCE
SUPERVISOR'S WEEKLY WORK REPORT**

Route: _____ County: _____ Lane: _____ Date: _____

Start Time: _____ Completion Time: _____ No. of Employees: _____

Names: _____

Weather Conditions: _____

Work Accomplished This Visit:

Lawn _____

Plantings _____

Materials Used _____

Pesticide(s) Applied: _____ Areas Treated: _____

Rate: _____ Applicator: _____

Total Solution Used: _____ Sprayer Used: _____

Additional Comments:

Supervisor's Signature _____ Date _____

To Be Left On Each Site After Each Visit

PLANT BED FERTILIZATION REQUIREMENTS

1. MASS PLANTINGS

*** THICKLY PLANTED BEDS (PLANTED 2' OC OR LESS)
MAY BE BROADCAST**

*** 2 POUNDS N / 1000 SQUARE FEET SHALL BE APPLIED**

NOTE: N = POUNDS OF ELEMENTAL NITROGEN (NOT TOTAL PRODUCT)

**EXAMPLE: 14-14-14 (40 POUND BAG)
0.14 X 40 = 5.6 POUNDS OF NITROGEN / BAG
5.6 POUNDS DIVIDED BY 2 POUNDS = 2.8 X 1000 =2800
1 BAG WILL FERTILIZE 2800 SQUARE FEET OF AREA**

2. INDIVIDUAL PLANTS

***INDIVIDUAL ORNAMENTAL PLANTS, SHRUBS, AND TREES
SHALL BE FERTILIZED PER PLANT REQUIREMENT**

PLANTS, SHRUBS & TREES (PER PLANT WITHIN DRIPLINE)	
SIZE	MEASURE
8-12"	1/2 CUP
13-18"	3/4 CUP
19-24"	1 CUP
25-30"	1 1/4 CUP
31-36"	1 1/2 CUP
37-42"	2 CUPS
>42"	ONE CUP PER FOOT OF BRANCH SPREAD

***CHART BASED ON 14-14-14 ANALYSIS (APPLICATION WILL
BE ADJUSTED PER ANALYSIS USED)**

**FERTILIZER REQUIREMENTS: COMPLETE ANALYSIS,
MINIMUM 50 % CONTROLLED RELEASE NITROGEN,
1-1-1 OR 2-1-1 RATIO**

**State of North Carolina
Department of Transportation
Subcontractor Payment Information**

Submit with Invoice To: Invoice Coordinator
North Carolina Department of Transportation
Division / Branch
Address
Raleigh, NC XXXXX-XXXX

Firm Invoice No. Reference _____
NCDOT PO / Contract Number _____
WBS No. (State Project No.) _____
Date of Invoice _____
Signed _____

<u>Invoice Line Item Reference</u>	<u>Payer Name</u>	<u>Payer Federal Tax Id</u>	<u>Subcontractor / Subconsultant / Material Supplier Name</u>	<u>Subcontractor / Subconsultant / Material Supplier Federal Tax Id</u>	<u>Amount Paid To Subcontractor / Subconsultant / Material Supplier This Invoice</u>	<u>Date Paid To Subcontractor / Subconsultant / Material Supplier This Invoice</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Total Amount Paid to Subcontractor Firms \$ _____

NOTE: - These documents are scanned into our Fiscal program. Please do not highlight or shade the figures.

I certify that this information accurately reflects actual payments made and the dates the payments were made to Subcontractors/Subconsultants/Material Suppliers on the above referenced project.

Signature _____

Title _____

CONTRACTOR NATIONAL CRIMINAL BACKGROUND CHECK CERTIFICATION

BUNCOMBE COUNTY REST AREAS

I, _____ ("Contractor"), certify that:

I have obtained a national criminal background check on all potential employees including all Contracting officers, owners, partners, and/or managers and all personnel who will be representing the contracting company for this contract. None of the employees have a disqualifying criminal background.

- (1) An individual is prohibited from working at rest areas maintained by NCDOT due to a disqualifying criminal background if:
 - (a) The individual has previously been found guilty of having the status of an habitual felon, N.C.G.S. 14-7.1,
 - (b) The individual has a history of convictions for felony or misdemeanor assaultive behavior or felony or misdemeanor convictions for weapons charges,
 - (c) The individual has outstanding arrest warrants that he/she has become aware of, or pending criminal court cases and has not notified the Contractor within 24 hours of awareness,
 - (d) The individual has a pending habitual impaired driving offense, N.C.G.S. 20-138.5,
 - (e) The individual has a prior sex offender conviction,
 - (f) The individual has a conviction(s) that the Department objects based on the nature of the individual's conviction(s) and the need to protect the safety of the traveling public.
- (2) After award and before the start of the contract, I will submit for the Division's inspection the national criminal background check of all employees. If the Division objects to the assignment of an employee on the basis of the employee's national criminal background check, I agree to discontinue using that employee to provide services under the contract.
- (3) I understand that no employee is to begin work at the rest area under the contract without undergoing the national criminal background check and submission of the background check to the Department and approval by the Department of the proposed employee.
- (4) I understand that upon yearly renewal of an existing contract, I shall submit updated national criminal background checks of all employees 30 days prior to the expiration of the current contract year.
- (5) If I receive information that an employee has a disqualifying criminal background, I will immediately remove that employee from contract duties.
- (6) I understand that the Department reserves the right to request a new national criminal background check for any employee at any time.
- (7) I understand that I am to keep the Division aware of any new charges disclosed to me by my employees within 24 hours of disclosure.
- (8) I acknowledge that noncompliance with the requirements in this certification shall be grounds for contract cancellation.

Company Name: _____

Contractor's Signature: _____

Date: _____

This form is required to be completed by the Contractor and submitted with all national criminal background checks at the Project Pre-Work Conference, yearly renewal, and any other times checks are submitted. All costs associated with the background checks shall be at the Contractor's expense.

INSTRUCTIONS TO BIDDERS

BID PROPOSALS

As stated under "AWARD OF CONTRACT" above, the Engineer will evaluate the Bidder's proposal to determine the responsibility of the bid and insure compliance with contract. The Engineer, using his/her discretion, will determine whether a bidder is "responsible" and capable of performing the required work. The Bidder should demonstrate an understanding of the requirements of the contract, and that the requirements have been addressed in his bid to the satisfaction of the Engineer. The Bidder shall demonstrate experience delivering lawn and grounds maintenance services and that it is capable of performing the required work under this contract, to the satisfaction of the Engineer. This includes services such as mowing, plant bed maintenance, customer service, contract compliance, pesticide laws and regulations, employment laws and regulations, insurance, human resource management, business administration and experience interacting with the public.

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

PREPARATION AND SUBMISSION OF TRADITIONAL PAPER BIDS

At least one (1) original copy of the Bid Submittal Package, the information required on Bid Submittal Page 4 of 17 for the Contractor's Operations Plan, and all signed addenda; shall be submitted as the Bidder's proposal. **For the benefit and convenience of the Department, please submit one (1) additional copy of the Bid Package.** All bid submittal documents should be prepared and submitted in accordance with the following listed requirements. Failure to comply with any requirement may cause the bid to be considered irregular and may be grounds for rejection of bid. The Department reserves the right, in its sole discretion, to waive any deficiencies or irregularities in the submission of bid documents.

1. The attached Bid Submittal Package (Bid Submittal Pages 1 of 17 through 17 of 17) furnished by the Department shall be used. The bid shall be submitted on the same proposal that has been furnished to the bidder by the Department. Copies of previous proposals shall be rejected. The Bidder shall provide the information requested on Bid Submittal Page 4 of 17 (use additional pages and/or attachments if needed).
2. All entries including signatures shall be written in ink or typed. Copies of signatures shall be rejected.
3. The Bidder shall submit a unit price per month for "Provide Professional Lawn and Grounds Maintenance" which multiplied by twelve (12) will be the total amount of cost for the one (1) year term of the contract. The bidder shall submit a unit price for each "Furnish and Apply" landscape materials which multiplied by the quantity will be the total amount of cost for the one (1) year term of the contract.
4. Adding the total amount bid for the six (6) line items will be the total amount bid for the project and shall be written in figures in the proper place on the Contract Bid Form.
5. Changes in any entry in the Bid Submittal Package 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. Do not use correction fluid, correction tape or similar product to make corrections.
6. The bid shall be properly executed on the included **Execution of Bid – Non-collusion Affidavit, Debarment Certification and Gift Ban Certification** form. All bids are to include the following information:
 - a. Name of corporation, partnership, Limited Liability Company, joint venture, individual or firm, submitting bid. Corporations that have a corporate seal shall include it on the bid, otherwise write your corporations name in the seal location.
 - b. Name of individual or representative submitting bid and position or title held on behalf of the bidder.
 - c. Name, signature, and position or title of witness.
7. The bid shall not contain any unauthorized additions, deletions, or conditional bids.
8. 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.

9. The Bid Submittal Package shall be placed in a sealed envelope and shall be delivered to and received in the DOT Purchasing Section by **2:00 pm on August 5, 2024** at the address indicated in the table below:

MAILING ADDRESS FOR DELIVER OF BID VIA U.S.POSTAL SERVICE	OFFICE ADDRESS FOR DELIVERY BY ANY OTHER MEANS, SPECIAL DELIVERY, HAND DELIVERY, OVERNIGHT DELIVERY OR BY ANY OTHER CARRIER
BID NUMBER: 54-MKB-13-PR6611 Attn: Mike Beaver North Carolina Department of Transportation Purchasing Section Address: 1510 Mail Service Center Raleigh, NC 27699-1510	BID NUMBER: 54-MKB-13-PR6611 Attn: Mike Beaver North Carolina Department of Transportation Purchasing Section Address: 1 South Wilmington Street, Room 334B Raleigh, NC 27601

IMPORTANT NOTE: All paper bids shall be physically delivered to the office address listed above on or before the bid deadline in order to be considered timely, regardless of method of delivery (including U.S. mail). **This is an absolute requirement.** All risk of late arrival due to unanticipated delay – whether delivered by hand, U.S. Postal Service, courier or other delivery service is entirely on the Vendor. It is the sole responsibility of the Vendor to have the bid physically in this Office by the specified time and date of opening. The time of delivery will be marked on each bid when received, and any bid received after the bid submission deadline will be rejected. Sealed bids, subject to the conditions made a part hereof, will be received at the address indicated in the table in this Section, for furnishing and delivering the commodity or service as described herein.

Note that the U.S. Postal Service does not deliver mail to the specified office address but to the State’s Mail Service Center. Vendors are cautioned that bids sent via U.S. Mail, including Express Mail, may not be delivered by the Mail Service Center to the agency’s purchasing office on the due date in time to meet the bid deadline. All Vendors are urged to take the possibility of delay into account when submitting a bid.

All bids shall be submitted in a sealed envelope. Clearly mark each package with: (1) Vendor name; (2) the IFB number; and (3) the due date. Address the package(s) for delivery as shown in the table above.

Bids shall be marked on the outside of the sealed envelope with the Vendor’s name, IFB number, and date and time of opening. If Vendor is submitting more than one bid, each bid shall be submitted in a separate sealed envelope and marked accordingly. For delivery purposes, separate sealed bids from a single Vendor may be included in the same outer package. Do not include bids for more than one solicitation in the same package.

Failure to address proposals correctly could result in delayed delivery service.

OPENING OF BIDS

Bids subject to the conditions made a part hereof will be received until 2:00 pm on August 5, 2024 and then publicly opened for furnishing the services as described herein.

Opening of bids is to be in the NCDOT Transportation Building Complex located at 1 South Wilmington Street, Raleigh 27601.

NOTE: Parking at the Transportation Building Complex is limited. Arrive early!

Issuance of this Proposal does not constitute a commitment on the part of the NCDOT to award or execute a Contract. The Department retains the right, in its sole discretion, at any time to reject any or all bids and to cancel or cancel and reissue a Proposal, before or after receipt and opening of bids in response thereto, or take any other actions it considers in its discretion to be in the best interest of the State.

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
PERFORMANCE MAINTENANCE CONTRACT
BID SUBMITTAL PACKAGE**

July 12, 2024

Solicitation RFP No. 54-MKB-13-PR6611

NCDOT Highway Division 13

Buncombe County

Rest Area Professional Lawn and Grounds Maintenance

NOTE:

By submission of a bid package the bidder agrees that they shall provide sufficient labor, labor hours, supervision, training, materials, equipment and supplies to complete all requirements as listed in this contract to an acceptable level as determined in the discretion of the Engineer, regardless of the quantities estimated in their bid.

This entire package (Bid Submittal Pages 1 of 17 through 17 of 17, including attachments) is to be returned as the contractor's bid and received by the Department of Transportation's Purchasing Section prior to 2:00 PM, August 5, 2024.

Failure to complete the bid submittal documents as indicated may be cause for rejection of the Contractor's bid.

Bidder/Offeror: _____

Company Name

ATTENTION

Federal Employer Identification Number or alternate identification number (e.g., Social Security Number) is used for internal processing, including bid tabulation.

Enter ID number here: _____

Pursuant to N.C.G.S. 132-2.10(b) this identification number shall not be released to the public.

This page will be removed and shredded, or otherwise kept confidential,
before the procurement file is made available for public inspection.

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
CONTRACT BID FORM**

PROPOSAL NO: 54-MKB-13-PR6611
WBS ELEMENT NO: 13RE.101138
COUNTY: BUNCOMBE – DIVISION 13
LOCATION: I-26, EAST AND WESTBOUND LANES, MILE MARKER 41, SOUTH OF ASHEVILLE
TYPE OF WORK: PROFESSIONAL LAWN AND GROUNDS MAINTENANCE OF REST AREAS
PROJECT: BUNCOMBE COUNTY REST AREAS (PAIR)

The Contractor agrees to provide the services outlined in this proposal for the subject rest areas (pair), for one (1) year, for the following fixed prices:

Item	Description	Quantity	Unit	Unit Price	Total Price
1	Provide Professional Lawn and Grounds Maintenance	12	MON	\$	\$
2	Furnish and Apply Mulch	100	CYD	\$	\$
3	Furnish and Apply Turfgrass Fertilization	5	TON	\$	\$
4	Furnish and Apply Limestone	11	TON	\$	\$
5	Furnish and Apply Turfgrass Overseeding	1,000	LB	\$	\$
6	Furnish and Apply Repair Seeding	3	AC	\$	\$

TOTAL BID FOR PROJECT: \$ _____

CONTRACTOR _____ FEDERAL ID: _____

ADDRESS _____

PHONE _____

AUTHORIZED AGENT _____ TITLE _____

SIGNATURE _____ DATE _____

THIS SECTION TO BE COMPLETED BY NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

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

Reviewed by _____ (date) _____

Accepted by NCDOT _____ (date) _____
Division Engineer

CONTRACTOR CONTACT INFORMATION

Contractor: _____

Address: _____

Telephone Number(s): _____

Email Address: _____

Name of individual authorized to answer questions concerning the information contained herein:

Name: _____

Email Address: _____

Telephone Number(s): _____

CONTRACTOR'S OPERATIONS PLAN**Bidders shall provide the following information:**

Materials Plan: As part of your bid submittal package, on an attached separate document, provide a Materials Plan you propose to use to fulfill the requirements of this contract. The plan should include:

- 1) A listing of all supplies, materials, and specific equipment you propose may be needed for the one year term of the contract;
- 2) The estimated quantities of each you propose may be needed for the one year term of the contract. Please note, if awarded the contract, the bidder will be required to provide all actual quantities required for performance of the contract, regardless of the estimated quantities in their bid.

Personnel Plan: As part of your bid submittal package, below or on an attached separate document, provide a Personnel Plan you propose you use to fulfill the requirements of this contract. The plan should include:

- 1) The number of days you intend to be on-site working each week;
- 2) The minimum number of employees to be on-site working;
- 3) The minimum number of hours each employee works each week;
- 4) The duties to be performed each week.

The operations plan should be clear and legible in all respects without a need for additional explanation or information and should demonstrate that the bidder has a thorough understanding of the requirements of this contract. The Engineer reserves the right to request additional information or clarification if necessary, in his/her discretion.

CONTRACTOR'S LISTING OF MBE/WBE SUBCONTRACTORS

Sheet _____ of _____

Firm Name and Address	Circle One	Item No.	Item Description	* Agreed upon Unit Price	** Dollar Volume of Item
Name Address	MBE WBE				
Name Address	MBE WBE				
Name Address	MBE WBE				
Name Address	MBE WBE				

**** Dollar Volume of MBE Subcontractor \$ _____**

MBE Percentage of Total Contract Bid Price _____ %

**** Dollar Volume of WBE Subcontractor \$ _____**

WBE Percentage of Total Contract Bid Price _____ %

***The Dollar Volume shown in this column shall be the Actual Price Agreed Upon by the Prime Contractor and the MBE/WBE subcontractor, and these prices will be used to determine the percentage of the MBE/WBE participation in the contract.**

**** Dollar Volume of MBE/WBE Subcontractor Percentage of Total Contract Bid Price.**

If firm is a Material Supplier Only, show Dollar Volume as 60% of Agreed Upon Amount from Letter of Intent.

If firm is a Manufacturer, show Dollar Volume as 100% of Agreed Upon Amount from Letter of Intent.

CONTRACTOR’S WORK EXPERIENCE AND REFERENCES

Bidders shall supply a minimum of three (3) references covering work experience on a contract basis, related to grounds maintenance services. These references are to include private commercial firms, governmental agencies (federal, state, county, city, etc.), and any other references related to lawn and grounds maintenance services which this business or its supervisors, managers, owners or other persons with supervisory responsibility for performance of this contract have had within the last three (3) years, or longer if necessary to attain the required number of references. The references are one factor that will be used by the Engineer to determine whether a bidder is “responsible” and capable or able to perform the work necessary under the contract. The bidder may submit more than three (3) references using this same form. ALL REFERENCE CONTACT INFORMATION SHOULD BE CURRENT.

1. Agency or Firm Name: _____

Physical Address: _____

Mailing Address: _____

Contact Person: _____

Telephone(s): _____

Email address: _____

Type of Facility: _____

Acres of Grounds Maintenance Performed: _____ Lawn _____ Plantings

Man Hours of Service Provided Per Week: _____

Length of Contract: _____

Dates of Contract: _____

2. Agency or Firm Name: _____

Physical Address: _____

Mailing Address: _____

Contact Person: _____

Telephone(s): _____

Email address: _____

Type of Facility: _____

Acres of Grounds Maintenance Performed: _____ Lawn _____ Plantings

Man Hours of Service Provided Per Week: _____

Length of Contract: _____

Dates of Contract: _____

3. Agency or Firm Name: _____
Physical Address: _____
Mailing Address: _____
Contact Person: _____
Telephone(s): _____
Email address: _____
Type of Facility: _____
Acres of Grounds Maintenance Performed: _____ Lawn _____ Plantings
Man Hours of Service Provided Per Week: _____
Length of Contract: _____
Dates of Contract: _____

4. Agency or Firm Name: _____
Physical Address: _____
Mailing Address: _____
Contact Person: _____
Telephone(s): _____
Email address: _____
Type of Facility: _____
Acres of Grounds Maintenance Performed: _____ Lawn _____ Plantings
Man Hours of Service Provided Per Week: _____
Length of Contract: _____
Dates of Contract: _____

BIDDER'S CURRENT NCDA PESTICIDE LICENSE

Bidder (individual's and company name) shall place current license on this sheet and make a copy for submittal.
Proof that the pesticide license belongs to an actual employee of the company will be required.

NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION

CORPORATION

The prequalified bidder, declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. §133-24* within the last three years, and that the prequalified bidder intends to do the work with his own bona fide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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.

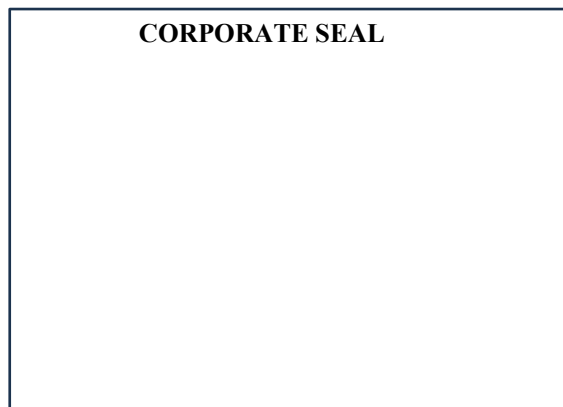
SIGNATURE OF PREQUALIFIED BIDDER

_____ Full name of Corporation

_____ Address as Prequalified

Attest _____ By _____
Secretary/Assistant Secretary President/Vice President/Assistant Vice President
(Select appropriate title) (Select appropriate title)

_____ Print or Type Signer's name _____ Print or Type Signer's name



NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION

PARTNERSHIP

The prequalified bidder, declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bona fide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER

Full Name of Partnership

Address as Prequalified

Signature of Witness

Signature of Partner

Print or Type Signer's Name

Print or Type Signer's Name

NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION

LIMITED LIABILITY COMPANY

The prequalified bidder, declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bona fide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER

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

NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION

JOINT VENTURE (2) or (3)

The prequalified bidder, declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bona fide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER

Instructions: **2 Joint Venturers** Fill in lines (1), (2) and (3) and execute. **3 Joint Venturers** Fill in lines (1), (2), (3) and (4) and execute. On Line (1), fill in the name of the Joint Venture Company. On Line (2), fill in the name of one of the joint venturers and execute below in the appropriate manner. On Line (3), print or type the name of the other joint venturer and execute below in the appropriate manner. On Line (4), fill in the name of the third joint venturer, if applicable and execute below in the appropriate manner.

(1) _____
Name of Joint Venture

(2) _____
Name of Contractor

Address as Prequalified

_____	BY	_____
Signature of Witness or Attest		Signature of Contractor
_____		_____
Print or Type Signer's Name		Print or Type Signer's Name
<i>If Corporation, affix Corporate Seal</i>	AND	

(3) _____
Name of Contractor

Address as Prequalified

_____	BY	_____
Signature of Witness or Attest		Signature of Contractor
_____		_____
Print or Type Signer's Name		Print or Type Signer's Name
<i>If Corporation, affix Corporate Seal</i>	AND	

(4) _____
Name of Contractor

Address as Prequalified

_____	BY	_____
Signature of Witness or Attest		Signature of Contractor
_____		_____
Print or Type Signer's Name		Print or Type Signer's Name
<i>If Corporation, affix Corporate Seal</i>		

CORPORATE SEAL(S)

NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION

INDIVIDUAL DOING BUSINESS UNDER A FIRM NAME

The prequalified bidder, declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bona fide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER

Name of Prequalified Bidder

Individual Name

Trading and Doing Business As

Full name of Firm

Address as Prequalified

Signature of Witness

Signature of Prequalified Bidder, Individual

Print or Type Signer's Name

Print or Type Signer's Name

NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION

INDIVIDUAL DOING BUSINESS IN HIS OWN NAME

The prequalified bidder, declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bona fide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER

Name of Prequalified Bidder

Print or Type Name

Address as Prequalified

Signature of Prequalified Bidder, Individually

Print or Type Signer's Name

Signature of Witness

Print or Type Signer's name

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 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.

BID SUBMITTAL PACKAGE CHECKLIST

This checklist has been provided for your benefit to assist you in completing your Bid Submittal Package to help ensure that all necessary items have been completed.

Check Box	Page Number	Description
	1	Cover Sheet.
	2	Contract Bid Form.
	3	Contractor Contact Information.
	4	Contractor's Operations Plan.
		Attachment to Operations Plan including Materials List as specified.
		Attachment to Operations Plan including Personnel Plan as specified.
	5	Listing of MBE/WBE Subcontractors.
	6-7	Contractor's Work Experience and References, with a minimum of three (3) references included.
	8	Copy of Bidder's (individual's name and company name) NCDA Current Pesticide License, license placed on sheet and copied.
	9-16	Execution of Bid Non-Collusion Affidavit, Debarment Certification and Gift Ban Certification, executed.
	17	Bid Submittal Package Checklist.
		Addenda, if applicable.
		Submit original and one (1) duplicate copy.
		Mark the original as "Original" and the copy as "Copy".

End of bid submittal package!