



Contract Award Notification Update

Subject: PC66544 – Contract Renewal through March 31, 2016

DATE: August 2, 2016

AWARD #: [22787](#)

GROUP #: 31555

AWARD DESCRIPTION: Comprehensive Liquid Bituminous Materials (Heater Scarification)
(All State Agencies and Political Subdivisions)

CONTRACT PERIOD: June 21, 2014 to March 31, 2018

CONTACT: Jose DeAndres, CMS 2 | 518-474-3024 | jose.deandres@ogs.ny.gov

CONTRACT NO.: PC66544 **CONTRACTOR:** Highway Rehabilitation Corp.

In accordance with the provision in the original contract, OGS is processing an extension through March 31, 2018. The contractor has agreed to a reduction in prices for the duration of the extension which is shown in the updated price pages.

A new revised Contract Award Notification has been issued concurrently with this update.

Before purchasing from the contract, please make sure you reference the new updated price pages and the current copy of the Contract Award Notification which lists a revised issue date of August 2, 2016.

A copy of the Contract Award Notification may be accessed at the following URL address:
<http://www.ogs.ny.gov/purchase/spg/awards/3155522787CAN.HTM>

All other terms and conditions remain the same.

New York State Office of General Services
 NYS Procurement
 Corning Tower Building
 Empire State Plaza
 Albany, New York 12242
<http://nyspro.ogs.ny.gov>

PURCHASING MEMORANDUM

CONTRACT AWARD NOTIFICATION UPDATE

AWARD NUMBER: [22787](#)

DATE: August 07, 2014

GROUP: 31555 Comprehensive Liquid Bituminous Materials
 (Asphalt Emulsions, Chip Seal - Conventional &
 Fiber Reinforced, Cold Recycling,
 Heater Scarification, Joint & Crack Filler/Sealer,
 Microsurfacing and/or Quick Set Slurry Seal
 and Paver Placed Surface Treatment –
 Conventional & Rubber Modified)
 (All State Agencies and Political Subdivisions)

PLEASE ADDRESS INQUIRIES TO DESIGNATED CONTACTS:

José De Andres
 Contract Management Specialist I
 (518) 474-3024
jose.deandres@ogs.ny.gov

CONTRACT PERIOD: June 21, 2014 – March 31, 2016

CONTRACTOR/CONTRACT NO.: Midland Asphalt Materials Inc. (PC66546)

SUBJECT: Lowered Prices

TO ALL STATE AGENCIES AND OTHERS AUTHORIZED TO USE STATE CONTRACTS:

The above referenced contractor has offered and we have accepted lower pricing for the following Asphalt Emulsions' material as listed below:

Contractor	NYS Plant #	DOT Region	Material Designation			
Midland Asphalt Materials Inc.	L0403	4	702-4101P – Cationic Asphalt Emulsions (Grade CRS-2p)			
Reduced Price 3,001-10,000 Gallons/Day 11-25 Miles	Reduced Price 3,001-10,000 Gallons/Day 26-50 Miles	Reduced Price 3,001-10,000 Gallons/Day 51+ Miles	Reduced Price 10,001+ Gallons/Day 11-25 Miles	Reduced Price 10,001+ Gallons/Day 26-50 Miles	Reduced Price 10,001+ Gallons/Day 51+ Miles	
\$2.477	\$2.477	\$2.477	\$2.477	\$2.477	\$2.477	

All other terms and conditions of the contract remain in effect. This purchasing memorandum should be attached to and made a part of the Award. All other terms and conditions remain unchanged.

New York State Office of General Services
NYS Procurement
Corning Tower Building
Empire State Plaza
Albany, New York 12242
<http://nyspro.ogs.ny.gov>

PURCHASING MEMORANDUM

CONTRACT AWARD NOTIFICATION UPDATE

AWARD NUMBER: [22787](#)

DATE: July 30, 2014

GROUP: 31555 Comprehensive Liquid Bituminous Materials
(Asphalt Emulsions, Chip Seal - Conventional &
Fiber Reinforced, Cold Recycling,
Heater Scarification, Joint & Crack Filler/Sealer,
Microsurfacing and/or Quick Set Slurry Seal
and Paver Placed Surface Treatment –
Conventional & Rubber Modified)
(All State Agencies and Political Subdivisions)

**PLEASE ADDRESS INQUIRIES TO
DESIGNATED CONTACTS:**

José De Andres
Contract Management Specialist I
(518) 474-3024
jose.deandres@ogs.ny.gov

CONTRACT PERIOD: June 21, 2014 – March 31, 2016

SUBJECT: New Final Revised Award and Price Pages issued.

TO ALL STATE AGENCIES AND OTHERS AUTHORIZED TO USE STATE CONTRACTS:

A final revised Award and Price Pages have been issued for the contract indicated above.

All other terms and conditions of the contract remain in effect. This purchasing memorandum should be attached to and made a part of the Award. All other terms and conditions remain unchanged.

State of New York Executive Department
Office Of General Services
New York State Procurement
Corning Tower Building - 38th Floor
Empire State Plaza
Albany, New York 12242
<http://www.ogs.ny.gov>

CONTRACT AWARD NOTIFICATION

Title	:	Group 31555 – Comprehensive Liquid Bituminous Materials (Asphalt Emulsions; Chip Seal - Conventional & Fiber Reinforced; Cold Recycling; Heater Scarification; Joint & Crack Filler/Sealer; Microsurfacing and/or Quick Set Slurry Seal; and Paver Placed Surface Treatment – Conventional & Rubber Modified) (All State Agencies and Political Subdivisions)
		Classification Codes: 30
Award Number	:	22787 (Replaces Awards 22669)
Contract Period	:	June 21, 2014 – March 31, 2016
Bid Opening Date	:	March 4, 2014
Date of Issue	:	June 17, 2014
Specification Reference	:	SPEC-927 dated January 18, 2013 and as amended in the Invitation for Bids and Purchasing Memorandum dated February 9, 2011
Contractor Information	:	Appears on beginning on Page 10 of this Award

Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : Jose DeAndres	New York State Procurement
Title : Contract Management Specialist	Customer Services
Phone : (518) 474-3024	Phone : 518-474-6717
Fax : (518) 474-1160	Fax : 518-474-2437
E-mail : jose.deandres@ogs.ny.gov	E-mail : customer.services@ogs.ny.gov

**The NYS Procurement values your input.
Complete and return "Contract Performance Report" at end of document.**

Description

This award is intended to provide a procurement mechanism for all State Agencies and Political Subdivisions to purchase Liquid Bituminous Materials. These materials are divided in several groups: Asphalt Emulsions, Joint & Crack Filler/Sealer and several pavement preventive/corrective maintenance treatments including Chip Seal – Conventional and Fiber Reinforced, Cold Recycling, Heater Scarification, Microsurfacing and/or Quick Set Slurry Seal and Paver Placed Surface Treatment.

PR # 22787

Table of Contents

ATTACHMENTS7

SECTION 1: CONTRACTOR INFORMATION.....8

- 1.1 Contractor Information.....8
- 1.2 Small, Minority and Women-Owned Businesses.....11
- 1.3 Note to Authorized Users11
- 1.4 Poor Performance11
- 1.5 Debriefing.....11
- 1.6 Asphalt Emulsions.....12
 - 1.6.1 Location by Contractor12
 - 1.6.2 Location by City.....13
 - 1.6.3 Location by County.....14
- 1.7 Chip Seal – Conventional & Fiber Reinforced15
 - 1.7.1 Location by Contractor15
 - 1.7.2 Location by City.....16
 - 1.7.3 Location by County.....17
- 1.8 Cold Recycling18
 - 1.8.1 Location by Contractor18
 - 1.8.2 Location by City.....19
 - 1.8.3 Location by County.....20
- 1.9 Heater Scarification21
 - 1.9.1 Location by Contractor21
 - 1.9.2 Location by City.....21
 - 1.9.3 Location by County.....21
- 1.10 Joint & Crack Filler/Sealer22
 - 1.10.1 Location by Contractor22
 - 1.10.2 Location by City.....23
 - 1.10.3 Location by County.....24
- 1.11 Microsurfacing and/or Quick Set Slurry Seal25
 - 1.11.1 Location by Contractor25
 - 1.11.2 Location by City.....26
 - 1.11.3 Location by County.....27
- 1.12 Paver Placed Surface Treatment – Conventional & Rubber Modified28
 - 1.12.1 Location by Contractor28
 - 1.12.2 Location by City.....28
 - 1.12.3 Location by County.....28
- 1.13 NYSDOT Regional Map29

SECTION 2: HOW TO USE THE CONTRACT30

- 2.1 Introduction30
- 2.2 Quick Quote/Price Calculation.....30
 - 2.2.1 Price Calculation Worksheet.....30
 - 2.2.2 Quick Quote30
- 2.3 Frequently Asked Questions31

SECTION 3: PRICE PAGES.....32

- 3.1 Asphalt Emulsions Price Pages32
- 3.2 Chip Seal – Conventional & Fiber Reinforced Price Pages.....32
- 3.3 Cold Recycling Price Pages.....32
- 3.4 Heater Scarification Price Pages32

3.5	Joint & Crack Filler/Sealer Price Pages	32
3.6	Microsurfacing and/or Quick Set Slurry Seal Price Pages	32
3.7	Paver Placed Surface Treatment – Conventional & Rubber Modified Price Pages	32
SECTION 4: AWARD PENDING		32
4.1	Award Pending	32
4.2	Product Requirements	32
SECTION 5: CONTRACT ADMINISTRATION.....		33
5.1	Contract Amendment Process	33
5.2	Contract Administrator.....	33
SECTION 6: TERMS AND CONDITIONS		33
6.1	Contract Term and Extension.....	33
6.1.1	Contract Term	33
6.1.2	Contract Extension.....	33
6.2	Request for Change	33
6.3	Note to Contractor	33
6.4	Contract Payments.....	34
6.5	NYSPro's Dispute Resolution Policy	34
6.6	Estimated Quantities.....	34
6.7	Delivery	34
6.8	Invoicing.....	34
6.8.1	Procurement Card Receipts.....	34
6.8.2	Invoices	34
6.9	Default (Failure to Furnish Material)	34
6.10	Lower Pricing	35
6.11	Report of Contract Purchases	35
6.12	Price Reductions	35
6.13	References	35
6.14	Non-State Agencies Participation in Centralized Contracts.....	35
6.15	Prevailing Wage Rates - Public Works and Building Services Contracts	36
6.16	"OGS or Less" Guidelines Apply to This Contract.....	36
6.17	Contract Billings and Payments	37
6.18	Diesel Emission Reduction Act of 2006	37
6.19	Environmental Attributes and NYS Executive Order 4	37
6.20	Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women	38
6.20.1	New York State Law	38
6.20.2	Business Participation Opportunities for MWBEs	38
6.20.3	Equal Employment Opportunity Requirements	38
6.21	New York State Vendor Responsibility Questionnaire For-Profit Business Entity.....	39
6.22	Extension of Use	39
6.23	Extension of Use Commitment	39
6.24	Emergency Purchasing	39
6.25	Contract Migration	39
6.26	Disposition of Settlements.....	40
6.27	Iran Divestment Act	40
SECTION 7: GROUP - ASPHALT EMULSIONS		41
7.1	Introduction	41

7.2	Pricing Information	41
7.2.1	General	41
7.2.2	Insurance	41
7.3	Asphalt Price Adjustments	42
7.3.1	General	42
7.3.2	Asphalt Price Adjustment: Example	44
7.4	Minimum Order	44
7.5	Payment	44
7.6	Detailed Specifications – Asphalt Emulsions.....	44
SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED)		45
8.1	Introduction	45
8.2	Pricing Information	45
8.2.1	General	45
8.2.2	Insurance	45
8.3	Asphalt Price Adjustments	46
8.3.1	General	46
8.3.2	Asphalt Price Adjustment: Example	48
8.4	Payment	48
8.5	Payment for Mobilization from Contractor’s Location to Project Location and to Heat, Haul, and Apply Bituminous Material with Contractor’s Equipment.....	48
8.6	Pre-Chip Seal Conference	49
8.7	Supervision	49
8.8	Work Hours	49
8.9	Construction Details	49
8.10	Restoration of Disturbed Areas	49
8.11	Damaged or Deficient Areas	49
8.12	Damage Claims	49
8.13	Work Zone Traffic Control	50
8.13.1	Special Note - Temporary Pavement Markings	51
8.13.2	Additional Flaggers for Work Zone Traffic Control	51
8.13.3	Abrading Existing Pavement Markings with Work Zone Traffic Control by the Contractor.....	52
8.13.4	Special Note: Work Zone Intrusion Initiative	52
8.14	Detailed Specifications – Chip Seal	52
SECTION 9: GROUP - COLD RECYCLING		53
9.1	Introduction	53
9.2	Pricing Information	53
9.2.1	General	53
9.2.2	Insurance	53
9.3	Asphalt Price Adjustments	54
9.3.1	General	54
9.3.2	Asphalt Price Adjustment: Example	55
9.4	Minimum Project Size	56
9.5	Delivery Ticket	56
9.6	Payment	56
9.7	Pre-Recycling Conference	57
9.8	Supervision	57
9.9	Work Hours	57

9.10	Mix Design	57
9.11	Coring by the Contractor for Non NYSDOT Projects	58
9.12	Shoulder Milling.....	59
9.13	Restoration of Disturbed Areas	59
9.14	Optional Work Zone Traffic Control	59
9.14.1	Special Note - Temporary Pavement Markings	60
9.14.2	Additional Flaggers for Work Zone Traffic Control	61
9.14.3	Pilot Vehicles with Drivers	61
9.14.4	Work Zone Traffic Intrusion Initiative	61
9.15	Detailed Specifications – Cold Recycling Asphalt Concrete	62
SECTION 10: GROUP – HEATER SCARIFICATION.....		64
10.1	Introduction	64
10.2	Pricing Information	64
10.2.1	General	64
10.2.2	Insurance	64
10.3	Asphalt Price Adjustments	65
10.3.1	General	65
10.3.2	Asphalt Price Adjustment: Example	66
10.4	Minimum Project Size.....	66
10.5	Payment	67
10.6	Payment for Mobilization from Contractor’s Equipment Storage Facility to Project Location ...	67
10.7	Payment to Heat, Haul, and Apply Recycling Agent from Contractor’s Bituminous Storage Facility to Project Location.....	67
10.8	Pre-Heater Scarification Conference.....	67
10.9	Supervision.....	67
10.10	Work Hours	68
10.11	Mix Design	68
10.11.1	Mix Design for State Agencies	68
10.11.2	Mix Design for Non-State Agencies	68
10.12	Restoration of Disturbed Areas	68
10.13	Damaged or Deficient Areas	68
10.14	Optional Work Zone Traffic Control	68
10.14.1	Special Note - Temporary Pavement Markings	70
10.14.2	Additional Flaggers for Work Zone Traffic Control	70
10.14.3	Pilot Vehicles with Drivers	71
10.14.4	Work Zone Traffic Intrusion Initiative	71
10.15	Detailed Specifications – Heater Scarification.....	71
SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER		72
11.1	Introduction	72
11.2	Pricing Information	72
11.2.1	General	72
11.2.2	Insurance	74
11.3	Asphalt Price Adjustments	75
11.3.1	General	75
11.3.2	Asphalt Price Adjustment: Example	76
11.4	Required Qualifications.....	77
11.5	Minimum Order.....	77
11.6	Delivery Ticket.....	77

11.7	Payment	77
11.8	Work Hours	77
11.9	Optional Work Zone Traffic Control	77
11.9.1	Additional Flaggers for Work Zone Traffic Control	78
11.9.2	Optional Pilot Vehicles with Drivers	78
11.9.3	Special Note: Work Zone Intrusion Initiative	79
11.10	Detailed Specifications – Joint and Crack Filler/Sealer	79
SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL		80
12.1	Introduction	80
12.2	Pricing Information	80
12.2.1	General	80
12.2.2	Insurance	81
12.3	Asphalt Price Adjustments	82
12.3.1	General	82
12.3.2	Asphalt Price Adjustment: Example	84
12.4	Delivery Ticket.....	84
12.5	Payment	84
12.6	Pre-Microsurfacing and/or Quick Set Slurry Seal Conference	85
12.7	Supervision.....	85
12.8	Work Hours	85
12.9	Construction Details	86
12.10	Restoration of Disturbed Areas	86
12.11	Damaged or Deficient Areas	86
12.12	Optional Work Zone Traffic Control	86
12.12.1	Special Note: Temporary Pavement Markings	87
12.12.2	Additional Flaggers for Work Zone Traffic Control	88
12.12.3	Optional Pilot Vehicles with Drivers	88
12.12.4	Optional Additional Construction Signs	88
12.12.5	Abrading of Existing Pavement Markings with Work Zone Traffic Control by the Owner	89
12.12.6	Abrading Existing Pavement Markings with Work Zone Traffic Control by the Contractor.....	89
12.12.7	Special Note: Work Zone Intrusion Initiative	89
12.13	Detailed Specifications – Microsurfacing and/or Quick Set Slurry Seal	90
SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT		91
13.1	Introduction	91
13.2	Pricing Information	91
13.2.1	General	91
13.2.2	Insurance	92
13.3	Asphalt Price Adjustments	92
13.3.1	General	92
13.3.2	Asphalt Price Adjustment: Example	94
13.4	Minimum Quantities.....	94
13.5	Delivery Ticket.....	94
13.6	Payment	94
13.7	Pre-Conventional or Rubber Modified Paver Placed Surface Treatment Conference	95
13.8	Work Hours	95
13.9	Saturday and Sunday Work.....	96

SECTION 1: CONTRACTOR INFORMATION

1.1 Contractor Information

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC66536 SB	ALBANY ASPHALT & AGGREGATES CORP. 101 Dunham Drive Albany, NY 12202	800/724-1920 518/436-8916 Ext. 213 John M. Stutzman Fax: 518/434-8638 E-mail: Stutz1937@aol.com	141299613 100006651
PC66537	ALL STATES ASPHALT, INC. 325 Amherst Road Sunderland, MA 01375	800/343-9620 413/665-7021 Ext. 214 Heather Whittier Fax: 413/665-9027 E-mail: asphalt@asmg.com Website: www.asmg.com	042216868 1000011021
PC66538 SB WBE	ANNSEAL, INC. 130 Main Street, Suite 3 Johnson City, NY 13790	607/797-3737 Nancy O'Brien Fax: 607/797-2877 E-mail: tdarling@annseal.com	030435899 100005228
PC66539 SB	BIMASCO, INC. 735 Old Willets Path Hauppauge, NY 11787 <i>Accepts Procurement Card for orders up to \$15,000</i>	631/234-3100 Grant Hendricks Fax: 631/234-3100 E-mail: bimasco@aol.com Website: www.bimasco.net	111825845 1000056420
PC66540 SB	BOTHAR CONSTRUCTION, LLC. 170 East Service Road Binghamton, NY 13901	607/723-5012 James E. O'Brien, Jr. Fax: 607/723-4982 E-mail: jimjr@botharconst.com Website: www.botharconst.com	161570429 100008391
PC66541 SB	CIMLINE, INC. D/B/A Cimline Northeast 3 Industry Drive Waterford, NY 12188 <i>Accepts Procurement Card for orders up to \$15,000</i>	518/880 4073 Rick Stone Fax: 518/233-0859 E-mail: rstone@cimline.com Website: www.CimlineNEonline.com	383087429 1000044817
PC66542	CRAFICO, INC. 420 N. Roosevelt Avenue Chandler, Arizona 85226 <i>Accepts Procurement Card for orders up to \$15,000</i>	800/528-8242 602/276-0406 Tanika Stewart Fax: 480/940-0313 E-mail: tanika.stewart@crafco.com Website: www.crafco.com	860324978 100009735

SECTION 1: CONTRACTOR INFORMATION

1.1 Contractor Information (Cont'd)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC66543	GORMAN BROS., INC. 200 Church St. Albany, NY 12202	518/462-5401 Kimberly A. Wilson Fax: 518/462-1296 E-mail: sales@gormanroads.com Website: www.gormanroads.com	140704840 1000013676
PC66544 SB	HIGHWAY REHABILITATION CORP. 2258 Route 22 Brewster, NY 10509 <i>Accepts Procurement Card for orders up to \$15,000</i>	845/278-9645 Christine Magee Fax: 845/278-0747 E-mail: chris@highwayrehab.com Website: www.highwayrehab.com	222355196 1000057419
PC66545 SB	JULIE ANN SHOVE, INC. d/b/a CHAMPION ASPHALT MAINTENANCE 4846 State Route 104 Williamson, NY 14589 <i>Accepts Procurement Card for orders up to \$15,000</i>	315/589-7953 Deborah A. Shove Fax: 315/589-3349 E-mail: championasphalt7953@yahoo.com	205160209 1000044369
PC66546	MIDLAND ASPHALT MATERIALS, INC. 640 Young Street Tonawanda, NY 14150 <i>Accepts Procurement Card for orders up to \$15,000</i>	716/692-0730 ext 4418 Tim McNally Fax: 716/692-0613 E-mail: tmcnally@midlandasphalt.com Website: www.midlandasphalt.com	260038619 1000017447
PC66547 SB	NEW YORK BITUMINOUS PRODUCTS, CORP. 1297 Craigville Road Chester, NY 10918	845/782-7231 Robert H. Maggard Fax: 845/783-1787 E-mail: rmaggard@nybit.com Website: www.nybit.com	061069341 1000021109
PC66548 SB	NOEL J. BRUNELL & SON, INC. 4019 Route 22 Plattsburgh, NY 12901	518/561-1290 Robert N. Brunell Fax: 518-562-2859 E-mail: njb10000@aol.com	141456087 1000051434
PC66549	PECKHAM MATERIALS CORP. 2 Union St. Ext. Athens, NY 12015	518/945-1120 Jeri Camputarro Fax: 518/945-1298 E-mail: jcamp@peckham.com Website: www.peckham.com	141470013 1000006732

SECTION 1: CONTRACTOR INFORMATION

1.1 Contractor Information (Cont'd)

NOTE: See individual contract items to determine actual awardees.

<u>CONTRACT #</u>	<u>CONTRACTOR & ADDRESS</u>	<u>TELEPHONE #</u>	<u>FED. IDENT. #</u> <u>NYS VENDOR #</u>
PC66550	PECKHAM ROAD CORPORATION 1557 State Route 9, Suite 3 Lake George, NY 12845	518/792-3157 Mark Petramale Fax: 518/792-3138 E-mail: mpetr@peckham.com Website: www.peckham.com	133493213 1000006385
PC66551	RUSSELL STANDARD CORPORATION 8124 Route 97 P.O. Box 86 Union City, PA 16438 <i>Accepts Procurement Card for orders up to \$15,000</i>	814/438-2721 Ext. 2501 Rhonda Lozier Fax: 814/438-3072 E-mail: rhonda.lozier@russellstandard.com	250947393 1000044592
PC66552 SB	SEALCOAT USA, INC. 79 Pembroke Dr. Yonkers, NY 10710 <i>Accepts Procurement Card for orders up to \$15,000</i>	914/439-3186 Ryan Landeck Fax: 914/961-3817 E-mail: ryan.landeck@gmail.com Website: www.sealcoatusa.com	300309733 1100003000
PC66553	SEALCOATING, INC. 825 Granite Street Braintree, MA 02184 <i>Accepts Procurement Card for orders up to \$15,000</i>	781/428-3403 April Durant Fax: 781/428-3430 E-mail: adurant@sealcoatinginc.com Website: www.sealcoatinginc.com	043520246 1100086105
PC66554	SUIT-KOTE CORPORATION 1911 Lorings Crossing Rd. Cortland, NY 13045	800/622-5636 315/238-7053 Mike Murphy Fax: 315/238-7110 E-mail: mmurphy@suit-kote.com Web Site: www.suit-kote.com	161177189 1000007846
PC66555	TARVIA SEAL CORPORATION 6265 East Taft Road North Syracuse, NY 13212 <i>Accepts Procurement Card for orders up to \$15,000</i>	315/458-1399 Robert Martino Fax: 315/452-0941 E-mail: tarviaseal@aol.com Web Site: www.tarviaseal.com	161030010 1000015235
PC66556	THOS. H. GANNON & SONS, INC. 372 Middle Country Rd Middle Island, NY 11953	516/404-2851 Shawn Thom Fax: 631/205-0073 E-mail: thomshawn@yahoo.com	112280296 1000043171
PC66557 SB	VESTAL ASPHALT, INC. 201 Stage Road Vestal, NY 13850 <i>Accepts Procurement Card for orders up to \$15,000</i>	607/785-3393 ext 303 Joann Juliussen Fax: 607/785-3396 E-mail: jjuliussen@vestalaspphalt.com	161201418 1000007868

Cash Discount, If Shown, Should be Given Special Attention.

INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.
(See "Contract Payments" and "Electronic Payments" in this document.)

AGENCIES SHOULD NOTIFY THE NEW YORK STATE PROCUREMENT PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE NEW YORK STATE PROCUREMENT.

1.2 Small, Minority and Women-Owned Businesses

The letters SB listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters MBE and WBE indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

1.3 Note to Authorized Users

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

The authorized user, when purchasing from OGS contracts, should hold the contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, authorized users are encouraged to seek improved pricing whenever possible.

Authorized users have the responsibility to document purchases, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

1.4 Poor Performance

Authorized Users should notify NYS Procurement's Customer Services promptly if the Contractor fails to meet the requirements of this Contract. Performance which does not comply with requirements or is otherwise unsatisfactory to the Authorized User should also be reported to Customer Services:

Office of General Services
NYS Procurement
38th Floor Corning Tower
Empire State Plaza
Albany, NY 12242

Customer Services E-mail: customer.services@ogs.ny.gov

Telephone: (518) 474-6717 / Fax: (518) 474-2437

1.5 Debriefing

Contractors and bidders are accorded fair and equal treatment with respect to the opportunity for debriefing. OGS shall, upon request, provide a debriefing to any bidder or awarded contractor that responded to the IFB or RFP regarding the reason that the proposal or bid submitted by the unsuccessful bidder was not selected for a contract award. The post award debriefing should be requested by the bidder or awarded contractor within thirty days of posting of the contract award on the OGS website.

SECTION 1: CONTRACTOR INFORMATION – ASPHALT EMULSIONS

1.6 Asphalt Emulsions

1.6.1 Location by Contractor

Contractor	Address	City, State, Zip	County	Plant
Albany Asphalt & Aggregates Corp.	101 Dunham Drive	Albany, NY 12202	Albany	L0101
All States Asphalt, Inc.	325 Amherst Road	Sunderland, MA 01375	Franklin	L0108
Bimasco	19 Stiriz Road	Brookhaven, NY 11719	Suffolk	L1001
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery	L0203
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida	L0201
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady	L0104
Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	Cattaraugus	L0505
Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	Erie	L0502
Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	Wayne	L0403
New York Bituminous Products Corp	1297 Craigville Rd	Chester, NY 10918	Orange	L0803
Noel J. Brunell & Son, Inc.	4019 Route 22	Plattsburgh, NY 12901	Clinton	L0105
Peckham Materials Corp	2 Union St. Extension	Athens, NY 12015	Greene	L0105
Peckham Materials Corp	PO Box 4074	New Windsor, NY 12553	Orange	L0801
Russell Standard Corporation	1210 Perry Highway	Mercer, PA 16137	N/A	L0509
Suit-Kote Corporation	NYS Rt 19	Belmont, NY 14813	Allegany	L0602
Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	Erie	L0503
Suit-Kote Corporation	NYS Rt 52	Cochecton, NY 12726	Sullivan	L0907
Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	Cortland	L0301
Suit-Kote Corporation	57 Lister Street	Jamestown, NY 14701	Chautauqua	L0501
Suit-Kote Corporation	Country Club Road	West Oneonta, NY 13861	Otsego	L0902
Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13424	Oneida	L0202
Suit-Kote Corporation	5 Rockwood Street	Rochester, NY 14610	Monroe	L0401
Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	Schuyler	L0603
Suit-Kote Corporation	21811 Lane Road	Watertown, NY 13601	Jefferson	L0703
Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Hammonton, NJ 08037	Atlantic	L1102
Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	Broome	L0903
Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	Oneida	L0204

SECTION 1: CONTRACTOR INFORMATION – ASPHALT EMULSIONS

1.6 Asphalt Emulsions (Cont'd)

1.6.2 Location by City

City, State, Zip	Contractor	Address	County	Plant
Albany, NY 12202	Albany Asphalt & Aggregates Corp.	101 Dunham Drive	Albany	L0101
Allegany, NY 14706	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Cattaraugus	L0505
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery	L0203
Athens, NY 12015	Peckham Materials Corp	2 Union St. Extension	Greene	L0105
Belmont, NY 14813	Suit-Kote Corporation	NYS Rt 19	Allegany	L0602
Brookhaven, NY 11719	Bimasco	19 Stiriz Road	Suffolk	L1001
Buffalo, NY 14227	Suit-Kote Corporation	505 Como Park Blvd	Erie	L0503
Chester, NY 10918	New York Bituminous Products Corp	1297 Craigville Rd	Orange	L0803
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida	L0201
Cochection, NY 12726	Suit-Kote Corporation	NYS Rt 52	Sullivan	L0907
Cortland, NY 13045	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland	L0301
Hammonton, NJ 08037	Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Atlantic	L1102
Jamestown, NY 14701	Suit-Kote Corporation	57 Lister Street	Chautauqua	L0501
Lyons, NY 14489	Midland Asphalt Materials Inc.	300 Cole Road	Wayne	L0403
Mercer, PA 16137	Russell Standard Corporation	1210 Perry Highway	N/A	L0509
New Windsor, NY 12553	Peckham Materials Corp	PO Box 4074	Orange	L0801
Oriskany, NY 13424	Suit-Kote Corporation	191 Dry Road	Oneida	L0202
Plattsburgh, NY 12901	Noel J. Brunell & Son, Inc.	4019 Route 22	Clinton	L0105
Rochester, NY 14610	Suit-Kote Corporation	5 Rockwood Street	Monroe	L0401
Sangerfield, NY 13455	Vestal Asphalt, Inc.	7630 Route 20	Oneida	L0204
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady	L0104
Sunderland, MA 01375	All States Asphalt, Inc.	325 Amherst Road	Franklin	L0108
Tonawanda, NY 14150	Midland Asphalt Materials Inc.	640 Young Street	Erie	L0502
Vestal, NY 13850	Vestal Asphalt, Inc.	201 Stage Road	Broome	L0903
Watertown, NY 13601	Suit-Kote Corporation	21811 Lane Road	Jefferson	L0703
Watkins Glen, NY 14891	Suit-Kote Corporation	20 Fairgrounds Lane	Schuyler	L0603
West Oneonta, NY 13861	Suit-Kote Corporation	Country Club Road	Otsego	L0902

SECTION 1: CONTRACTOR INFORMATION – ASPHALT EMULSIONS

1.6 Asphalt Emulsions (Cont'd)

1.6.3 Location by County

County	Contractor	Address	City, State, Zip	Plant
Albany	Albany Asphalt & Aggregates Corp.	101 Dunham Drive	Albany, NY 12202	L0101
Allegany	Suit-Kote Corporation	NYS Rt 19	Belmont, NY 14813	L0602
Broome	Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	L0903
Cattaraugus	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	L0505
Chautauqua	Suit-Kote Corporation	57 Lister Street	Jamestown, NY 14701	L0501
Clinton	Noel J. Brunell & Son, Inc.	4019 Route 22	Plattsburgh, NY 12901	L0105
Cortland	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	L0301
Erie	Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	L0502
Erie	Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	L0503
Greene	Peckham Materials Corp	2 Union St. Extension	Athens, NY 12015	L0105
Jefferson	Suit-Kote Corporation	21811 Lane Road	Watertown, NY 13601	L0703
Monroe	Suit-Kote Corporation	5 Rockwood Street	Rochester, NY 14610	L0401
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	L0203
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	L0201
Oneida	Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13424	L0202
Oneida	Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	L0204
Orange	New York Bituminous Products Corp	1297 Craigville Rd	Chester, NY 10918	L0803
Orange	Peckham Materials Corp	PO Box 4074	New Windsor, NY 12553	L0801
Otsego	Suit-Kote Corporation	Country Club Road	West Oneonta, NY 13861	L0902
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	L0104
Schuyler	Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	L0603
Suffolk	Bimasco	19 Stiriz Road	Brookhaven, NY 11719	L1001
Sullivan	Suit-Kote Corporation	NYS Rt 52	Cochection, NY 12726	L0907
Wayne	Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	L0403
N/A	All States Asphalt, Inc.	325 Amherst Road	Sunderland, MA 01375	L0108
N/A	Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Hammonton, NJ 08037	L1102
N/A	Russell Standard Corporation	1210 Perry Highway	Mercer, PA 16137	L0509

SECTION 1: CONTRACTOR INFORMATION – CHIP SEAL

1.7 Chip Seal – Conventional & Fiber Reinforced

1.7.1 Location by Contractor

Contractor	Address	City, State, Zip	County	Plant
All States Asphalt, Inc.	325 Amherst Road	Sunderland, MA 01375		L0108
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida	L0201
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady	L0104
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery	L0203
Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	Cattaraugus	L0505
Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	Wayne	L0403
Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	Erie	L0502
New York Bituminous Products Corp	1297 Craigville Rd	Chester, NY 10918	Orange	L0803
Noel J. Brunell & Son, Inc.	4019 Route 22	Plattsburgh, NY 12901	Clinton	L0105
Peckham Materials Corp.	2 Union St. Ext.	Athens, NY 12015	Greene	L0105
Peckham Materials Corp.	322 Walsh Road	New Windsor, NY 12553	Orange	L0801
Suit-Kote Corporation	NYS Rt. 19	Belmont, NY 14813	Allegany	L0602
Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	Erie	L0503
Suit-Kote Corporation	NYS Rt. 51	Cochecton, NY 12726	Sullivan	L0907
Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	Cortland	L0301
Suit-Kote Corporation	57 Lister St	Jamestown, NY 14701	Chautauqua	L0501
Suit-Kote Corporation	Country Club Road	West Oneonta, NY 13861	Otsego	L0902
Suit-Kote Corporation	191 Dry Rd	Oriskany, NY 13424	Oneida	L0202
Suit-Kote Corporation	2 Rockwood Street	Rochester, NY 14610	Monroe	L0401
Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	Schuyler	L0603
Suit-Kote Corporation	21811 Lane Road	Watertown, NY 13601	Jefferson	L0703
Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Hammonton, NJ 08037		L1102
Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	Broome	L0903
Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	Oneida	L0204

SECTION 1: CONTRACTOR INFORMATION – CHIP SEAL

1.7 Chip Seal – Conventional & Fiber Reinforced (Cont'd)

1.7.2 Location by City

City, State, Zip	Contractor	Address	County	Plant
Allegany, NY 14706	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Cattaraugus	L0505
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery	L0203
Athens, NY 12015	Peckham Materials Corp.	2 Union St. Ext.	Greene	L0105
Belmont, NY 14813	Suit-Kote Corporation	NYS Rt. 19	Allegany	L0602
Buffalo, NY 14227	Suit-Kote Corporation	505 Como Park Blvd	Erie	L0503
Chester, NY 10918	New York Bituminous Products Corp	1297 Craigville Rd	Orange	L0803
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida	L0201
Cochecton, NY 12726	Suit-Kote Corporation	NYS Rt. 51	Sullivan	L0907
Cortland, NY 13045	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland	L0301
Hammonton, NJ 08037	Thos. H. Gannon & Sons, Inc	8th & Reading Ave		L1102
Jamestown, NY 14701	Suit-Kote Corporation	57 Lister St	Chautauqua	L0501
Lyons, NY 14489	Midland Asphalt Materials Inc.	300 Cole Road	Wayne	L0403
New Windsor, NY 12553	Peckham Materials Corp.	322 Walsh Road	Orange	L0801
Oriskany, NY 13424	Suit-Kote Corporation	191 Dry Rd	Oneida	L0202
Plattsburgh, NY 12901	Noel J. Brunell & Son, Inc.	4019 Route 22	Clinton	L0105
Rochester, NY 14610	Suit-Kote Corporation	2 Rockwood Street	Monroe	L0401
Sangerfield, NY 13455	Vestal Asphalt, Inc.	7630 Route 20	Oneida	L0204
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady	L0104
Sunderland, MA 01375	All States Asphalt, Inc.	325 Amherst Road		L0108
Tonawanda, NY 14150	Midland Asphalt Materials Inc.	640 Young Street	Erie	L0502
Vestal, NY 13850	Vestal Asphalt, Inc.	201 Stage Road	Broome	L0903
Watertown, NY 13601	Suit-Kote Corporation	21811 Lane Road	Jefferson	L0703
Watkins Glen, NY 14891	Suit-Kote Corporation	20 Fairgrounds Lane	Schuyler	L0603
West Oneonta, NY 13861	Suit-Kote Corporation	Country Club Road	Otsego	L0902

SECTION 1: CONTRACTOR INFORMATION – CHIP SEAL

1.7 Chip Seal – Conventional & Fiber Reinforced (Cont'd)

1.7.3 Location by County

County	Contractor	Address	City, State, Zip	Plant
Allegany	Suit-Kote Corporation	NYS Rt. 19	Belmont, NY 14813	L0602
Broome	Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	L0903
Cattaraugus	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	L0505
Chautauqua	Suit-Kote Corporation	57 Lister St	Jamestown, NY 14701	L0501
Clinton	Noel J. Brunell & Son, Inc.	4019 Route 22	Plattsburgh, NY 12901	L0105
Cortland	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	L0301
Erie	Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	L0502
Erie	Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	L0503
Greene	Peckham Materials Corp.	2 Union St. Ext.	Athens, NY 12015	L0105
Jefferson	Suit-Kote Corporation	21811 Lane Road	Watertown, NY 13601	L0703
Monroe	Suit-Kote Corporation	2 Rockwood Street	Rochester, NY 14610	L0401
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	L0203
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	L0201
Oneida	Suit-Kote Corporation	191 Dry Rd	Oriskany, NY 13424	L0202
Oneida	Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	L0204
Orange	New York Bituminous Products Corp	1297 Craigville Rd	Chester, NY 10918	L0803
Orange	Peckham Materials Corp.	322 Walsh Road	New Windsor, NY 12553	L0801
Otsego	Suit-Kote Corporation	Country Club Road	West Oneonta, NY 13861	L0902
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	L0104
Schuyler	Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	L0603
Sullivan	Suit-Kote Corporation	NYS Rt. 51	Cochecton, NY 12726	L0907
Wayne	Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	L0403
	All States Asphalt, Inc.	325 Amherst Road	Sunderland, MA 01375	L0108
	Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Hammonton, NJ 08037	L1102

SECTION 1: CONTRACTOR INFORMATION – COLD RECYCLING

1.8 Cold Recycling

1.8.1 Location by Contractor

Contractor	Address	City, State, Zip	County	Plant
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery	L0203
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida	L0201
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady	L0104
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery	L0203
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida	L0201
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady	L0104
Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	Cattaraugus	L0505
Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	Wayne	L0403
Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	Erie	L0502
New York Bituminous Products Corp.	1297 Craigville Road	Chester, NY 10918	Orange	L0803
Peckham Road Corporation	1557 State Route 9, Suite 3	Lake George, NY 12845	Warren	L0105
Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	Erie	L0503
Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	Cortland	L0301
Suit-Kote Corporation	Country Club Rd	West Oneonta, NY 13861	Otsego	L0902
Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13413	Oneida	L0202
Suit-Kote Corporation	2 Rockwood St	Rochester, NY 14610	Monroe	L0401
Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	Schuyler	L0603
Suit-Kote Corporation	2188 Lane Rd	Watertown, NY 13601	Jefferson	L0703
Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	Erie	L0503
Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	Cortland	L0301
Suit-Kote Corporation	Country Club Rd	West Oneonta, NY 13861	Otsego	L0902
Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13413	Oneida	L0202
Suit-Kote Corporation	2 Rockwood St	Rochester, NY 14610	Monroe	L0401
Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	Schuyler	L0603
Suit-Kote Corporation	2188 Lane Rd	Watertown, NY 13601	Jefferson	L0703
Thos. H. Gannon & Sons, Inc	8th And Reading Ave	Hammonton, NJ 08037		L1102

SECTION 1: CONTRACTOR INFORMATION – COLD RECYCLING

1.8 Cold Recycling (Cont'd)

1.8.2 Location by City

City, State, Zip	Contractor	Address	County	Plant
Allegany, NY 14706	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Cattaraugus	L0505
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery	L0203
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery	L0203
Buffalo, NY 14227	Suit-Kote Corporation	505 Como Park Blvd	Erie	L0503
Buffalo, NY 14227	Suit-Kote Corporation	505 Como Park Blvd	Erie	L0503
Chester, NY 10918	New York Bituminous Products Corp.	1297 Craigville Road	Orange	L0803
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida	L0201
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida	L0201
Cortland, NY 13045	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland	L0301
Cortland, NY 13045	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland	L0301
Hammonton, NJ 08037	Thos. H. Gannon & Sons, Inc	8th And Reading Ave		L1102
Lake George, NY 12845	Peckham Road Corporation	1557 State Route 9, Suite 3	Warren	L0105
Lyons, NY 14489	Midland Asphalt Materials Inc.	300 Cole Road	Wayne	L0403
Oriskany, NY 13413	Suit-Kote Corporation	191 Dry Road	Oneida	L0202
Oriskany, NY 13413	Suit-Kote Corporation	191 Dry Road	Oneida	L0202
Rochester, NY 14610	Suit-Kote Corporation	2 Rockwood St	Monroe	L0401
Rochester, NY 14610	Suit-Kote Corporation	2 Rockwood St	Monroe	L0401
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady	L0104
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady	L0104
Tonawanda, NY 14150	Midland Asphalt Materials Inc.	640 Young Street	Erie	L0502
Watertown, NY 13601	Suit-Kote Corporation	2188 Lane Rd	Jefferson	L0703
Watertown, NY 13601	Suit-Kote Corporation	2188 Lane Rd	Jefferson	L0703
Watkins Glen, NY 14891	Suit-Kote Corporation	20 Fairgrounds Lane	Schuyler	L0603
Watkins Glen, NY 14891	Suit-Kote Corporation	20 Fairgrounds Lane	Schuyler	L0603
West Oneonta, NY 13861	Suit-Kote Corporation	Country Club Rd	Otsego	L0902
West Oneonta, NY 13861	Suit-Kote Corporation	Country Club Rd	Otsego	L0902

SECTION 1: CONTRACTOR INFORMATION – COLD RECYCLING

1.8 Cold Recycling (Cont'd)

1.8.3 Location by County

County	Contractor	Address	City, State, Zip	Plant
Cattaraugus	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	L0505
Cortland	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	L0301
Cortland	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	L0301
Erie	Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	L0502
Erie	Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	L0503
Erie	Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	L0503
Jefferson	Suit-Kote Corporation	2188 Lane Rd	Watertown, NY 13601	L0703
Jefferson	Suit-Kote Corporation	2188 Lane Rd	Watertown, NY 13601	L0703
Monroe	Suit-Kote Corporation	2 Rockwood St	Rochester, NY 14610	L0401
Monroe	Suit-Kote Corporation	2 Rockwood St	Rochester, NY 14610	L0401
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	L0203
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	L0203
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	L0201
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	L0201
Oneida	Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13413	L0202
Oneida	Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13413	L0202
Orange	New York Bituminous Products Corp.	1297 Craigville Road	Chester, NY 10918	L0803
Otsego	Suit-Kote Corporation	Country Club Rd	West Oneonta, NY 13861	L0902
Otsego	Suit-Kote Corporation	Country Club Rd	West Oneonta, NY 13861	L0902
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	L0104
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	L0104
Schuyler	Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	L0603
Schuyler	Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	L0603
Warren	Peckham Road Corporation	1557 State Route 9, Suite 3	Lake George, NY 12845	L0105
Wayne	Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	L0403
Atlantic	Thos. H. Gannon & Sons, Inc	8th And Reading Ave	Hammonton, NJ 08037	L1102

SECTION 1: CONTRACTOR INFORMATION – HEATER SCARIFICATION

1.9 Heater Scarification

1.9.1 Location by Contractor

Contractor	Address	City, State, Zip	County	Plant
Highway Rehabilitation Corp.	1911 Lorings Crossing Rd.	Cortland, NY 13045	Cortland	L0301

1.9.2 Location by City

City, State, Zip	Contractor	Address	County	Plant
Cortland, NY 13045	Highway Rehabilitation Corp.	1911 Lorings Crossing Rd.	Cortland	L0301

1.9.3 Location by County

County	Contractor	Address	City, State, Zip	Plant
Cortland	Highway Rehabilitation Corp.	1911 Lorings Crossing Rd.	Cortland, NY 13045	L0301

SECTION 1: CONTRACTOR INFORMATION – JOINT & CRACK FILLER/SEALER

1.10 Joint & Crack Filler/Sealer

1.10.1 Location by Contractor

Contractor	Address	City, State, Zip	County
Annseal, Inc	130 Main Street	Johnson City, NY 13790	Broome
Bimasco Inc	19 Stiriz Road	Brookhaven, NY 11719	Suffolk
Bothar Construction, Llc	170 East Service Road	Binghamton, NY 13901	Broome
Cimline Northeast	3 Industry Drive	Waterford, NY 12188	Saratoga
Crafco, Inc.	1628 E. Race Street	Allentown , PA 18109	
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady
Julieann Shove Inc D/B/A Champion Asphalt Maintenance	4846 State Route 104	Williamson, NY 14589	Wayne
Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	Cattaraugus
Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	Wayne
Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	Erie
New York Bituminous Products Corp.	1297 Craigville Road	Chester, NY 10918	Orange
Noel J. Brunell & Son, Inc.	4019 Route 22	Plattsburgh, NY 12901	Clinton
Peckham Materials Corp	2 Union St. Ext	Athens, NY 12015	Greene
Sealcoat U.S.A. Inc.	79 Pembrook Dr.	Yonkers, NY 10710	Westchester
Sealcoating, Inc.	1911 Lorings Crossing Road	Cortland, NY 13045	Cortland
Suit-Kote Corporation	NYS Rt 19	Belmont, NY 14813	Allegany
Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	Erie
Suit-Kote Corporation	NYS Rt. 52	Cochecton, NY 13861	Sullivan
Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	Cortland
Suit-Kote Corporation	57 Lister St	Jamestown, NY 14701	Chautauqua
Suit-Kote Corporation	Country Club Road	West Oneonta, NY 13861	Otsego
Suit-Kote Corporation	191 Dry Rd	Oriskany, NY 13424	Oneida
Suit-Kote Corporation	20 Rockwood Street	Rochester, NY 14610	Monroe
Suit-Kote Corporation	20 Fairgrounds Land	Watkins Glen, NY 14891	Schuyler
Suit-Kote Corporation	21811 Lane Rd	Watertown, NY 13601	Jefferson
Tarvia Seal Corporation	6265 East Taft Road	N. Syracuse, NY 13212	Onondaga
Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Hammonton, NJ 08037	
Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	Broome
Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	Oneida

SECTION 1: CONTRACTOR INFORMATION – JOINT & CRACK FILLER/SEALER

1.10 Joint & Crack Filler/Sealer (Cont'd)

1.10.2 Location by City

City, State, Zip	Contractor	Address	County
Allegany, NY 14706	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Cattaraugus
Allentown , PA 18109	Crafcoc, Inc.	1628 E. Race Street	
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery
Athens, NY 12015	Peckham Materials Corp	2 Union St. Ext	Greene
Belmont, NY 14813	Suit-Kote Corporation	Nys Rt 19	Allegany
Binghamton, NY 13901	Bothar Construction, LLC	170 East Service Road	Broome
Brookhaven, NY 11719	Bimasco Inc	19 Stiriz Road	Suffolk
Buffalo, NY 14227	Suit-Kote Corporation	505 Como Park Blvd	Erie
Chester, NY 10918	New York Bituminous Products Corp.	1297 Craigville Road	Orange
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida
Cochecton, NY 13861	Suit-Kote Corporation	Nys Rt. 52	Sullivan
Cortland, NY 13045	Sealcoating, Inc.	1911 Lorings Crossing Road	Cortland
Cortland, NY 13045	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland
Hammonton, NJ 08037	Thos. H. Gannon & Sons, Inc	8th & Reading Ave	
Jamestown, NY 14701	Suit-Kote Corporation	57 Lister St	Chautauqua
Johnson City, NY 13790	Annseal, Inc	130 Main Street	Broome
Lyons, NY 14489	Midland Asphalt Materials Inc.	300 Cole Road	Wayne
N. Syracuse, NY 13212	Tarvia Seal Corporation	6265 East Taft Road	Onondaga
Oriskany, NY 13424	Suit-Kote Corporation	191 Dry Rd	Oneida
Plattsburgh, NY 12901	Noel J. Brunell & Son, Inc.	4019 Route 22	Clinton
Rochester, NY 14610	Suit-Kote Corporation	20 Rockwood Street	Monroe
Sangerfield, NY 13455	Vestal Asphalt, Inc.	7630 Route 20	Oneida
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady
Tonawanda, NY 14150	Midland Asphalt Materials Inc.	640 Young Street	Erie
Vestal, NY 13850	Vestal Asphalt, Inc.	201 Stage Road	Broome
Waterford, NY 12188	Cimline Northeast	3 Industry Drive	Saratoga
Watertown, NY 13601	Suit-Kote Corporation	21811 Lane Rd	Jefferson
Watkins Glen, NY 14891	Suit-Kote Corporation	20 Fairgrounds Land	Schuyler
West Oneonta, NY 13861	Suit-Kote Corporation	Country Club Road	Otsego
Williamson, NY 14589	Julieann Shove Inc D/B/A Champion Asphalt Maintenance	4846 State Route 104	Wayne
Yonkers, NY 10710	Sealcoat U.S.A. Inc.	79 Pembroke Dr.	Westchester

SECTION 1: CONTRACTOR INFORMATION – JOINT & CRACK FILLER/SEALER

1.10 Joint & Crack Filler/Sealer (Cont'd)

1.10.3 Location by County

County	Contractor	Address	City, State, Zip
Allegany	Suit-Kote Corporation	NYS Rt 19	Belmont, NY 14813
Broome	Annseal, Inc	130 Main Street	Johnson City, NY 13790
Broome	Bothar Construction, LLC	170 East Service Road	Binghamton, NY 13901
Broome	Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850
Cattaraugus	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706
Chautauqua	Suit-Kote Corporation	57 Lister St	Jamestown, NY 14701
Clinton	Noel J. Brunell & Son, Inc.	4019 Route 22	Plattsburgh, NY 12901
Cortland	Sealcoating, Inc.	1911 Lorings Crossing Road	Cortland, NY 13045
Cortland	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045
Erie	Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150
Erie	Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227
Greene	Peckham Materials Corp	2 Union St. Ext	Athens, NY 12015
Jefferson	Suit-Kote Corporation	21811 Lane Rd	Watertown, NY 13601
Monroe	Suit-Kote Corporation	20 Rockwood Street	Rochester, NY 14610
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323
Oneida	Suit-Kote Corporation	191 Dry Rd	Oriskany, NY 13424
Oneida	Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455
Onondaga	Tarvia Seal Corporation	6265 East Taft Road	N. Syracuse, NY 13212
Orange	New York Bituminous Products Corp.	1297 Craigville Road	Chester, NY 10918
Otsego	Suit-Kote Corporation	Country Club Road	West Oneonta, NY 13861
Saratoga	Cimline Northeast	3 Industry Drive	Waterford, NY 12188
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302
Schuyler	Suit-Kote Corporation	20 Fairgrounds Land	Watkins Glen, NY 14891
Suffolk	Bimasco Inc	19 Stiriz Road	Brookhaven, NY 11719
Sullivan	Suit-Kote Corporation	NYS Rt. 52	Cochecton, NY 13861
Wayne	Julieann Shove Inc D/B/A Champion Asphalt Maintenance	4846 State Route 104	Williamson, NY 14589
Wayne	Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489
Westchester	Sealcoat U.S.A. Inc.	79 Pembroke Dr.	Yonkers, NY 10710
	Crafco, Inc.	1628 E. Race Street	Allentown , PA 18109
	Thos. H. Gannon & Sons, Inc	8th & Reading Ave	Hammonton, NJ 08037

SECTION 1: CONTRACTOR INFORMATION – MICROSURFACING &/or QSSS

1.11 Microsurfacing and/or Quick Set Slurry Seal

1.11.1 Location by Contractor

Contractor	Address	City, State, Zip	County	Plant
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery	L0203
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida	L0201
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady	L0104
Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	Cattaraugus	L0505
Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	Wayne	L0403
Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	Erie	L0502
New York Bituminous Products Corp	1297 Craigville Rd	Chester, NY 10918	Orange	L0803
Sealcoating, Inc.	1911 Lorings Crossing Road	Cortland, NY 13045	Cortland	L0301
Suit-Kote Corporation	NYS Rt. 19	Belmont, NY 14813	Allegany	L0602
Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	Erie	L0503
Suit-Kote Corporation	NYS Rt 52	Cochecton , NY 12726	Sullivan	L0907
Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	Cortland	L0301
Suit-Kote Corporation	57 Lister Street	Jamestown, NY 14701	Chautauqua	L0501
Suit-Kote Corporation	Country Club Rd	W Oneonta, NY 13861	Otsego	L0902
Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13413	Oneida	L0202
Suit-Kote Corporation	2 Rockwood Street	Rochester, NY 14610	Monroe	L0401
Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	Schuyler	L0603
Suit-Kote Corporation	21811 Lane Rd	Watertown, NY 13601	Jefferson	L0703
Thos. H. Gannon, Inc	8th & Reading Ave	Hammonton, NJ 08037		L1102
Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	Broome	L0903
Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	Oneida	L0204

SECTION 1: CONTRACTOR INFORMATION – MICROSURFACING &/or QSSS

1.11 Microsurfacing and/or Quick Set Slurry Seal (Cont'd)

1.11.2 Location by City

City, State, Zip	Contractor	Address	County	Plant
Allegany, NY 14706	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Cattaraugus	L0505
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery	L0203
Belmont, NY 14813	Suit-Kote Corporation	NYS Rt. 19	Allegany	L0602
Buffalo, NY 14227	Suit-Kote Corporation	505 Como Park Blvd	Erie	L0503
Chester, NY 10918	New York Bituminous Products Corp	1297 Craigville Rd	Orange	L0803
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida	L0201
Cochecton , NY 12726	Suit-Kote Corporation	NYS Rt 52	Sullivan	L0907
Cortland, NY 13045	Sealcoating, Inc.	1911 Lorings Crossing Road	Cortland	L0301
Cortland, NY 13045	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland	L0301
Hammonton, NJ 08037	Thos. H. Gannon, Inc	8th & Reading Ave		L1102
Jamestown, NY 14701	Suit-Kote Corporation	57 Lister Street	Chautauqua	L0501
Lyons, NY 14489	Midland Asphalt Materials Inc.	300 Cole Road	Wayne	L0403
Oriskany, NY 13413	Suit-Kote Corporation	191 Dry Road	Oneida	L0202
Rochester, NY 14610	Suit-Kote Corporation	2 Rockwood Street	Monroe	L0401
Sangerfield, NY 13455	Vestal Asphalt, Inc.	7630 Route 20	Oneida	L0204
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady	L0104
Tonawanda, NY 14150	Midland Asphalt Materials Inc.	640 Young Street	Erie	L0502
Vestal, NY 13850	Vestal Asphalt, Inc.	201 Stage Road	Broome	L0903
W Oneonta, NY 13861	Suit-Kote Corporation	Country Club Rd	Otsego	L0902
Watertown, NY 13601	Suit-Kote Corporation	21811 Lane Rd	Jefferson	L0703
Watkins Glen, NY 14891	Suit-Kote Corporation	20 Fairgrounds Lane	Schuyler	L0603

SECTION 1: CONTRACTOR INFORMATION – MICROSURFACING &/or QSSS

1.11 Microsurfacing and/or Quick Set Slurry Seal (Cont'd)

1.11.3 Location by County

County	Contractor	Address	City, State, Zip	Plant
Allegany	Suit-Kote Corporation	NYS Rt. 19	Belmont, NY 14813	L0602
Broome	Vestal Asphalt, Inc.	201 Stage Road	Vestal, NY 13850	L0903
Cattaraugus	Midland Asphalt Materials Inc.	4478 Lower Birch Run Road	Allegany, NY 14706	L0505
Chautauqua	Suit-Kote Corporation	57 Lister Street	Jamestown, NY 14701	L0501
Cortland	Sealcoating, Inc.	1911 Lorings Crossing Road	Cortland, NY 13045	L0301
Cortland	Suit-Kote Corporation	1911 Lorings Crossing Rd	Cortland, NY 13045	L0301
Erie	Midland Asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	L0502
Erie	Suit-Kote Corporation	505 Como Park Blvd	Buffalo, NY 14227	L0503
Jefferson	Suit-Kote Corporation	21811 Lane Rd	Watertown, NY 13601	L0703
Monroe	Suit-Kote Corporation	2 Rockwood Street	Rochester, NY 14610	L0401
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	L0203
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	L0201
Oneida	Suit-Kote Corporation	191 Dry Road	Oriskany, NY 13413	L0202
Oneida	Vestal Asphalt, Inc.	7630 Route 20	Sangerfield, NY 13455	L0204
Orange	New York Bituminous Products Corp	1297 Craigville Rd	Chester, NY 10918	L0803
Otsego	Suit-Kote Corporation	Country Club Rd	W Oneonta, NY 13861	L0902
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	L0104
Schuyler	Suit-Kote Corporation	20 Fairgrounds Lane	Watkins Glen, NY 14891	L0603
Sullivan	Suit-Kote Corporation	NYS Rt 52	Cochection , NY 12726	L0907
Wayne	Midland Asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	L0403
	Thos. H. Gannon, Inc	8th & Reading Ave	Hammonton, NJ 08037	L1102

SECTION 1: CONTRACTOR INFORMATION – PAVER PLACED ST

1.12 Paver Placed Surface Treatment – Conventional & Rubber Modified

1.12.1 Location by Contractor

Contractor	Address	City, State, Zip	County	Plant
All States Asphalt, Inc.	325 Amherst Road	Sunderland, MA 01375		L0108
Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	Montgomery	L0203
Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	Oneida	L0201
Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	Schenectady	L0104
Midland asphalt Materials Inc.	4478 Lower Birch Run Rd	Allegany, NY 14706	Cattaraugus	L0505
Midland asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	Wayne	L0403
Midland asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	Erie	L0502

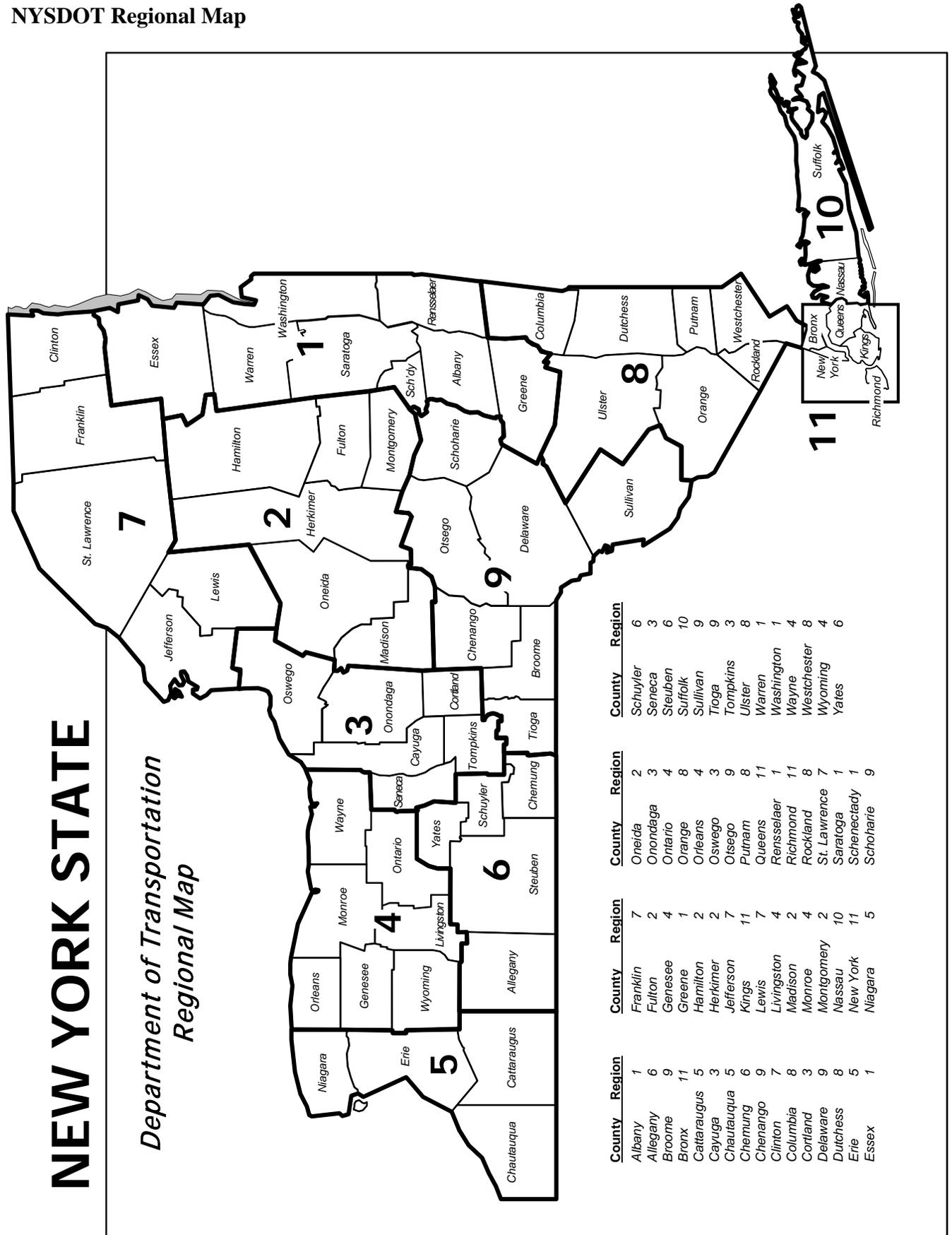
1.12.2 Location by City

City, State, Zip	Contractor	Address	County	Plant
Allegany, NY 14706	Midland asphalt Materials Inc.	4478 Lower Birch Run Rd	Cattaraugus	L0505
Amsterdam, NY 12010	Gorman Bros., Inc.	446 State Highway 161	Montgomery	L0203
Clinton, NY 13323	Gorman Bros., Inc.	20 Robinson Road	Oneida	L0201
Lyons, NY 14489	Midland asphalt Materials Inc.	300 Cole Road	Wayne	L0403
Scotia, NY 12302	Gorman Bros., Inc.	6 Freeman's Bridge Road	Schenectady	L0104
Sunderland, MA 01375	All States Asphalt, Inc.	325 Amherst Road		L0108
Tonawanda, NY 14150	Midland asphalt Materials Inc.	640 Young Street	Erie	L0502

1.12.3 Location by County

County	Contractor	Address	City, State, Zip	Plant
Cattaraugus	Midland asphalt Materials Inc.	4478 Lower Birch Run Rd	Allegany, NY 14706	L0505
Erie	Midland asphalt Materials Inc.	640 Young Street	Tonawanda, NY 14150	L0502
Montgomery	Gorman Bros., Inc.	446 State Highway 161	Amsterdam, NY 12010	L0203
Oneida	Gorman Bros., Inc.	20 Robinson Road	Clinton, NY 13323	L0201
Schenectady	Gorman Bros., Inc.	6 Freeman's Bridge Road	Scotia, NY 12302	L0104
Wayne	Midland asphalt Materials Inc.	300 Cole Road	Lyons, NY 14489	L0403
	All States Asphalt, Inc.	325 Amherst Road	Sunderland, MA 01375	L0108

1.13 NYSDOT Regional Map



County	Region	County	Region	County	Region	County	Region	County	Region
Albany	1	Franklin	7	Oneida	2	Schuyler	6	Ulster	8
Allegany	6	Fulton	2	Onondaga	3	Seneca	3	Sullivan	9
Broome	9	Genesee	4	Ontario	4	Steuben	6	Westchester	11
Bronx	11	Greene	1	Orange	8	Suffolk	10	Rockland	8
Cattaraugus	5	Hamilton	2	Orleans	4	Sullivan	9	Orange	8
Cayuga	3	Herkimer	2	Oswego	3	Tioga	9	Delaware	9
Chautauqua	5	Jefferson	7	Otsego	9	Tompkins	3	Greene	8
Chemung	6	Kings	11	Putnam	8	Ulster	8	Ulster	8
Chenango	9	Lewis	7	Queens	11	Warren	1	Orange	8
Clinton	7	Livingston	4	Rensselaer	1	Washington	1	Putnam	10
Columbia	8	Madison	2	Richmond	11	Wayne	4	Westchester	11
Corland	3	Monroe	4	Rockland	8	Westchester	8	Rockland	8
Delaware	9	Montgomery	2	St. Lawrence	7	Wyoming	4	Westchester	11
Dutchess	8	Nassau	10	Saratoga	1	Yates	6	Westchester	11
Erie	5	New York	11	Schenectady	1	Schoharie	9	Westchester	11
Essex	1	Niagara	5	Schoharie	9				

SECTION 2: HOW TO USE THE CONTRACT

2.1 Introduction

Using Agencies and Political Subdivisions can choose any of the contractors listed in this Contract Award Notification (Pages 10 to 12). **To look for a specific Liquid Bituminous Material Treatment, please refer to tables on pages 14 through 30.** Those tables have those same contractors arranged by Treatment and then by Contractor, City and County. **The price pages (published as attachments) contain the maximum price that the contractor can charge for each item.**

2.2 Quick Quote/Price Calculation

Using agencies will select the appropriate contractor to perform their particular treatment project **by using the specific quick quote/ price calculation worksheet for that treatment.** See Quick Quote clause below

2.2.1 Price Calculation Worksheet

Agencies may use the contract prices to complete the specific price calculation worksheet for that treatment (a copy of the Quick Quote/Price Calculation Worksheet can be found at:

http://www.ogs.ny.gov/purchase/spg/lists/gp_315.asp ,then click the corresponding Award # and go to the specific Quick Quote form for that treatment) to determine the contractor offering the most practical and economical alternative using the agency's form, function, and utility requirements. Agencies are encouraged to use the lowest bidder but if the lowest bidder is not selected, then the agency must prepare documentation for the procurement record explaining the action taken (i.e., the low contractor could not provide the product in the time frame required, contractor did not have the needed equipment, etc.).

2.2.2 Quick Quote

During the course of the award, agencies may wish to try to obtain lower prices and Contractors may wish to lower their contract prices for various reasons, i.e., excess supply, slow business, etc. Each quick quote situation is unique and the price is firm for that particular project only. If bid security is a concern, the agency may require bids to be sealed and/or opened publicly.

The use of the Quick Quote Worksheet will be MANDATORY for all purchases made by any Executive Agency through the Contract(s) contained in the Contract Award Notification , with the only exception for cases where the material is being picked up by the user (at the plant). In those cases, the use of the Quick Quote will be optional (at the user's discretion).

OGS also encourages the use of the Quick Quote by Non- Executive Agencies as a way to get the best pricing possible.

Agencies using the quick quote are required to award to the lowest responsive bid meeting the agency's requirements outlined in the requested quote. There are no negotiations permitted following the "Quick Quote" and prices cannot be changed once offered. If award is made to other than the lowest bid, the agency must prepare detailed documentation explaining the action taken for the failure to meet requirements. (i.e., the low Contractor could not provide the product in the time frame required, Contractor did not have needed equipment, etc.). This explanation along with the worksheets must be made a part of the procurement record.

Contractors are not required to lower prices when they receive a quick quote. They may quote the contract price. However, **at no time may a quick quote unit price (without the Price Adjustment) exceed the contract price. Materials cost, hauling expenses, etc., can be lowered by the Contractor during the quick quote process.**

Since asphalt price adjustments will be charged/credited to all invoices (after the work is finished), **the user and the Contractor understand that the Project's Total Cost shown in the Quick Quote includes all the needed Price Adjustments for the month indicated in the Quick Quote (the month when the Quick Quote was sent to the Contractor). If the project (or part of the project) is executed in a different month than the one used to calculate the Quick Quote, then the Project's Total Cost will change accordingly to reflect the Price Adjustments for the Month in which the project (or part of the project) was actually performed.**

SECTION 2: HOW TO USE THE CONTRACT (Cont'd)

2.3 Frequently Asked Questions

How do I choose a contractor for the treatment that I'm looking for?

The best way it's to refer to the Table of contents on page 2 and to look for *Section 1: Contractor Information*. Pages 14 through 30 show the lists of contractors arranged by treatment. The specific information for each contractor can be found on pages 10 to 12. (Please also read *Section 2.1* on how to use the quick quote form).

May I buy from any contractor or do I have to choose only from the contractors listed in my DOT Region?

Using Agencies and Political Subdivisions can choose any of the contractors listed in this Contract Award Notification, without restrictions.

Is it allowed for a contractor listed in this Award to increase the price included in this Contract Award Notification?

At no time may a unit price (without the Price Adjustment) for a specific item exceed the unit price shown in this Contract Award Notification. However, the user should be aware that this unit price doesn't include the proper Price Adjustment(s) set by the pricing information clause for that treatment and the contractor is within his/her right to ask for that Price Adjustment.

Is the Quick Quote Worksheet mandatory when using this contract?

The use of the Quick Quote Worksheet will be MANDATORY for all purchases made by any Executive Agency through the Contract(s) contained in this Contract Award Notification, with the only exception for cases where the material is being picked up by the user (at the plant). In those cases, the use of the Quick Quote will be optional (at the user's discretion). OGS also encourages the use of the Quick Quote by Non- Executive Agencies as a way to get the best pricing possible

What does AP stand for?

The AP shown in the Price Pages stands for "Award Pending". Those are prices that were too high and didn't meet the requirements established in the method of the award. Using Agencies and Political Subdivisions are not allowed to use any item classified as an AP. Please refer to the clause – "Award Pending" in this Contract Award Notification for more information about Award Pending.

SECTION 3: PRICE PAGES

3.1 Asphalt Emulsions Price Pages

See *Asphalt Emulsion Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>.

3.2 Chip Seal – Conventional & Fiber Reinforced Price Pages

See *Chip Seal – Conventional & Fiber Reinforced Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>

3.3 Cold Recycling Price Pages

See *Cold Recycling Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>

3.4 Heater Scarification Price Pages

See *Cold Recycling Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>

3.5 Joint & Crack Filler/Sealer Price Pages

See *Joint & Crack Filler/Sealer Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>

3.6 Microsurfacing and/or Quick Set Slurry Seal Price Pages

See *Microsurfacing and/or Quick Set Slurry Seal Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>

3.7 Paver Placed Surface Treatment – Conventional & Rubber Modified Price Pages

See *Paver Placed Surface Treatment – Conventional & Rubber Modified Price Pages* at:

<http://www.ogs.ny.gov/purchase/spg/awards/3155522787Can.htm>

SECTION 4: AWARD PENDING

4.1 Award Pending

Any Contractor given an "Award Pending" for an item may become eligible for award by reducing their price(s) to less than or equal to the "revised average price* (see explanation below)" increased by 20%. **Acceptable revised pricing for those "Award Pending" items shall only be considered up to thirty days after the "date issued" that appears on the original Contract Award Notification.** A revised award with new pricing would then be published at State discretion to incorporate any new revised pricing determined to be acceptable. **All pricing that was considered "Award Pending" in the original award and that did not become eligible for award after the thirty-day period mentioned above will be given "No Award" status for the remaining contract period.**

*Calculation of the "revised average price" per item:

- a. An "average price" per specification item is calculated based on the price of all bids submitted. The average price is calculated to three decimal places.
- b. Any bid price that exceeds the "average price" by more than 40% is made "Award Pending".
- c. A "revised average price" per specification item is calculated after removal of those exceeding the average price increased by 40%.

4.2 Product Requirements

Group Specifications for each material item included in this contract are set forth in Attachment "Group Specifications #927". Contractors shall comply with the specifications.

SECTION 5: CONTRACT ADMINISTRATION

5.1 Contract Amendment Process

During the term of the Contract, the Contract may be amended by the mutual agreement of the parties.

5.2 Contract Administrator

Contractor must provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Contractor must notify OGS within five (5) Business Days if its Contract Administrator changes, and provide an interim contact person until the position is filled. Contractor may submit a Contract Administrator change by submission of a revised Contractor and Authorized Reseller Information form to the OGS Contract Administrator.

Changes to Contractor contact information, including the designation of a new Contract Administrator, shall be submitted electronically via e-mail through the submission of a revised Contractor and Authorized Reseller Information form to the OGS Contract Administrator.

SECTION 6: TERMS AND CONDITIONS

6.1 Contract Term and Extension

6.1.1 Contract Term

It is the intention of the State to enter into a contract for the term as stated on the original Invitation for Bids except that the commencement and termination dates appearing on the Invitation for Bids may be adjusted forward unilaterally by the State for any resulting contract for up to two calendar months, by indicating such change on the Contract Award Notification.

The contract dates may be adjusted forward beyond two months only with the approval of the successful bidder. If, however, the bidder is not willing to accept an adjustment of the contract dates beyond the two month period, the State reserves the right to proceed with an award to another bidder.

6.1.2 Contract Extension

If mutually agreed upon between OGS and the Contractor, the Contract may be extended under the same terms and conditions for up to three (3) additional periods of up to one (1) year each. Extensions may be exercised on a continuing basis such as an additional three (3) month, six (6) month or twelve (12) month period. In the event a replacement Contract has not been issued at the time of Contract expiration, any Contract let and awarded hereunder by the State, may be extended unilaterally by the State for an additional period of up to one (1) month upon notice to the Contractor with the same terms and conditions as the original Contract including, but not limited to, quantities (prorated for such one (1) month extension), pricing, and Delivery requirements. With the concurrence of the Contractor, the extension may be for a period of up to three (3) months in lieu of one (1) month. However, this extension terminates should the replacement Contract be issued in the interim.

6.2 Request for Change

Any request by the agency or contractor regarding changes in any part of the contract must be made in writing to the Office of General Services, New York State Procurement prior to effectuation.

6.3 Note to Contractor

This Contract Award Notification is not an order. Do not take any action under this contract except on the basis of purchase order(s) from the agency or agencies.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.4 Contract Payments

Payments cannot be processed by State facilities until the contract products have been delivered in satisfactory condition or services have been satisfactorily performed. Payment will be based on any invoice used in the supplier's normal course of business. However, such invoice must contain sufficient data including but not limited to contract number, description of product or service, quantity, unit and price per unit as well as federal identification number.

State facilities are required to forward properly completed vouchers to the Office of the State Comptroller for audit and payment. All facilities are urged to process every completed voucher expeditiously giving particular attention to those involving cash discounts for prompt payment.

If the contract terms indicate political subdivisions and others authorized by law are allowed to participate, those entities are required to make payments directly to the contractor. Prior to processing such payment, the contractor may be required to complete the ordering non-State agency's own voucher form.

See "Contract Billings" in Appendix B, OGS General Specifications

6.5 NYSPro's Dispute Resolution Policy

It is the policy of the Office of General Services' New York State Procurement (NYSPro) to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to NYSPro bid solicitations or contract awards. NYSPro encourages vendors to seek resolution of disputes through consultation with NYSPro staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of NYSPro's Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown on the front of this document or through the OGS website (www.ogs.ny.gov).

6.6 Estimated Quantities

The historical dollar value of all contracts issued under previous awards was approximately \$30,000,000 annually. However, each contract shall be for the quantities or dollar values actually ordered during the contract period. The individual value of each contract is indeterminate and will depend upon the number of contracts issued and the competitiveness of the pricing offered. Agencies will be encouraged to purchase from Contractors who offer the supplies, services, and pricing that best meet their needs in the most practical and economical manner. (See Appendix B, §§ 39 *Participation in Centralized Contracts* and 42 *Estimated/Specific Quantity Contracts*).

6.7 Delivery

Delivery shall be made in accordance with instructions on Purchase Order from each agency. If there is a discrepancy between the purchase order and what is listed on the contract, it is the Contractor's obligation to seek clarification from the ordering agency and, if applicable, from the Office of General Services, NYS Procurement.

It is the responsibility of the agency to ascertain quantities shipped are accurate to the delivery ticket. Each vehicle should be checked for product upon arrival and prior to departure.

6.8 Invoicing

6.8.1 Procurement Card Receipts

For all purchases executed using a New York State Procurement Card, Contractor shall provide an itemized receipt with each Delivery.

6.8.2 Invoices

Contractor invoices must include detailed line item information matching the different options outlined in the Quick Quote form to allow Authorized Users to verify that delivered pricing matches the correct price on the date of order.

6.9 Default (Failure to Furnish Material)

Clause 45 of the General Specifications is modified as follows: Failure to furnish material within ten days after receiving order or as agreed upon with authorized representative or violation of shipping instructions, shall be cause for and entitle the State (1) to damages which in its judgment have resulted, or (2) to purchase in the open market at the expense of the Contractor. At the discretion of the State, one or both of these courses of action may be followed

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.10 Lower Pricing

The State reserves the right to negotiate lower pricing, or to advertise for bids, whichever is in the State's best interest as determined by the Commissioner, in the event of a significant decrease in market price of any product listed. In addition, if the Contractor's normal pricing to the public or to the trade in general is less than the net/contract pricing with the application of a contract discount, etc., then the normal pricing to the public or to the trade in general shall also be granted to contract participants.

6.11 Report of Contract Purchases

Contractor shall furnish quarterly reports containing total sales for both State agency and authorized non-state agency contract purchases no later than thirty (30) days after the close of each calendar quarter. If the Contract period begins or ends in a fractional portion of a reporting period, only the actual Contract sales for this fractional period should be reported in the quarterly report.

In addition to Contractor direct sales, Contractor shall submit sales information for all Authorized Resellers where such Contract sales are provided by other than the Contractor. Contractors shall specify if any Authorized Resellers are NYS Certified Minority and/or Women Owned Businesses Enterprises (MWBEs). Contractor shall verify such status through the Empire State Development directory of Minority and Women Owned Businesses at:

<http://www.esd.ny.gov/MWBE/directorySearch.html>

The report is to be submitted electronically via e-mail in Microsoft Excel to the Office of General Services, NYS Procurement, to the attention of the individual listed on the front page of the Contract Award Notification and shall reference the Contract Group Number, Award Number, Contract Number, Sales Period, and Contractor's name.

The report in Attachment "Report of Contract Purchases" is the **minimum** information required. Additional related sales information, such as monthly reports, and/or detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis shall be considered poor performance in accordance with Section "Poor Performance" and may result in Contract cancellation and designation of Contractor as non-responsible.

6.12 Price Reductions

Contractors shall be permitted to reduce their pricing any time during the contract term. In addition, Contractors may choose to offer lower prices in specific instances or for particular projects. Vendors may do so through the agency's use of the "Quick Quote/Price Calculation" worksheet.

6.13 References

References are made herein to New York State Department of Transportation, Standard Specifications, Construction and Materials, dated May 1, 2008, and all current addenda. A copy may be obtained through the Department's publication unit. Call 518-457-2124 for information or through the following link:

<https://www.dot.ny.gov/main/business-center/engineering/specifications/2008-standard-specs-us>

6.14 Non-State Agencies Participation in Centralized Contracts

New York State political subdivisions and others authorized by New York State law may participate in Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B, §39 *Participation in Centralized Contracts*. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have Delivery locations adjacent to New York State), the terms of the "Price" clause shall be modified to include Delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. A list of categories of eligible entities is available on the OGS web site <http://www.ogs.ny.gov/purchase/snt/othersuse.asp>. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS NYS Procurement's Customer Services at (518) 474-6717.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.15 Prevailing Wage Rates - Public Works and Building Services Contracts

Work being performed is subject to the prevailing wage rate provisions of New York State Labor Law. See "Prevailing Wage Rates - Public Works and Building Services Contracts" in Appendix B, OGS General Specifications. Any federal or State determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful" may be grounds for a determination of vendor non-responsibility.

The applicable Prevailing Wage Rate Schedule for this project is **PRC # 2014000169**

For access to the Department of Labor (DOL) Prevailing Wage Schedule, use the following link:

<http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showIt>

For Prevailing Wage Updates, use the following DOL link:

<http://wpp.labor.state.ny.us/wpp/publicViewPWChanges.do?method=showIt>

Links to schedule updates appear in the table at the bottom of the web page.

IMPORTANT NOTE: The above PRC number MUST be noted on all purchase orders issued for purchases from this contract.

WORKER NOTIFICATION – A9052; S6240

This provision is an addition to the existing prevailing wage rate law, Labor Law §220, paragraph a of subdivision 3-a. It requires Contractors and subcontractors to provide written notice to all laborers, workers or mechanics of the *prevailing wage rate* for their particular job classification *on each pay stub**. It also requires Contractors and subcontractors to *post a notice* at the beginning of the performance of every public work contract *on each job site* that includes the telephone number and address for the Department of Labor and a statement informing laborers, workers or mechanics of their right to contact the Department of Labor if he/she is not receiving the proper prevailing rate of wages and/or supplements for his/her particular job classification. The required notification will be provided with each wage schedule, may be downloaded from www.labor.state.ny.us or made available upon request by contacting the Bureau of Public Work at 518-457-5589.

* In the event that the required information will not fit on the pay stub, an accompanying sheet or attachment of the information will suffice.

OSHA 10-Hour Construction Safety and Health Course - S1537-A

This provision is an addition to the existing prevailing wage rate law, Labor Law §220, section 220-h. It requires that on all public work contracts of at least \$250,000, all laborers, workers, and mechanics working on site be certified as having successfully completed the OSHA 10-hour construction safety and health course. It further requires that the advertised bids and contracts for every public work contract of at least \$250,000 contain a provision of the requirement AND only applies to workers on a public work project that are required under Article 8 to receive the prevailing wage.

Further information may be found at: www.labor.state.ny.us/workerprotection/publicwork/PWContents.shtm

6.16 "OGS or Less" Guidelines Apply to This Contract

Purchases of the Products included in this Contract Award Notification are subject to the "OGS or Less" provisions of State Finance Law §163(3)(a)(v). This means that State agencies can purchase products from sources other than the Contractor provided that such products are substantially similar in Form, Function, and Utility to the products herein and are:

1. lower in price
and/or
2. available under terms which are more economically efficient to the State agency (e.g. Delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-Contract savings at least two (2) Business Days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Comptroller's Office and competitive bidding of requirements exceeding the discretionary bid limit. State agencies should refer to the New York State Procurement Guidelines "OGS or Less Purchases" for complete procedural and reporting requirements.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.17 Contract Billings and Payments

- a) **Billings.** Contractor and the dealers/distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billing invoices submitted to an Authorized User must contain all information required by the Contract and the State Comptroller or other appropriate fiscal officer. Submission of an invoice and payment thereof shall not preclude the Commissioner from requesting reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.
Contractor shall provide, upon request of the Commissioner, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by the Commissioner and in a media commercially available from the Contractor. The Commissioner may direct the Contractor to provide the information to the State Comptroller or to any Authorized User of the Contract.
- b) **Payment of Contract purchases made by an Authorized User when the State Comptroller is responsible for issuing such payment.** The Authorized User and Contractor agree that payments for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payments shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller website at www.osc.state.ny.us, by e-mail at epunit@osc.state.ny.us, or by telephone at 518-486-1255. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract that are payable by the State Comptroller if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.
- c) **Payment of Contract purchases made by an Authorized User when the State Comptroller is not responsible for issuing such payment.** The Authorized User and Contractor agree that payments for such Contract purchases shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User. Such payments shall be as mandated by the appropriate governing law from the receipt of a proper invoice. Such Authorized User and Contractor are strongly encouraged to establish electronic payments.

6.18 Diesel Emission Reduction Act of 2006

Pursuant to §19-0323 of the N.Y. Environmental Conservation Law ("the Law") it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology ("BART") and ultra-low sulfur diesel fuel ("ULSD"). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by Contract vendors "on behalf of" State agencies and public authorities and require certain reports from Contract vendors. All heavy duty diesel vehicles must have BART by December 31, 2014 (unless further extended by Law). The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Bidder hereby certifies and warrants that all heavy duty vehicles, as defined in NYECL §19-0323, to be used under this Contract, will comply with the specifications and provisions of NYECL §19-0323, and 6 NYCRR Parts 248 and 249.

6.19 Environmental Attributes and NYS Executive Order 4

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program) (EO4), which imposes certain requirements on state agencies, authorities, and public benefit corporations when procuring commodities, services, and technology. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://www.ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.20 Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

6.20.1 New York State Law

Pursuant to New York State Executive Law Article 15-A, OGS recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women in the performance of OGS Contracts. In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State Contracts.

6.20.2 Business Participation Opportunities for MWBEs

For purposes of this procurement, OGS has conducted a comprehensive search and has determined that **the contract does not offer any opportunities for participation by MWBEs** as subcontractors, service providers and suppliers to the awarded Contractors. Contractors are, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. To locate MWBEs, the Directory of Certified Businesses can be viewed at: <http://www.esd.ny.gov/MWBE/directorySearch.html>. Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

6.20.3 Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to the IFB, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to OGS, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

ALL FORMS ARE AVAILABLE AT: <http://www.ogs.ny.gov/MWBE/Forms.asp>

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.21 New York State Vendor Responsibility Questionnaire For-Profit Business Entity

Contractor is encouraged to maintain up-to-date Questionnaire during the life of the contract and is also required to ensure this Questionnaire reflects any substantive issues that may have occurred from the time the Contract was initially awarded. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

6.22 Extension of Use

This Contract may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead Contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant Contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional Discounts based on any increased volume generated by such extensions.

6.23 Extension of Use Commitment

The Contractor agrees to honor all orders from State Agencies, Political Subdivisions and others authorized by law (see "Extension of Use" clause) which are in compliance with the pricing, terms, and conditions set forth in the resulting Contract document.

Any unilateral limitations/restrictions imposed by the Contractor and/or manufacturer on eligible Authorized Users will be grounds for cancellation of the Contract. If a Contract, or any portion thereof, is canceled for this reason, any additional costs incurred by the eligible purchaser will be borne by the Contractor.

6.24 Emergency Purchasing

In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or that the Commissioner determines pursuant to his/her authority under Section 163(10)(b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of products or services, the Commissioner reserves the right to obtain such products or services from any source, including but not limited to this contract, as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for products or services procured from other sources pursuant to this paragraph.

6.25 Contract Migration

State Agencies or any other authorized user holding individual contracts with Contractors under this centralized contract shall be able to migrate to this contract award with the same Contractor, effective on the contract begin date (retroactively, if applicable). Migration by an agency or any other authorized user to the centralized contract shall not operate to diminish, alter or extinguish any right that the agency or other authorized user otherwise had under the terms and conditions of their original contract.

SECTION 6: TERMS AND CONDITIONS (Cont'd)

6.26 Disposition of Settlements

The Office of General Services has the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc. which arise from the administration of this contract.

6.27 Iran Divestment Act

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should OGS receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, OGS will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then OGS shall take such action as may be appropriate and provided for by law, rule, or Contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

OGS reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a Contract, and to pursue a responsibility review with respect to any entity that is awarded a Contract and appears on the Prohibited Entities list after Contract award.

SECTION 7: GROUP - ASPHALT EMULSIONS

7.1 Introduction

Asphalt emulsions are liquid bituminous materials (asphalt cement, water and an emulsifying agent) which are applied either separately or with crushed stone to seal the surface of highway pavements. Asphalt emulsions are also applied as tack coats in conjunction with highway pavement resurfacing with bituminous concrete materials.

7.2 Pricing Information

7.2.1 General

Clause 24B of the General Specifications has been modified to read, “Price bid with the exception of F.O.B. Storage Facility shown herein must include material cost and cost to furnish, heat, haul, deliver and apply with Contractor’s equipment.”

The price (mile and gallon range) for a specific job will be calculated at the same rate. This rate will be determined by finding the one category that applies to the total miles and gallons per job. For example, a job that is 11 miles from the plant will be calculated at the same rate per gallon for each mile (from 1 to 11) that is indicated in the 11-25 mile column herein, rather than on a cumulative basis. Similarly, a job that is 16 miles from the plant and required 4,000 gallons over a two-day period would be calculated using the 11-25 mile row and the 1,001-3,000 gallon range since it would be presumed that equal quantities would be applied each day.

Excess Time Charge for All Items except Material Designation 702-XXXXT, Diluted and Straight Tack Coat

This is the charge for each 15-minute period or portion thereof for a delay attributable to the receiving agency after scheduled delivery time. Excess time charges do not apply while Contractor is unloading and/or applying material. They only apply when Contractor is delayed by the receiving agency.

Hourly Charge for Material Designation 702- XXXXT, Diluted and Straight Tack Coat

This is the charge per hour that an Asphalt Emulsion distributor truck is on the project commencing at the scheduled start time indicated by the receiving agency and ending when the receiving agency has indicated to the distributor truck operator that no more Tack Coat is needed for the day. No deduction of time spent applying tack coat shall be made from the payment of the hourly charge. No adjustment shall be allowed for work hours longer than the standard work day. Excess Time Charge does not apply to Material Designation 702- XXXXT, Diluted and Straight Tack Coat.

It is inherent in the application of Tack Coat that the distributor applies tack coat for a very short period of time and then must wait until the emulsion breaks and the Hot Mix Asphalt is placed over the tack coat before Tack Coat may be applied at another location on the project. To fairly compensate Contractors for expenses incurred during long periods of inactivity where Tack Coat distributor trucks and operators must be in stand-by mode on the project, an hourly charge for time actually spent on the project after the scheduled starting time has been introduced. This hourly charge is for time spent on the project, both applying tack coat and waiting to apply tack coat.

7.2.2 Insurance

Price includes the following insurance coverage costs. In particular, price includes:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

SECTION 7: GROUP - ASPHALT EMULSIONS (Cont'd)

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate. OCP requirements should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

7.3 Asphalt Price Adjustments

7.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the “Adjustment Date”, during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.
- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

Price Adjustment (per gallon)	=	$\frac{\text{New Monthly Average FOB Terminal Price} - \text{Base Average Terminal Price}}{235}$	X	Total Allowable Petroleum %
----------------------------------	---	--	---	-----------------------------

Positive Price Adjustment number shall be added to original per gallon Price.
Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

SECTION 7: GROUP - ASPHALT EMULSIONS (Cont'd)

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Material Designation	Grade	Asphalt %	Petroleum Allowance %	Total Allowable Petroleum %
702-0700	18-60	100.0	0.2	100.2%
702-3001	RS-1	55.0	1.7	56.7%
702-3002	RS-1h	55.0	1.7	56.7%
702-3101	RS-2	63.0	2.7	65.7%
702-3102	HFRS-2	63.0	2.7	65.7%
702-3201	MS-2	65.0	8.2	73.2%
702-3301	HFMS-2	65.0	8.2	73.2%
702-3401	HFMS-2h	65.0	2.7	67.7%
702-3402	HFMS-2s	65.0	8.2	73.2%
702-3501	SS-1	57.0	0.2	57.2%
702-3601	SS-1h	57.0	0.2	57.2%
702-3101P	RS-2p	63.0	2.7	65.7%
702-3102P	HFRS-2p	63.0	2.7	65.7%
702-4001	CRS-1	60.0	2.7	62.7%
702-4002	CRS-1h	60.0	2.7	62.7%
702-4101	CRS-2	65.0	2.7	67.7%
702-4201	CMS-2	65.0	10.2	75.2%
702-4301	CMS-2h	65.0	10.2	75.2%
702-4401	CSS-1	65.0	0.2	65.2%
702-4501	CSS-1h	65.0	0.2	65.2%
702-4601	CQS-1h	62.0	0.2	62.2%
702-4001P	CRS-1p	60.0	2.7	62.7%
702-4101P	CRS-2p	65.0	2.7	67.7%
702-4601P	CQS-1p	62.0	0.2	62.2%
702-XXXXT	Diluted Tack Coat	40.0	0.2	40.2%

Note: For Material Designation 702-XXXXT Straight Tack Coat, use Total Allowable Petroleum % for appropriate emulsion grade

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.010 per gallon from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from the bid opening.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency

SECTION 7: GROUP - ASPHALT EMULSIONS (Cont'd)

7.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item 702.3101

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 65.7%

$$\begin{array}{|c|} \hline \text{Price} \\ \text{Adjustment} \\ \text{(per gallon)} \\ \hline \end{array} = \frac{(603.000 - 593.000)}{235} \times \begin{array}{|c|} \hline 0.657 \\ \hline \end{array}$$

$$\begin{array}{|c|} \hline \text{Price} \\ \text{Adjustment} \\ \text{(per gallon)} \\ \hline \end{array} = \begin{array}{|c|} \hline +\$0.028 \text{ per gallon} \\ \hline \end{array}$$

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price

7.4 Minimum Order

The absolute minimum order is 500 gallons for each Material Designation.

Note: In a case where a project requires several days to be completed, this minimum order of 500 gallons doesn't apply to the last day of work needed to complete the project.

7.5 Payment

Payment shall be made at contract price per gallon for the actual quantities of liquid bituminous material furnished to and verified by the receiving agency. This determination as to quantities involved in any contract shall be accepted as final and binding upon the Contractor. A delivery slip stating quantities shall accompany each shipment. An invoice shall be sent promptly by the Contractor to the engineer of the region or to the State Agency placing the order. Measurement shall be based on the volume of the liquid bituminous material at a temperature of 60° F. All invoices shall show an allowance for temperature above 60° F. The temperature - volume correction to obtain the correct volume at 60° F shall be 0.00025 gallons per °F for all asphalt emulsions. The method to be used for volume corrections for other petroleum products shall be the method and coefficients of expansion given in the "Standard Petroleum Tables, A.S.T.M. D1250." The price per unit for other than "Specific Projects" arrived at (mutually estimated) by the Contractor and the using agency on the Quick Quote/Price Calculation Worksheet or the price per unit resultant from the actual average daily production, whichever is less, shall be the price per unit paid to the Contractor. No additional payment shall be due to the Contractor for production rates that are not equal to the rate upon which the calculation work sheet price was base.

7.6 Detailed Specifications – Asphalt Emulsions

All Liquid Bituminous Materials furnished and/or applied, shall be in accordance with Specifications for Bituminous Materials in book entitled New York State Department of Transportation, Standard Specifications, most current version, and all current addenda

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED)

8.1 Introduction

Conventional chip seal is a pavement preventive maintenance treatment which consists of single-sized stone embedded in a liquid bituminous material. The liquid bituminous material seals cracks in the existing pavement and the stone provides a high-friction wearing surface.

Fiber reinforced chip seal is a single course bituminous surface treatment consisting of asphalt emulsion, in-place chopped fibers and coarse aggregate applied to a paved surface

8.2 Pricing Information

8.2.1 General

Clause 24B of Appendix B, the General Specifications has been modified to include the following:

Price quoted shall be FOB the Contractor's location per square yard for chip seal (conventional and fiber reinforced).

Price quoted for cover sand shall be in place at the project location for cover sand. Price quoted shall be FOB the Contractor's location per gallon for the liquid bituminous material (used for chip seal (conventional and fiber reinforced) and fog sealing). The price per square yard for the chip seal (conventional and fiber reinforced) and for cover sand shall include the cost of work zone traffic control.

Price quoted for additional flaggers (if required) shall be net per day (to the nearest quarter day) for additional flaggers. Price quoted for optional pickup sweeper(s) (if required) shall be net per day (to the nearest quarter day) for optional pickup sweeper(s) with operator(s). Price quoted for abrading existing pavement markings with work zone traffic control by the Contractor (if required) shall be net per linear foot at 4 inches wide of pavement markings to be abraded. This price shall include all costs for pavement marking abrading including all labor, materials, and equipment necessary to abrade the pavement markings and to properly control traffic.

The Contractor is to furnish all necessary labor and equipment to complete the work under this contract including work zone traffic control. Permanent pavement striping will be the responsibility of the State or political subdivision upon completion of the chip seal after the Contractor has vacated the project site.

Price quoted for Mobilization from Contractor's Location to Project Location and to Heat, Haul and Apply Bituminous Material with Contractor's Equipment

Price quoted for mobilization from Contractor's location to project location shall be net per square yard of accepted chip seal (conventional and fiber reinforced) in place performed at the locations indicated by the State's Resident Engineer or political subdivision's representative. Price quoted for heating, hauling and applying bituminous material from Contractor's location to project location shall be net per gallon of bituminous material incorporated in the completed chip seal (conventional and fiber reinforced) in place.

8.2.2 Insurance

Price includes the following insurance coverage costs. In particular, price includes:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment "Insurance Requirements" for detailed insurance requirements.)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate. OCP requirements should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

8.3 Asphalt Price Adjustments

8.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the “Adjustment Date”, during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.
- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

Price Adjustment (per gallon)	=	$\frac{\text{New Monthly Average FOB Terminal Price} - \text{Base Average Terminal Price}}{235}$	X	Total Allowable Petroleum %
----------------------------------	---	--	---	-----------------------------

Positive Price Adjustment number shall be added to original per gallon Price.
 Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Material Designation	Grade	Asphalt %	Petroleum Allowance %	Total Allowable Petroleum %
702-0700	18-60	100.0	0.2	100.2%
702-3001	RS-1	55.0	1.7	56.7%
702-3002	RS-1h	55.0	1.7	56.7%
702-3101	RS-2	63.0	2.7	65.7%
702-3102	HFRS-2	63.0	2.7	65.7%
702-3201	MS-2	65.0	8.2	73.2%
702-3301	HFMS-2	65.0	8.2	73.2%
702-3401	HFMS-2h	65.0	2.7	67.7%
702-3402	HFMS-2s	65.0	8.2	73.2%
702-3501	SS-1	57.0	0.2	57.2%
702-3601	SS-1h	57.0	0.2	57.2%
702-3101P	RS-2p	63.0	2.7	65.7%
702-3102P	HFRS-2p	63.0	2.7	65.7%
702-3301P	HFMS-2p	65.0	8.2	73.2%
702-4001	CRS-1	60.0	2.7	62.7%
702-4002	CRS-1h	60.0	2.7	62.7%
702-4101	CRS-2	65.0	2.7	67.7%
702-4201	CMS-2	65.0	10.2	75.2%
702-4301	CMS-2h	65.0	10.2	75.2%
702-4401	CSS-1	57.0	0.2	57.2%
702-4501	CSS-1h	57.0	0.2	57.2%
702-4601	CQS-1h	62.0	0.2	62.2%
702-4001P	CRS-1p	60.0	2.7	62.7%
702-4101P	CRS-2p	65.0	2.7	67.7%
702-4601P	CQS-1p	62.0	0.2	62.2%
702-XXXXT	Diluted Tack Coat	40.0	0.2	40.2%

Note: For Material Designation 702-XXXXT Straight Tack Coat, use Total Allowable Petroleum % for appropriate emulsion grade

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.010 per gallon from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from the Invitation for Bids.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

8.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item 702.3101

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 65.7%

$$\begin{array}{|c|} \hline \text{Price} \\ \text{Adjustment} \\ \text{(per gallon)} \\ \hline \end{array} = \frac{(603.000 - 593.000)}{235} \times \begin{array}{|c|} \hline 0.657 \\ \hline \end{array}$$

$$\begin{array}{|c|} \hline \text{Price} \\ \text{Adjustment} \\ \text{(per gallon)} \\ \hline \end{array} = \begin{array}{|c|} \hline +\$0.028 \text{ per gallon} \\ \hline \end{array}$$

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

8.4 Payment

Payment for chip seal (conventional and fiber reinforced) in place shall be made at the contract price per unit for the actual number of square yards of chip seal (conventional and fiber reinforced) in place including work zone traffic control, the actual number of square yards of cover sand in place (if used) at the project location including work zone traffic control, the actual number of gallons of asphalt emulsion for the chip seal (conventional and fiber reinforced) and the fog seal (if used) at 60° F verified by the State or receiving political subdivision and used in the accepted portion of the work. Payment for additional flaggers (if required) will be made based on the number of days (computed to the nearest quarter day) that additional flaggers are utilized as directed by the engineer or agency authorized individual. Payment for optional pickup sweepers (if required) will be made based on the number of days (computed to the nearest quarter day) that optional pickup sweepers are utilized as directed by the engineer or agency authorized individual. Payment for abrading existing pavement markings with work zone traffic control by the Contractor (if required) will be made based on the number of linear feet at 4 inches wide of pavement markings actually abraded as directed by the engineer or agency authorized individual. The determination as to quantities involved in any contract shall be accepted as final and binding upon the Contractor.

A delivery slip stating quantities of liquid bituminous material shall accompany each shipment. An invoice listing the quantities of chip seal (conventional and fiber reinforced) and cover sand in place (if used) and liquid bituminous material used for the chip seal (conventional and fiber reinforced) and the fog seal (if used) shall be sent promptly by the Contractor to the State's resident engineer or to the political subdivision's representative placing the order. Measurement shall be based on the volume of the liquid bituminous material at a temperature of 60°F. The temperature/volume correction to obtain the correct volume at 60°F shall be 0.00025 per degree F for all asphalt emulsions.

8.5 Payment for Mobilization from Contractor's Location to Project Location and to Heat, Haul, and Apply Bituminous Material with Contractor's Equipment

Payment for mobilization from Contractor's location to project location shall be made based on the actual number of accepted square yards of chip seal (conventional and fiber reinforced) in place at the locations indicated by the State's Resident Engineer or political subdivision's representative at the contract price for mobilization from Contractor's location to project location per square yard of chip seal (conventional and fiber reinforced) for the appropriate distance and quantity range.

Payment for heating, hauling and applying bituminous material from Contractor's location to project location shall be made for the actual number of gallons of asphalt emulsion at 60° F at the appropriate price for the actual distance to the project verified by the State or receiving political subdivision and used in the accepted portion of the work.

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

8.6 Pre-Chip Seal Conference

The Contractor shall schedule a Pre-Chip Seal (conventional and fiber reinforced) Conference with the State or political subdivision at least two weeks prior to the start of work under this contract. Project Level supervisors for both the owner agency and the Contractor will be present at this conference. At this conference the Contractor shall present their proposed chip seal (conventional and fiber reinforced) schedule, mix design, numbers and type of equipment, and chip seal (conventional and fiber reinforced) procedure and Work Zone Traffic Control Plan to the State or political subdivision for approval. The mix design must clearly show the quantity in gallons per square yard of fog seal (if used), the quantity in pounds per square yard of cover sand (if used), the quantity in gallons and the type of liquid bituminous material per square yard, the quantity in pounds per square yard of aggregate, percent of polymer used to modify the asphalt emulsion, and the design curing time. All the component materials used in the mix design shall be representative of the materials proposed by the Contractor to be used on the project. Adjustments may be required during construction based on field conditions and with the approval of the State or political subdivision. The Contractor shall also furnish the State or political subdivision copies of the calibrations of the liquid bituminous material distributor and the aggregate spreader at this time. The Contractor shall indicate the aggregate source. At least one week prior to the start of work under this contract, the Contractor shall coordinate the details of the chip seal (conventional and fiber reinforced) with the owner's representative

8.7 Supervision

The Contractor is solely responsible for the control and application of materials and other related operations. The State or political subdivision shall designate a chip seal (conventional and fiber reinforced) supervisor who will monitor the Contractor's operations. All orders pertaining to work zone traffic control from the chip seal (conventional and fiber reinforced) supervisor to the Contractor shall be binding on the Contractor. The following portions of Section 105 - CONTROL OF WORK of the Standard Specifications shall apply to these projects: 105-01 STOPPING WORK, 105-08 COOPERATION BY THE CONTRACTOR, 105-15 CONTRACTOR'S RESPONSIBILITY FOR WORK.

8.8 Work Hours

Work will not be permitted on Sundays and Holidays. If the Contractor desires to work overtime on other days, dispensation from the NYS Labor Department must be obtained using Department of Labor Form PW-30 (5/93).

8.9 Construction Details

The construction details shall comply with the requirements specified in the enclosed DETAILED SPECIFICATION. The Contractor shall inform the chip seal (conventional and fiber reinforced) Supervisor of significant deviations from the specifications.

8.10 Restoration of Disturbed Areas

During the course of the work the Contractor shall take reasonable care not to disturb areas outside the existing pavement. Any areas disturbed by the Contractor shall be returned to their original condition at no expense to the owner. Any and all debris generated as part of the work shall be removed by the Contractor upon completion of the project.

8.11 Damaged or Deficient Areas

Prior to acceptance and payment for the chip seal (conventional and fiber reinforced) by the State or political subdivision, any chip seal (conventional and fiber reinforced) that ravels, delaminates, fails to properly cure, or is in any way defective shall be redone to the satisfaction of the State's or political subdivision's representative at the Contractor's expense. After acceptance, the terms and conditions of the section of this Contract Award Notification entitled BONDING REQUIREMENTS, Section A, Item.1, Maintenance Material Bond shall control when the Contractor shall repair all defective chip seal (conventional and fiber reinforced).

8.12 Damage Claims

Sub-Section 107-09, Damage, of the Standard Specifications shall apply to this contract except as modified herein. The Contractor's responsibility for damage includes, but is not limited to, all claims of damages to vehicles and/or injuries to bicyclists or pedestrians traveling on the highway right of way of roads surface treated (conventional and fiber reinforced) under this contract caused by loose stone and/or excess bituminous material until final acceptance by the State or political subdivision. Final acceptance of the chip seal (conventional and fiber reinforced) project shall not occur until 72 hours after the completion of the chip seal (conventional and fiber reinforced) project. The Contractor shall supply the owner's representative with a name and address where damage and/or injury claims should be sent.

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

8.13 Work Zone Traffic Control

The Contractor shall be responsible for Work Zone Traffic Control. Traffic shall be controlled in accordance with Sections 619-1 through 619-3 of the Standard Specifications, the Manual of Uniform Traffic Control Devices (MUTCD), and as described herein including modifications to the Standard Specifications. The Contractor shall submit a Work Zone Traffic Control Plan for approval to the Resident Engineer at the Pre-Chip Seal Conference. For two-way roadways, Figures TAST-C1R, TAST-C2R, TAST-C3R, TAST-C4R, TAST-C5R, and TAST-C7R included in this Contract Award Notification may be used as a basis for development of a Work Zone Traffic Control Plan.

All necessary flaggers for traffic control shall be provided by the Contractor. A minimum of three flaggers shall be provided while the chip seal (conventional and fiber reinforced) operation is underway. One shall be stationed at each end of the operation and one shall be stationed with the aggregate spreader. The Contractor shall station flaggers such that communication is maintained between the flaggers. Hand signals, radios, pilot vehicles, or some other means of communication may be used subject to the approval of the owner.

The requirements for Pilot Vehicles and details about traffic opening are listed in the Detailed Specifications, CONSTRUCTION DETAILS, 410-3.01 Chip Seal, G. Opening to Traffic.

The Contractor shall provide construction signs as specified in Section 619-1 through 619-3 of the Standard Specifications and in the MUTCD. At a minimum the Contractor shall install the following permanent construction signs supplemented by temporary signs as needed:

SIGN	MINIMUM SIZE	LOCATION
ROAD WORK NEXT _____ MILES	<u>G20-1</u> 36" x 18"	On main line upstream of project in each direction
END ROAD WORK	<u>G20-2</u> 36" x 18"	On main line after end of project in each direction
ROAD WORK AHEAD	<u>W20-1</u> 36" x 36"	On main line in advance of the affected highway segment in each direction and on major intersecting roads 300 -500 feet in advance of main line. Sign should be covered if it conflicts with temporary signing in the vicinity.
DO NOT PASS	<u>R4-1G</u> 24" x 30"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign at or within 100 feet of the beginning of the unmarked area, second within 1,000 feet and subsequent signs, spaced every ½ mile along project in each direction
NO CENTER LINE	<u>W8-12</u> 36" x 36"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign in advance of the condition and the first "DO NOT PASS" sign: 300' urban is preferred (100' minimum), 500' rural is preferred (200' minimum). Place additional signs spaced every 2 miles on mainline in each direction and after every major intersecting road
LOOSE GRAVEL	<u>W8-7</u> 30" x 30"	Place on mainline at start of the project and spaced every 1 miles along project in each direction
30 MPH	<u>W13-1</u> 36" x 36"	Mounted on W8-7 LOOSE GRAVEL sign
PILOT CAR FOLLOW ME	G20-4 36" x 18"	On back of pilot vehicle

**All signs should maintain an absolute minimum spacing of 200' rural or 100' urban. 500' is preferred on rural and 300' is preferred on urban. Double stacking of any of the above signs (or combination thereof) will NOT be permitted

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

Major intersecting roads are defined as through State, County, Town, Village, or City roads. The Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD and meeting the requirements of Section 619 of the Standard Specifications for lane closures during work hours.

With prior permission of the State's Resident Engineer or political subdivisions representative, the Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD for the above referenced DO NOT PASS and NO CENTER LINE signs. Signs left active at night shall be rigid and reflectorized in accordance with the Standard Specifications. The Contractor shall be responsible for assuring that these signs will be in their upright, visible positions twenty-four hours a day, seven days a week **while 2'x 4'temporary yellow markings are used instead of full barrier pavement markings.**

8.13.1 Special Note - Temporary Pavement Markings

The Contractor shall install and maintain temporary pavement markings on any paved surface without permanent pavement markings before opening it to traffic, before nightfall or before the end of the work day, whichever comes soonest except for areas that are open during the work shift with channelizing devices or flaggers. Temporary pavement markings shall meet the requirements of Section 619 of the Standard Specifications except that two-lane, two-way highways may be left without full barrier centerlines in no passing zones for a maximum of 7 calendar days provided that NO CENTER LINE (W8-12, black on orange), NO PASSING ZONE (W14-3, black on orange pennant shaped sign), and DO NOT PASS (R4-1) signs are used consistent with the MUTCD and in conjunction with yellow 2 foot by 4 inch temporary markings consisting of retro-reflective removable pavement marking tape, paint or yellow temporary overlay markers installed on a 40 ft. cycle to delineate the centerline location.

The State or political sub division is responsible for the final pavement markings unless otherwise indicated in the contract. If the Contractor chooses to install NO CENTER LINE and DO NOT PASS signs and temporary yellow 2 foot by 4 inch pavement markings in lieu of full barrier centerline markings, the signs shall be left in place until the state or political subdivision has completed installing the final pavement markings. The state or political sub division will normally complete final pavement markings within 7 days of the project completion. However, if unavoidable situations delay the pavement marking installation the signs shall remain in place for 14 calendar days after the project has been completed or until the state has completed installing the final pavement markings, whichever comes first. If permanent pavement marking cannot be installed within 14 days of the project completion, state or political subdivision must install interim pavement marking including center lines, edge lines, stop bars, and simple crosswalks with no hatching before the end of 14 days after project completion.

All costs for Work Zone Traffic Control including flagging, temporary pavement markings, pilot vehicle, delineation, and construction signs are to be included in the prices per square yard of chip seal and cover sand (if required). No separate payment shall be made.

The work zone traffic control provisions in this section shall apply for any work performed pursuant to the Maintenance Material Bond.

8.13.2 Additional Flaggers for Work Zone Traffic Control

If the engineer or agency authorized individual determines that more than three flaggers are necessary to properly control traffic on two-way roadways or more than two flaggers are necessary to properly control traffic on one-way roadways, the Contractor shall provide additional flaggers under the Additional Flaggers item. The price per flagger per day shall include all costs of providing a flagger where directed by the engineer or agency authorized individual with all the necessary safety equipment, i.e. stop/slow paddle, flag, vest, hardhat, etc. Payment shall be by the day for each flagger provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight-hour workday. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

SECTION 8: GROUP - CHIP SEAL (CONVENTIONAL & FIBER REINFORCED) (Cont'd)

8.13.3 Abrading Existing Pavement Markings with Work Zone Traffic Control by the Contractor

The Contractor shall remove any epoxy, thermoplastic, preformed tape or high built waterborne pavement markings. Other markings shall be removed as ordered by the Engineer. The method of abrading may include sand blasting, water blasting, grinding, or other methods approved by the engineer or agency authorized individual. Care shall be taken to avoid damage to passing traffic. All damage to passing traffic caused by the Contractor's operations shall be the Contractor's responsibility. Traffic will be controlled by the Contractor.

The Contractor shall place interim pavement markings as specified elsewhere in this Contract Award Notification under work zone traffic control; unless the chip seal will be placed the same day as pavement markings are abraded. During the pavement markings abrading operation, traffic will be controlled by the Contractor in accordance with the MUTCD. The Contractor shall submit a proposed Work Zone Traffic Control Plan to the engineer or agency authorized individual for approval. The plan may be based on the Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

Payment will be made by the linear foot of pavement marking 4 inches wide. Payment for pavement markings wider than 4 inches or for pavement marking symbols will be made by the following method:

$$\frac{\text{Width of marking (inches)} \times \text{Linear Feet}}{4 \text{ inches}}$$

The price for pavement marking abrading shall include all labor, materials, and equipment required to abrade the existing pavement markings and to properly control traffic to the satisfaction of the engineer or agency authorized individual

8.13.4 Special Note: Work Zone Intrusion Initiative

As part of the Department of Transportation's Work Zone Intrusion Initiative, the following countermeasures shall apply to this Contract Award Notification.

Channelizing Device Spacing Reduction

A maximum channelizing device spacing of 40 feet shall be provided at stationary work sites where workers are exposed to traffic. This spacing shall be maintained a reasonable distance upstream of workers, and shall be used throughout the work zone.

Where tapers are located less than 500 feet from the work site, the 40 foot spacing shall be used in the taper as well. Drums or vertical panels are preferred for long-term stationary and intermediate-term stationary work zones, and at any locations where the risk of intrusion is high. Traffic cones are normally adequate for work zones set up and removed on a daily basis.

In long lane or shoulder closures, at least two channelizing devices shall be placed transversely at maximum 800 foot intervals to discourage traffic from driving through the closed lane. **Transversely placed devices are not required where pilot cars are in use.**

Frequent checks shall be made to reset channelizing devices dislodged by traffic.

Flagger Station Enhanced Setups

Additional cones and a flag tree meeting section 6F.62 of the MUTCD shall be used upstream of flagger stations to provide added warning to drivers. These devices shall be used for flagger stations except those that are constantly moving or are in use at one location for no more than a few minutes. If the W20-7a Flagger sign is required, the additional cones and flag tree shall also be used.

For additional details on Flagger Station Enhanced Setups, see the NYSDOT Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

8.14 Detailed Specifications – Chip Seal

Please, see Attachment "Detailed Specifications – Liquid Bituminous Materials"

SECTION 9: GROUP - COLD RECYCLING

9.1 Introduction

Cold Recycling of bituminous concrete pavements is a corrective maintenance technique. The existing pavement is milled off for a depth of 3 to 4 inches, a liquid bituminous material is added to the millings, and the resulting mixture is placed and compacted on the milled surface. A new bituminous concrete sealing layer is added later. Existing cracks are eliminated and the resulting pavement should last for many years.

9.2 Pricing Information

9.2.1 General

Clause 24B of Appendix B, the General Specifications has been modified to include the following:

Price quoted shall be to three (3) decimal places.

Price quoted shall be FOB the Contractor's location per square yard for the Cold Recycling, at the project site for the additional cost for small and/or short projects and for the shoulder milling, FOB the Contractor's location per gallon for the liquid bituminous material (without or with additive) for cold recycling and for fog sealing (if required) and delivered to the location specified by the State or using agency per ton for the aggregate.

Cold Recycling shall be performed in accordance with NYSDOT's Standard Specifications and as per the attached specification for Cold Recycling. Shoulder milling shall be performed as per these specifications. Cleaning and preparing the existing pavement will be the responsibility of the purchasing agency. Erecting warning signs and directing traffic will be the responsibility of the purchasing agency or the Contractor using the optional work zone traffic control section at the discretion of the purchasing agency.

Price quoted for Optional Work Zone Traffic Control shall be per square yard of recycling.

Price quoted for additional flaggers (if required) shall be net per day (to the nearest quarter day) for additional flaggers.

Price quoted for rumble strips (if required) shall be net per each linear foot of rumble strips both installed and removed (i.e., one price includes both installation and removal of rumble strips) at the project locations.

Price quoted for optional pilot vehicles with drivers (if required) shall be net per day (to the nearest quarter day) for each pilot vehicle with driver.

Price quoted for mobilization from Contractor's location to project location shall be net per square yard of accepted cold recycling performed at the locations indicated by the customer/purchasing agency.

Price quoted for heating, hauling and applying the asphalt emulsion (without or with additive) or PG Binder used in cold recycling and asphalt emulsion used in fog sealing (if required) from Contractor's location to project location shall be net per gallon of asphalt emulsion or PG Binder used in cold recycling and fog sealing.

Price additional for small projects or projects recycled in short lengths: Price for small projects (less than 20,000 square yards) or projects where 50% of the total area must be recycled in lengths less than 1,500 feet shall be the price for 20,000 square yards to 50,000 square yards for the appropriate depth. An additional price for small projects or projects where 50% of the total area must be recycled in lengths less than 1,500 feet shall be quoted and added to this price.

9.2.2 Insurance

Price includes the following insurance coverage costs. In particular, price includes:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment "Insurance Requirements" for detailed insurance requirements.)

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

OCP requirements should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

9.3 Asphalt Price Adjustments

9.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the “Adjustment Date”, during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.
- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

Price Adjustment (per gallon)	=	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black; padding: 5px;">New Monthly Average FOB Terminal Price</td> <td style="width: 5%; padding: 5px;">-</td> <td style="width: 45%; border-bottom: 1px solid black; padding: 5px;">Base Average Terminal Price</td> </tr> <tr> <td colspan="3" style="padding: 5px;">235</td> </tr> </table>	New Monthly Average FOB Terminal Price	-	Base Average Terminal Price	235			X	Total Allowable Petroleum %
New Monthly Average FOB Terminal Price	-	Base Average Terminal Price								
235										

Positive Price Adjustment number shall be added to original per gallon Price.
 Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Material Designation	Grade	Asphalt %	Petroleum Allowance %	Total Allowable Petroleum %
702-3201	MS-2	65.0	8.2	73.2%
702-3301	HFMS-2	65.0	8.2	73.2%
702-3401	HFMS-2h	65.0	2.7	67.7%
702-3402	HFMS-2s	65.0	8.2	73.2%
702-3501	SS-1	65.0	0.2	65.2%
702-3601	SS-1h	65.0	0.2	65.2%
702-4201	CMS-2	65.0	10.2	75.2%
702-4301	CMS-2h	65.0	10.2	75.2%
702-4401	CSS-1	65.0	0.2	65.2%
702-4501	CSS-1h	65.0	0.2	65.2%
	PG 64-22	100.0	0.2	100.2%

Note: For Material Designation 702-XXXXT Straight Tack Coat, use Total Allowable Petroleum % for appropriate emulsion grade

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.010 per gallon from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from the Invitation for Bids.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

9.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item 702.3301

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 73.2%

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

Price Adjustment (per gallon)	=	$\frac{(603.000 - 593.000)}{235}$	X	0.732
----------------------------------	---	-----------------------------------	---	-------

Price Adjustment (per gallon)	=	+\$0.031 per gallon
----------------------------------	---	---------------------

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

9.4 Minimum Project Size

The minimum project size for Cold Recycling under this contract without an extra charge shall be 20,000 square yards. This is approximately 1.7 miles of two lane highway at 20 feet wide. A quantity/price change occurs at 50,000 square yards, which is approximately 4.2 miles of a 2-lane highway at 20 feet wide.

The minimum width of shoulder milling shall be 2 feet. The minimum quantity of shoulder milling shall be 4,000 square yards. A quantity/price change occurs at 20,000 square yards.

An additional cost, bid by the Contractor, shall be assessed per square yard for projects less than 20,000 square yards or on any projects where more than 50% of the total area (square yards) must be recycled in short lengths (less than 1,500 feet in length).

9.5 Delivery Ticket

A delivery ticket shall be provided with each load of bituminous asphalt emulsions stating the following:

1. Storage facility identification
2. Ticket Number
3. Date/time
4. Item Number and Type
5. Quantity ticket printed by machine
6. Quantity in 60° F gallons for emulsions.

9.6 Payment

Payment for Cold Recycling of Asphalt Concrete shall be made at the contract price per unit for the actual number of square yards of recycling at 3 inches or 4 inches deep, the actual number of square yards of shoulder milling (and disposal if required) at 3 inches or 4 inches deep, the actual number of tons of aggregate, the actual number of gallons of asphalt emulsion (without or with additive) at 60°F, the actual number of gallons of PG binder and the actual number of gallons of fog seal verified by the receiving agency used in the accepted portion of the work. The determination as to quantities involved in any contract shall be accepted as final and binding upon the vendor.

If the engineer or agency authorized individual orders the Contractor to spread the recycled mixture over a wider area than the milled area, the Contractor shall be due extra compensation for the non-milled area. The actual number of square yards not milled but covered by recycled material shall be measured in square yards and payment for that area shall be computed at 50 percent of the price for recycling plus mobilization.

If the agency orders the Contractor to recycle a project less than 20,000 square yards in area or a project where the total area to be recycled must be recycled in short lengths (less than 1,500 feet in length) the Contractor shall be paid the amount per square yard for small projects and/or short projects for the actual number of square yards of accepted Cold Recycling. If the project is both small (less than 20,000 square yards) and also must be recycled in short lengths (less than 1,500 feet in length) then only one additional payment for small and/or short lengths projects shall be made. If the project is small or must be recycled in short lengths, payment for the Cold Recycling itself shall be made per square yard of accepted Cold Recycling at

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

the price for 20,000 square yards to 50,000 square yards for the appropriate depth. Even if the project is both small and has short segments, only one surcharge per square yard shall be paid.

A delivery slip stating quantities of asphalt emulsions (with or without additive) or PG Binder for cold recycling and asphalt emulsions for fog sealing (if required) shall accompany each shipment. An invoice listing the quantities of Cold Recycling, asphalt emulsions (without or with additive) or PG Binder, fog sealing (if required), and aggregate shall be sent promptly by the Contractor to the engineer or agency authorized individual.

No separate payment will be made for the use of water in the mixing process. Any work required for the maintenance and repair of the Cold Recycling by the Contractor during the ten day curing period and for an additional twenty days thereafter shall be done at the Contractor's expense.

Payment for optional work zone traffic control (if required) will be made based on the number of square yards of completed recycling. Payment for additional flaggers (if required) will be made based on the number of days (computed to the nearest quarter day) that additional flaggers are utilized as directed by the engineer or agency authorized individual.

Payment for rumble strips (if required) will be based on the number of linear feet of rumble strips that are actually installed and removed as per the specifications included herein.

Payment for optional pilot vehicles with drivers will be made based on the number of days (computed to the nearest quarter day) that optional pilot vehicles with drivers are utilized as directed by the engineer or agency authorized individual.

The price per unit arrived at (mutually estimated) by the Contractor and the using agency on the Price Calculation Worksheet or the price per unit resultant from the quick quote process (whichever is applicable) shall be the price per unit paid to the Contractor. The quantity of asphalt emulsions (without or with additive) or PG Binder per square yard for Cold Recycling and asphalt emulsions used for fog sealing shall be considered binding upon the Contractor.

9.7 Pre-Recycling Conference

The Contractor shall schedule a Pre-Recycling Conference with the affected resident engineer or agency authorized individual after the acceptance of the mix design by the State and at least one week prior to the start of the recycling. Project-level supervisors for both the owner agency and the Contractor will be present at this conference. At this conference the Contractor shall present Certificates of Insurance evidencing compliance with the additional insurance requirements, their proposed recycling schedule, procedure and Traffic Control Plan (if applicable) to the State or other agency for approval. Prior to the start of recycling, the Contractor shall coordinate the details of the recycling with the resident engineer or agency authorized individual.

9.8 Supervision

The Department of Transportation or agency authorized individual shall provide supervision for the Cold Recycling operation. The resident engineer or agency authorized individual shall designate a recycling supervisor and that person shall be in responsible charge of the operation. The following portions of Section 105 - CONTROL OF WORK of the Standard Specifications shall apply to these projects: 105-01 STOPPING WORK, 105-08 COOPERATION BY THE CONTRACTOR, 105-15 CONTRACTOR'S RESPONSIBILITY FOR WORK.

9.9 Work Hours

Work will not be permitted on Sundays and Holidays. If the Contractor desires to work overtime on other days, dispensation from the NYS Labor Department must be obtained using Department of Labor Form PW-30 (5/93).

9.10 Mix Design

Cold recycling mix designs may be developed by two different methods under this contract. The first method will require that the owner agency will core the pavement and prepare the mix design. The agency will specify the amount and type of added aggregate and the Contractor will be responsible for specifying the type and amount of asphalt emulsion (without or with additive) or PG Binder to properly recycle the pavement. The Contractor will also specify the amount of asphalt emulsion required for fog sealing.

The second method will require that the Contractor will core the pavement and complete the entire mix design.

After a Contractor receives a verbal or written request for a mix design for a specific pavement section from the State, the Contractor must supply a mix design for approval to the Director, Materials Bureau within 15 workdays unless additional time is granted by the resident engineer. Copies shall be sent by facsimile to the resident engineer and the Director, Materials Bureau.

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

The telephone numbers for the various facsimile machines shall be supplied to the Contractor by the resident engineer. Core holes drilled by the Contractor to derive information for a mix design must be filled the day drilled with cold mix bituminous concrete approved by the resident engineer. Traffic control for the coring operation shall be performed by the Contractor with prior approval of the lane closure scheme by the resident engineer.

After a Contractor receives a verbal or written request for a mix design for a specific pavement section from an agency other than the State, the Contractor must supply a mix design for approval to the agency authorized individual within 15 workdays unless additional time is granted by the agency authorized individual. Copies shall be sent by facsimile to the agency authorized individual or their designee. The telephone numbers for the various facsimile machines shall be supplied to the Contractor by the agency authorized individual. Core holes drilled by the Contractor to derive information for a mix design must be filled the day drilled with cold mix bituminous concrete approved by the agency authorized individual. Traffic control for the coring operation shall be performed by the Contractor with prior approval of the lane closure scheme by the agency authorized individual.

9.11 Coring by the Contractor for Non NYSDOT Projects

If the Contractor is responsible for the mix design this section will apply. Use 6 inch diameter cores to determine the asphalt content and aggregate gradation of the pavement to be recycled. The agency authorized representative will designate the locations from which the cores will be taken. One location will be designated for each lane mile of pavement with a minimum of six cores for each mix design. Core locations should be uniformly spaced along the length of the project and designated in alternating lanes.

If shoulders are included in the reclaimed material, take a minimum of six additional cores from the shoulders for the mix design. If the pavement or shoulder condition, such as material type or overlay history, changes at some point in the project a separate mixture design will be generated using a separate set of core locations. Follow the same coring and design procedures for each additional mixture design.

The agency authorized representative will approve the plan for work zone traffic control before any coring takes place. Take all pavement cores from the center of the lane within 10 feet of the location marked by the agency authorized representative. Take all shoulder cores within 2 feet of the outer edge of the shoulder and 10 feet of the location marked by the agency authorized representative.

Submit a completed mixture design form to the agency authorized representative for approval. In addition to the information required on the design form, provide the following information:

1. Core locations.
2. Depth of asphalt pavement at each core location.
3. Aggregate gradation and asphalt content of each core from the portion of the core representing the pavement to be recycled. List pavement cores separately from shoulder cores.
4. Average of all gradation and asphalt content results. When the design contains both pavement and shoulder cores, weight the average appropriately to reflect the proper proportion of shoulder material and pavement material to be recycled.
5. Gradation of additional aggregate.
6. The combined gradation of the average core gradation and the additional aggregate.
7. Graph showing the average core gradation, combined gradation, and the mix design control limits plotted on a graph of percent passing v. sieve size raised to the 0.45 power.
8. Completed Price Calculation Worksheet (if necessary).

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

9.12 Shoulder Milling

If the engineer or agency-authorized representative orders the Contractor to mill out unsuitable material from the shoulders, the Contractor shall do so in compliance with this section. Material shall be removed from shoulders (a minimum of 2 feet in width) by suitable milling machines and removed from the project site by the Contractor or by the state or purchasing agency. When removal and disposal by the Contractor is specified, the Contractor shall be required to remove and dispose of the material at their own expense. When removal and disposal by the State or purchasing agency is specified, the Contractor shall load the material into State or purchasing agency trucks for disposal. Shoulder milling shall be 3 inches or 4 inches deep as specified by the engineer or agency authorized individual. The resulting surface of shoulder milling shall be in reasonably close conformity with the grades and cross slopes of the shoulder as originally constructed, except for the elevation change.

9.13 Restoration of Disturbed Areas

During the course of the work the Contractor shall take reasonable care not to disturb areas outside the existing pavement. Any areas disturbed by the Contractor shall be returned to their original condition at no expense to the owner. Any and all debris generated as part of the work shall be removed by the Contractor upon completion of the project.

9.14 Optional Work Zone Traffic Control

The Contractor shall submit a per square yard price for work zone traffic control as prescribed by this specification. When requesting mix designs from the Contractors, the purchasing agency may, at their option, include work zone traffic control by the Contractor for the specific project anticipated.

If optional work zone traffic control is included in the mix design request, the Contractor shall be responsible for traffic control. Traffic shall be controlled in accordance with Sections 619-1 through 619-3 of the Standard Specifications, the Manual of Uniform Traffic Control Devices (MUTCD), and as described herein including modifications to the Standard Specifications. The Contractor shall submit a Traffic Control Plan for approval to the resident engineer or agency authorized individual at the Pre-Recycling Conference. Figures TAST-C1R, TAST-C2R, TAST-C3R, TAST-C4R, TAST-C5R, TAST-C1UL, TAST-C2UL, TAST-C3UL, and TAST-C4U (see the NYSDOT Work Zone Traffic Control Drawings included in the Contract Award Notification as an attachment) may be used as a basis for development of a Work Zone Traffic Control Plan. All necessary flaggers for traffic control shall be provided by the Contractor. A minimum of three flaggers shall be provided while the recycling operation is underway. One shall be stationed at each end of the operation and one shall be stationed with the milling machine/paver. The Contractor shall station flaggers such that communication is maintained between the flaggers. Hand signals, radios, pilot vehicles, or some other means of communication may be used subject to the approval of the resident engineer or agency authorized individual.

The Contractor shall provide construction signs as specified in Section 619-1 through 619-3 of the Standard Specifications and in the MUTCD. At a minimum the Contractor shall install the following permanent construction signs:

SIGN	MINIMUM SIZE	LOCATION
ROAD WORK NEXT _____ MILES	<u>G20-1</u> Conventional 36" x 18" Freeways 48" x 24"	On main line upstream of project in each direction
END ROAD WORK	<u>G20-2</u> Conventional 36" x 18" Freeways 48" x 24"	On main line after end of project in each direction
ROAD WORK AHEAD	<u>W20-1</u> Conventional 36" x 36" Freeways 48" x 48"	On main line in advance of the affected highway segment in each direction and on major intersecting roads 300 -500 feet in advance of main line. Sign should be covered if it conflicts with temporary signing in the vicinity.(Place between the G20-1 and the first warning sign that states condition- i.e. W8-12, W8-9 or W8-15)

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

SIGN	MINIMUM SIZE	LOCATION
DO NOT PASS	<u>R4-1</u> Conventional 24" x 30"	If 2'x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign at or within 100 feet of the beginning of the unmarked area, second within 1,000 feet and subsequent signs, spaced every ½ mile along project in each direction
NO CENTER LINE	<u>W8-12</u> Conventional 36" x 36"	If 2'x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign in advance of the condition and the first "DO NOT PASS" sign: 300' urban is preferred (100' minimum), 500' rural is preferred (200' minimum). Place additional signs spaced every 2 miles on mainline in each direction and after every major intersecting road.
LOW SHOULDER	<u>W8-9</u> Conventional 36" x 36" Freeways 48" x 48"	Place on mainline spaced every 2 miles along project in each direction and after every major intersecting road until shoulder back-up is installed (if conditions warrant use, place between the W8-12 and R4-1, maintaining a minimum of 200' between signs for rural roads and 100' on urban. The W8-12 can be moved upstream to accommodate the required spacing.)
GROOVED PAVEMENT	<u>W8-15</u> Conventional 36" x 36" Freeways 48" x 48"	On any roadway 500 feet in advance of rebates milled under this contract, but not paved. Remove or cover after paving rebate.

**All signs should maintain an absolute minimum spacing of 200' rural or 100' urban. 500' is preferred on rural and 300' is preferred on urban. Double stacking of any of the above signs, or combination thereof, will NOT be permitted Major intersecting roads are defined as through State, County, Town, Village, or City roads. The Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD and meeting the requirements of Section 619 of the Standard Specifications for lane closures during work hours.

With prior permission of the State's Resident Engineer or political subdivisions representative, the Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD for the above referenced DO NOT PASS and NO CENTER LINE signs. Signs left active at night shall be rigid and reflectorized in accordance with the Standard Specifications. The Contractor shall be responsible for assuring that these signs will be in their upright, visible positions twenty-four hours a day, seven days a week **while if 2'x 4'temporary yellow markings are used instead of full barrier pavement markings.** Whenever traffic is permitted to use a travel lane and the adjacent shoulder is not brought up to grade, construction warning signs meeting the requirements of 6F.42 of the MUTCD sign shall be placed.

9.14.1 Special Note - Temporary Pavement Markings

The Contractor shall install and maintain temporary pavement markings on any paved surface without permanent pavement markings before opening it to traffic, before nightfall or before the end of the work day, whichever comes soonest except for areas that are open during the work shift with channelizing devices or flaggers. Temporary pavement markings shall meet the requirements of Section 619 of the Standard Specifications except that two-lane, two-way highways may be left without full barrier centerlines in no passing zones for a maximum of 7 calendar days provided that NO CENTER LINE (W8-12, black on orange), NO PASSING ZONE (W14-3, black on orange pennant shaped sign), and DO NOT PASS (R4-1) signs are used consistent with the MUTCD and in conjunction with yellow 2 foot by 4 inch temporary markings consisting of retro-reflective removable pavement marking tape, paint or yellow temporary overlay markers installed on a 40 ft. cycle to delineate the centerline location.

The State or political sub division is responsible for the final pavement markings unless otherwise indicated in the contract. If the Contractor chooses to install NO CENTER LINE and DO NOT PASS signs and temporary yellow 2 foot by 4 inch pavement markings in lieu of full barrier centerline markings, the signs shall be left in place until the state or political subdivision has completed installing the final pavement markings. The state or political sub division will normally complete final pavement markings within 7 days of the project completion.

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

However, if unavoidable situations delay the pavement marking installation the signs shall remain in place for 14 calendar days after the project has been completed or until the state has completed installing the final pavement markings, whichever comes first. If permanent pavement marking cannot be installed within 14 days of the project completion, state or political subdivision must install interim pavement marking including center lines, edge lines, stop bars, and simple crosswalks with no hatching before the end of 14 days after project completion. All costs for Work Zone Traffic Control including flagging, temporary pavement markings, delineation, and construction signs are to be included in the prices per square yard for optional work zone traffic control. No separate payment shall be made.

9.14.2 Additional Flaggers for Work Zone Traffic Control

If the engineer or agency authorized individual determines that more than 3 flaggers are necessary to properly control traffic on two-way roadways or more than 2 flaggers are necessary to properly control traffic on one-way roadways and the Contractor is responsible for Work Zone Traffic Control under this Contract Award Notification, the Contractor shall provide additional flaggers under the Additional Flaggers item. The price per flagger per day shall include all costs of providing a flagger where directed by the engineer or agency authorized individual with all the necessary safety equipment, i.e., stop/slow paddle, flag, vest, hardhat, etc. Payment shall be by the day for each flagger provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight-hour workday. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

9.14.3 Pilot Vehicles with Drivers

The Contractor shall provide sufficient two-way radio equipped pilot vehicles with drivers to guide traffic around the Cold Recycling work zone at a maximum of 20 miles per hour. Payment shall be by the day for each pilot vehicle with driver provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight-hour workday. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual. The pilot vehicle(s) shall be equipped with construction signs meeting the requirements of Section 6F.58 of the MUTCD and a rotating amber beacon:

SIGN	MINIMUM SIZE	LOCATION
PILOT CAR FOLLOW ME	G20-4 36" X 18"	ON BACK OF PILOT VEHICLES.

The pilot vehicle shall have the name of the Contractor prominently displayed.

9.14.4 Work Zone Traffic Intrusion Initiative

(Attention - Special Note): As part of the Department of Transportation’s Work Zone Intrusion Initiative, the following countermeasures shall be applied to Cold Recycling Projects in this Contract Award Notification if the Contractor is responsible for Optional Work Zone Traffic Control:

Channelizing Device Spacing Reduction

A maximum channelizing device spacing of 40 feet shall be provided at stationary work sites where workers are exposed to traffic. This spacing shall be maintained a reasonable distance upstream of workers, and shall be used throughout the work zone.

Where tapers are located less than 500 feet from the work site the 40-foot spacing shall be used in the taper as well. Drums or vertical panels are preferred for long-term and intermediate-term work zones, and at any locations where the risk of intrusion is high. Traffic cones are normally adequate for work zones set up and removed on a daily basis.

In long lane or shoulder closures, at least two channelizing devices shall be placed transversely at maximum 800 foot intervals to discourage traffic from driving through the closed lane. **Transversely placed devices are not required where pilot cars are in use.**

Frequent checks shall be made to reset channelizing devices dislodged by traffic.

Flagger Station Enhanced Setups

Additional cones and a flag tree meeting the requirements of Section 6F.62 of the MUTCD shall be used upstream of flagger stations to provide added warning to drivers. These devices shall be used for flagger stations except those

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

that are constantly moving or are in use at one location for no more than a few minutes. If the W20-7a Flagger sign is used, the additional cones and flag tree shall also be used.

For additional details on Flagger Station Enhanced Setups, see Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

Temporary Rumble Strips

a. Description

This work shall consist of the installation, maintenance and subsequent removal of temporary rumble strips in Cold Recycling work zones where indicated in the Contract Award Notification or as directed by the Engineer.

b. Materials

Rumble strips shall be either constructed in place from a raised strip of asphalt concrete or constructed in place with removable pavement marking tape. Raised removable tape rumble strips shall be formed by applying four layers of removable black non-reflectORIZED removable pavement marking tape. The tape shall be applied to a clean, dry pavement surface in accordance with the manufacturer's recommendations. The pavement surface shall be cleaned with compressed air just prior to application of the tape. Raised asphalt rumble strips shall be formed from asphalt concrete meeting the requirements of Hot Mix Asphalt Shim Course F9 or 9.5 F3 Top Course. Tack coat meeting the requirements of Materials Designation 702-XXXXT Asphalt Emulsion Diluted Tack Coat shall be used to adhere the rumble strip to the existing pavement. Temporary rumble strips shall be formed using a specially constructed rumble strip paver (drag box) pulled transversely across the pavement, or by hand placement between forms fixed to the pavement. If forms are used, they shall be removed prior to compaction of the asphalt mixture. Compaction shall be accomplished using a plate tamper or a static roller.

The roadway surface on which the rumble strips are to be attached shall be dry, free of surface

contaminants such as dust or oil, and shall be 45°F or greater unless otherwise authorized by the Engineer.

The pavement surface shall be cleaned with compressed air just prior to tack coating and subsequent installation of rumble strips.

Temporary rumble strips shall be placed in a succession of three 6 Strip Patterns according to the attached "Suggested Layout Details - Temporary Rumble Strips". Each strip shall be placed on 10 foot centers and traversing the full width of each travel lane. On curbed roadways, rumble strips shall end a minimum of 3 feet from the curb so as to not interfere with drainage. Rumble strips shall be between 6 inches and 9 inches in width and have a final compacted thickness of 0.4 inches + 0.1 inches.

Any raised rumble strips that fail to adhere to the pavement, or become damaged or flattened such that, in the opinion of the Engineer, they are no longer performing their intended function, shall be replaced or repaired by the Contractor to the satisfaction of the Engineer. Any associated damage to the pavement shall also be repaired by the Contractor to the satisfaction of the Engineer. These replacements or repairs shall be made at no additional expense to the Purchasing Agency.

When directed by the Engineer, (e.g., prior to the start of the winter plowing season), or prior to the placement of successive pavement courses, the Contractor shall completely remove the rumble strips from the pavement. Rumble strips shall be removed upon completion of work and concurrently with the removal of other temporary traffic control signs and devices. Any pavement that is damaged in the process of removing the rumble strips shall be repaired by the Contractor to the satisfaction of the Engineer at no additional expense to the Purchasing Agency.

c. Basis of Payment

All costs for the installation, maintenance and removal of temporary rumble strips are included in the price per linear foot of rumble strip.

d. Suggested Layout Details Drawing-- Temporary Rumble Strips

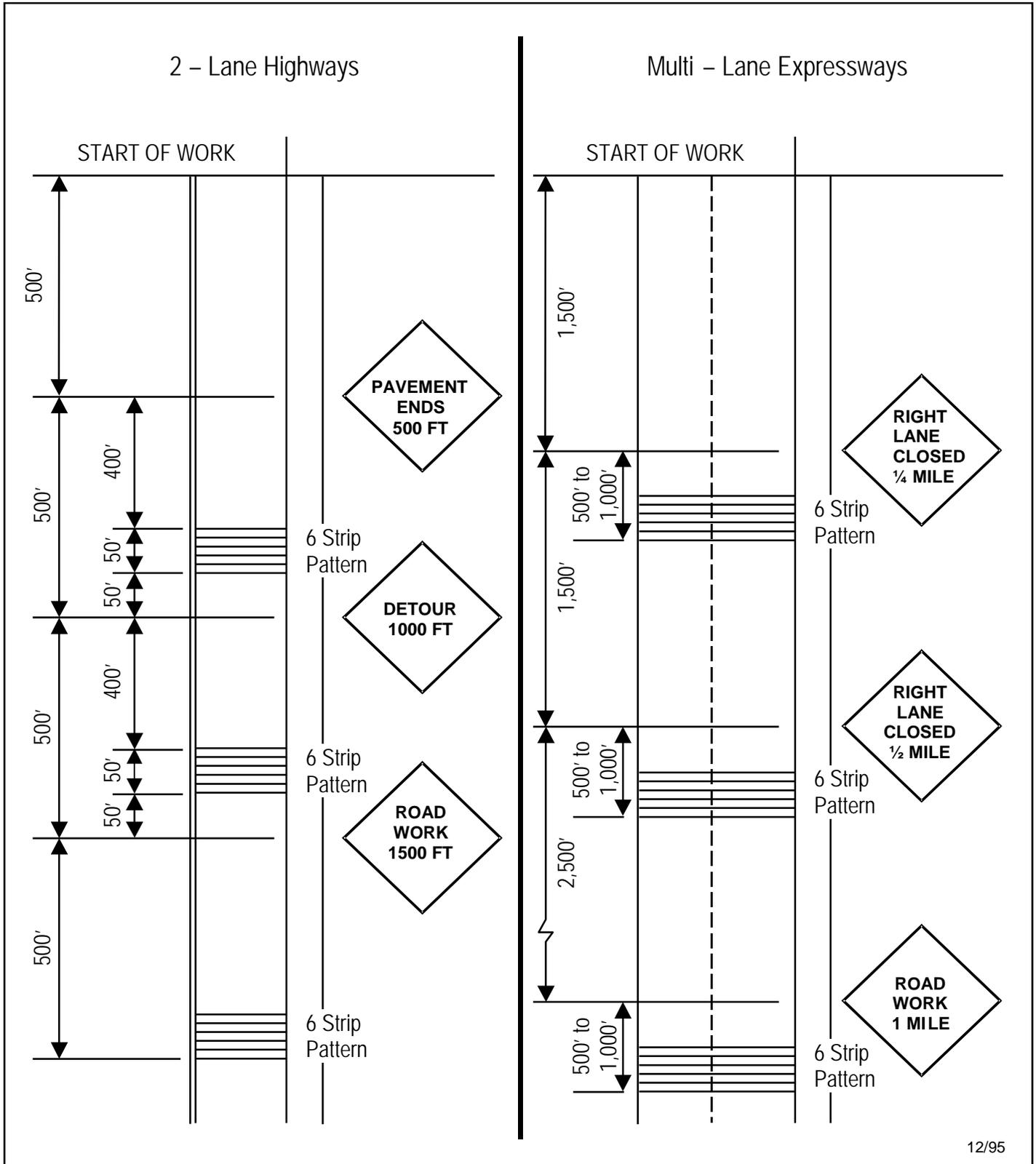
See the Suggested Layout Details Drawing in the next page.

9.15 Detailed Specifications – Cold Recycling Asphalt Concrete

Please, see Attachment "Detailed Specifications – Liquid Bituminous Materials"

SECTION 9: GROUP - COLD RECYCLING (Cont'd)

Suggested Layout Details -- Temporary Rumble Strips



SECTION 10: GROUP – HEATER SCARIFICATION

10.1 Introduction

Heater scarification is a continuous multi-step process in which the existing hot mix asphalt (HMA) pavement surface is recycled using specialized equipment. The HMA pavement surface is heated causing the asphalt to soften. The softened asphalt surface is then immediately scarified and milled to a specified depth. The reclaimed asphalt pavement is then mixed with a recycling agent that rejuvenates the asphalt. The recycled mix is then placed and compacted back onto the roadway. A new bituminous concrete sealing layer is added later. Existing cracks are eliminated and the resulting pavement should provide a longer life.

10.2 Pricing Information

10.2.1 General

Clause 24B of Appendix B, the General Specifications has been modified to include the following:

Price shall be to three (3) decimal places.

Price shall be FOB the contractor's location per square yard for the pavement heater scarified, and FOB the contractor's location per gallon for the recycling agent.

Heater scarification shall be performed in accordance with NYSDOT's Standard Specifications and as per the attached specification for Heater Scarification. **Cleaning and preparing the existing pavement will be the responsibility of the purchasing agency.** Erecting warning signs and directing traffic will be the responsibility of the purchasing agency or the contractor using the optional work zone traffic control section at the discretion of the purchasing agency.

Price for heating, hauling and applying the recycling agent from contractor's location to project location is net per gallon of recycling agent.

Price for mobilization from contractor's location to project location is net per square yard of accepted heater scarification performed at the locations indicated by the customer/purchasing agency.

Price for Optional Work Zone Traffic Control is per square yard of heater scarification.

Price for additional flaggers (if required) is net per day (to the nearest quarter day) for additional flaggers.

Price for optional pilot vehicles with drivers (if required) is net per day (to the nearest quarter day) for each pilot vehicle with driver.

10.2.2 Insurance

Price includes the following insurance coverage costs. In particular, price includes:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment "Insurance Requirements" for detailed insurance requirements.)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

OCP requirements should be reviewed carefully. (Please see Attachment "Insurance Requirements" for detailed insurance requirements.)

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

10.3 Asphalt Price Adjustments

10.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the “Adjustment Date”, during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.
- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

Price Adjustment (per gallon)	=	$\frac{\text{New Monthly Average FOB Terminal Price} - \text{Base Average Terminal Price}}{235}$	X	Total Allowable Petroleum %
----------------------------------	---	--	---	-----------------------------

Positive Price Adjustment number shall be added to original per gallon Price.
Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Item	Material Designation	Asphalt %	Petroleum Allowance %	Total Allowable Petroleum %
402.99010105	Recycling Agent	65.0	1.0	66.0%

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
 Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.010 per gallon from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from this bid opening.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

10.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item 702.3301

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 73.2%

Price Adjustment (per gallon)	=	$\frac{(603.000 - 593.000)}{235}$	X	0.732
----------------------------------	---	-----------------------------------	---	-------

Price Adjustment (per gallon)	=	+\$0.031 per gallon
----------------------------------	---	---------------------

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

10.4 Minimum Project Size

The minimum project size for Heater Scarification under this contract shall be 10,000 square yards. This is approximately 0.85 miles of two lane highway at 20 feet wide. First quantity/price change occurs at 20,000 which is approximately 1.7 miles of a 2-lane highway at 20 feet wide. A second quantity/price change occurs at 50,000 which is approximately 4.2 miles of a 2-lane highway at 20 feet wide.

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

10.5 Payment

Payment for Heater Scarification of Asphalt Concrete shall be made at the contract price per unit for the actual number of square yards of pavement heater scarified and the actual number of gallons of recycling agent at 60 degrees F verified by the receiving agency used in the accepted portion of the work. The determination as to quantities involved in any contract shall be accepted as final and binding upon the contractor.

A delivery slip stating quantities of recycling agent shall accompany each shipment. An invoice listing the quantities of heater scarification and recycling agent shall be sent promptly by the contractor to the engineer or agency authorized individual.

Payment for optional work zone traffic control (if required) will be made based on the number of square yards of completed recycling.

Payment for additional flaggers (if required) will be made based on the number of days (computed to the nearest quarter day) that additional flaggers are utilized as directed by the engineer or agency authorized individual.

Payment for optional pilot vehicles with drivers will be made based on the number of days (computed to the nearest quarter day) that optional pilot vehicles with drivers are utilized as directed by the engineer or agency authorized individual.

The price per unit arrived at (mutually estimated) by the contractor and the using agency on the Price Calculation Worksheet or the price per unit resultant from the quick quote process (whichever is applicable) shall be the price per unit paid to the contractor. The quantity of recycling agent shall be considered binding upon the contractor.

10.6 Payment for Mobilization from Contractor's Equipment Storage Facility to Project Location

Payment for mobilization from contractor's equipment storage facility shall be made based on the actual number of accepted square yards of heater scarification at the locations indicated by the State's Resident Engineer or political subdivision's representative at the contract price for mobilization from contractor's equipment storage facility to project location per square yard of heater scarification for the appropriate distance and quantity range.

10.7 Payment to Heat, Haul, and Apply Recycling Agent from Contractor's Bituminous Storage Facility to Project Location

Payment for heating, hauling and applying the recycling agent from contractor's bituminous storage facility to project location shall be made for actual number of gallons of recycling agent at 60 degrees F at the appropriate price for the actual distance to the project verified by the receiving agency and used in the accepted portion of the work.

10.8 Pre-Heater Scarification Conference

The contractor shall schedule a Pre-Heater Scarification Conference with the affected resident engineer or agency authorized individual after the acceptance of the contractor's quotation by the using agency and at least one week prior to the start of the heater scarification. Project-level supervisors for both the owner agency and the contractor will be present at this conference. At this conference the contractor shall present Certificates of Insurance evidencing compliance with the additional insurance requirements, their proposed heater scarification schedule, procedure and Traffic Control Plan (if applicable) to the State or other agency for approval. Prior to the start of heater scarification, the contractor shall coordinate the details of the heater scarification with the resident engineer or agency authorized individual.

10.9 Supervision

The Department of Transportation or agency authorized individual shall provide supervision for the heater scarification operation. The resident engineer or agency authorized individual shall designate a heater scarification supervisor and that person shall be in responsible charge of the operation. The following portions of Section 105 - CONTROL OF WORK of the Standard Specifications shall apply to these projects: 105-01 STOPPING WORK, 105-08 COOPERATION BY THE CONTRACTOR, 105-15 CONTRACTOR'S RESPONSIBILITY FOR WORK.

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

10.10 Work Hours

Work will not be permitted on Sundays and Holidays. If the Contractor desires to work overtime on other days, dispensation from the NYS Labor Department must be obtained using Department of Labor Form PW-30 (5/93).

10.11 Mix Design

The contractor will core the pavement and develop the entire mix design including specifying the amount of recycling agent to properly recycle the pavement.

10.11.1 Mix Design for State Agencies

After a contractor receives a verbal or written request for taking cores for mix design for a specific pavement section from the State, the contractor must supply a mix design for approval to the Director, Materials Bureau within 15 workdays unless additional time is granted by the resident engineer. Copies shall be sent by facsimile to the resident engineer and the Director, Materials Bureau. The telephone numbers for the various facsimile machines shall be supplied to the contractor by the resident engineer. Core holes drilled by the contractor to derive information for a mix design must be filled the day drilled with cold mix bituminous concrete approved by the resident engineer. Traffic control for the coring operation shall be performed by the contractor with prior approval of the lane closure scheme by the resident engineer.

10.11.2 Mix Design for Non-State Agencies

After a contractor receives a verbal or written request for taking cores for mix design for a specific pavement section from an agency other than the State, the contractor must supply a mix design for approval to the agency authorized individual within 15 workdays unless additional time is granted by the agency authorized individual. Copies shall be sent by facsimile to the agency authorized individual or their designee. The telephone numbers for the various facsimile machines shall be supplied to the contractor by the agency authorized individual. Core holes drilled by the contractor to derive information for a mix design must be filled the day drilled with cold mix bituminous concrete approved by the agency authorized individual. Traffic control for the coring operation shall be performed by the contractor with prior approval of the lane closure scheme by the agency authorized individual.

10.12 Restoration of Disturbed Areas

During the course of the work the Contractor shall take reasonable care not to disturb areas outside the existing pavement. Any areas disturbed by the Contractor shall be returned to their original condition at no expense to the owner. Any and all debris generated as part of the work shall be removed by the Contractor upon completion of the project.

10.13 Damaged or Deficient Areas

Prior to acceptance and payment for the heater scarification by the State or political subdivisions, any mixture that ravel, delaminates, streaks, fails to properly cure, or is in anyway defective shall be redone to the satisfaction of the resident engineer or agency authorized individual at the contractor's expense.

10.14 Optional Work Zone Traffic Control

The contractor shall submit a per square yard price for work zone traffic control as prescribed by this specification.

Contractor is responsible for work zone traffic control during coring operations with no additional cost to the state whether or not optional work zone traffic control is included in the quick quote form.

If optional work zone traffic control is included in quick quote form, the contractor shall be responsible for traffic control.

Traffic shall be controlled in accordance with Sections 619-1 through 619-3 of the Standard Specifications, the Manual of Uniform Traffic Control Devices (MUTCD), and as described herein including modifications to the Standard Specifications. The contractor shall submit a Traffic Control Plan for approval to the resident engineer or agency authorized individual at the Pre-Heater Scarification Conference. Figures TAST-C1R, TAST-C2R, TAST-C3R, TAST-C4R, TAST-C5R, TAST-C1UL, TAST-C2UL, TAST-C3UL, and TAST-C4U (see the NYSDOT Work Zone Traffic Control Drawings included in the Contract Award Notification as an attachment) may be used as a basis for development of a Work Zone Traffic Control Plan.

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

All necessary flaggers for traffic control shall be provided by the contractor. A minimum of three flaggers shall be provided while the recycling operation is underway. One shall be stationed at each end of the operation and one shall be stationed with the milling machine/paver. The contractor shall station flaggers such that communication is maintained between the flaggers. Hand signals, radios, pilot vehicles, or some other means of communication may be used subject to the approval of the resident engineer or agency authorized individual.

The contractor shall provide construction signs as specified in Section 619-1 through 619-3 of the Standard Specifications and in the MUTCD. At a minimum the contractor shall install the following permanent construction signs:

SIGN	MINIMUM SIZE	LOCATION
ROAD WORK NEXT _____ MILES	<u>G20-1</u> Conventional 36" x 18" Freeways 48" x 24"	On main line upstream of project in each direction
END ROAD WORK	<u>G20-2</u> Conventional 36" x 18" Freeways 48" x 24"	On main line after end of project in each direction
ROAD WORK AHEAD	<u>W20-1</u> Conventional 36" x 36" Freeways 48" x 48"	On main line in advance of the affected highway segment in each direction and on major intersecting roads 300 -500 feet in advance of main line. Sign should be covered if it conflicts with temporary signing in the vicinity. (Place between the G20-1 and the first warning sign that states condition- i.e. W8-12, W8-9 or W8-15)
DO NOT PASS	<u>R4-1</u> Conventional 24" x 30"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign at or within 100 feet of the beginning of the unmarked area, second within 1,000 feet and subsequent signs, spaced every ½ mile along project in each direction
NO CENTER LINE	<u>W8-12</u> Conventional 36" x 36"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign in advance of the condition and the first "DO NOT PASS" sign: 300' urban is preferred (100' minimum), 500' rural is preferred (200' minimum). Place additional signs spaced every 2 miles on mainline in each direction and after every major intersecting road.
LOW SHOULDER	<u>W8-9</u> Conventional 36" x 36" Freeways 48" x 48"	Place on mainline spaced every 2 miles along project in each direction and after every major intersecting road until shoulder back-up is installed (if conditions warrant use, place between the W8-12 and R4-1, maintaining a minimum of 200' between signs for rural roads and 100' on urban. The W8-12 can be moved upstream to accommodate the required spacing.)
GROOVED PAVEMENT	<u>W8-15</u> Conventional 36" x 36" Freeways 48" x 48"	On any roadway 500 feet in advance of rebates milled under this contract, but not paved. Remove or cover after paving rebate.

**All signs should maintain an absolute minimum spacing of 200' rural or 100' urban. 500' is preferred on rural and 300' is preferred on urban. Double stacking of any of the above signs, or combination thereof, will NOT be permitted.

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

Major intersecting roads are defined as through State, County, Town, Village, or City roads. The contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD and meeting the requirements of Section 619 of the Standard Specifications for lane closures during work hours.

With prior permission of the State's Resident Engineer or political subdivisions representative, the Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD for the above referenced DO NOT PASS and NO CENTER LINE signs. Signs left active at night shall be rigid and reflectorized in accordance with the Standard Specifications. The Contractor shall be responsible for assuring that these signs will be in their upright, visible positions twenty-four hours a day, seven days a week while if 2' x 4" temporary yellow markings are used instead of full barrier pavement markings.

10.14.1 Special Note - Temporary Pavement Markings

The Contractor shall install and maintain temporary pavement markings on any paved surface without permanent pavement markings before opening it to traffic, before nightfall or before the end of the work day, whichever comes soonest except for areas that are open during the work shift with channelizing devices or flaggers. Temporary pavement markings shall meet the requirements of Section 619 of the Standard Specifications except that two-lane, two-way highways may be left without full barrier centerlines in no passing zones for a maximum of 7 calendar days provided that NO CENTER LINE (W8-12, black on orange), NO PASSING ZONE (W14-3, black on orange pennant shaped sign), and DO NOT PASS (R4-1) signs are used consistent with the MUTCD and in conjunction with yellow 2 foot by 4 inch temporary markings consisting of retro-reflective removable pavement marking tape, paint or yellow temporary overlay markers installed on a 40 ft. cycle to delineate the centerline location.

The State or political sub division is responsible for the final pavement markings unless otherwise indicated in the contract. If the contractor chooses to install NO CENTER LINE and DO NOT PASS signs and temporary yellow 2 foot by 4 inch pavement markings in lieu of full barrier centerline markings, the signs shall be left in place until the state or political subdivision has completed installing the final pavement markings. The state or political sub division will normally complete final pavement markings within 7 days of the project completion. However, if unavoidable situations delay the pavement marking installation the signs shall remain in place for 14 calendar days after the project has been completed or until the state has completed installing the final pavement markings, whichever comes first. If permanent pavement marking cannot be installed within 14 days of the project completion, state or political subdivision must install interim pavement marking including center lines, edge lines, stop bars, and simple crosswalks with no hatching before the end of 14 days after project completion.

All costs for Work Zone Traffic Control including flagging, temporary pavement markings, delineation, and construction signs are to be included in the prices per square yard for optional work zone traffic control. No separate payment shall be made.

10.14.2 Additional Flaggers for Work Zone Traffic Control

If the engineer or agency authorized individual determines that more than 3 flaggers are necessary to properly control traffic on two-way roadways or more than 2 flaggers are necessary to properly control traffic on one-way roadways and the contractor is responsible for Work Zone Traffic Control under this Contract Award Notification, the contractor shall provide additional flaggers under the Additional Flaggers item. The price per flagger per day shall include all costs of providing a flagger where directed by the engineer or agency authorized individual with all the necessary safety equipment, i.e., stop/slow paddle, flag, vest, hardhat, etc. Payment shall be by the day for each flagger provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the contractor elects to work a longer day than the standard eight-hour workday. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

SECTION 10: GROUP – HEATER SCARIFICATION (Cont'd)

10.14.3 Pilot Vehicles with Drivers

The contractor shall provide sufficient two-way radio equipped pilot vehicles with drivers to guide traffic around the Heater Scarification work zone at a maximum of 20 miles per hour. Payment shall be by the day for each pilot vehicle with driver provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the contractor elects to work a longer day than the standard eight-hour workday. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual. The pilot vehicle(s) shall be equipped with construction signs meeting the requirements of Section 6F.58 of the MUTCD and a rotating amber beacon:

SIGN	MINIMUM SIZE	LOCATION
PILOT CAR FOLLOW ME	G20-4 36" X 18"	ON BACK OF PILOT VEHICLES.

The pilot vehicle shall have the name of the Contractor prominently displayed.

10.14.4 Work Zone Traffic Intrusion Initiative

(Attention - Special Note) As part of the Department of Transportation’s Work Zone Intrusion Initiative, the following countermeasures shall be applied to Heater Scarification Projects in this Contract Award Notification if the Contractor is responsible for Optional Work Zone Traffic Control:

Channelizing Device Spacing Reduction

A maximum channelizing device spacing of 40 feet shall be provided at stationary work sites where workers are exposed to traffic. This spacing shall be maintained a reasonable distance upstream of workers, and shall be used throughout the work zone.

Where tapers are located less than 500 feet from the work site the 40-foot spacing shall be used in the taper as well. Drums or vertical panels are preferred for long-term and intermediate-term work zones, and at any locations where the risk of intrusion is high. Traffic cones are normally adequate for work zones set up and removed on a daily basis.

In long lane or shoulder closures, at least two channelizing devices shall be placed transversely at maximum 800 foot intervals to discourage traffic from driving through the closed lane. **Transversely placed devices are not required where pilot cars are in use.**

Frequent checks shall be made to reset channelizing devices dislodged by traffic.

Flagger Station Enhanced Setups

Additional cones and a flag tree meeting the requirements of Section 6F.62 of the MUTCD shall be used upstream of flagger stations to provide added warning to drivers. These devices shall be used for flagger stations except those that are constantly moving or are in use at one location for no more than a few minutes. If the W20-7a Flagger sign is used, the additional cones and flag tree shall also be used.

For additional details on Flagger Station Enhanced Setups, see Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

10.15 Detailed Specifications – Heater Scarification

Please, see Attachment “Detailed Specifications – Liquid Bituminous Materials”

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER

11.1 Introduction

Joint and Crack Filler/Sealers are hot-poured liquid bituminous materials (rubberized asphalt; asphalt cement and polyester fibers; asphalt filler) used to fill and/or seal cracks in the surface of highway pavements. Some products incorporate recycled materials with up to 18% recycled content and up to 18% post-consumer content.

11.2 Pricing Information

11.2.1 General

Clause 24B of Appendix B, the General Specifications has been modified to include the following:

Price quoted shall be to three (3) decimal places.

Price quoted shall be net, F.O.B. per gallon or per linear foot for each material item, per 1/4 hour for excess time, per day per additional flagger, and per day per optional pilot vehicle with driver, as indicated in the Contract Award Notification. Price adjustments, if any, will be calculated on the basis of the material actually furnished.

The price (mile and gallon range) for a specific job will be calculated at the same rate. This rate will be determined by finding the one category which applies to the total miles and gallons per job.

For example, a job which is 21 miles from the plant will be calculated at the same rate per gallon for each mile (from 1 to 21) which is indicated in the 11-25 miles column herein, rather than on a cumulative basis. Similarly, a job which is 39 miles from the plant and requires 420 gallons over a two-day period will be calculated using the 26-50 miles column and the 151-300 gallons range since it is presumed that equal quantities are to be applied each day.

Option 1: (Per Gallon)

Heat, Haul, Deliver WITH Contractor's Operator to the locations in a hot oil heated, containerized, mobile tank. Traffic control and supervision to be supplied by purchasing agency.

Option 2: (Per Gallon)

Heat, Haul, Deliver WITHOUT Contractor's Operator to the locations in a hot oil heated, containerized, mobile tank. Traffic control and supervision to be supplied by purchasing agency.

Option 3: (Per Gallon) Traditional Overband Application Method

Heat, Haul, Deliver (in hot oil-heated, containerized, mobile tanks), and APPLY WITH Contractor's Operators who will operate equipment and apply material at the locations. Cleaning joints, traffic control and supervision are to be supplied by purchasing agency.

The use of this option is restricted. This option can only be used for filling shoulder joints between PCC pavement and HMA shoulder using fiber reinforced PG binder or hot applied sealant. Political subdivisions may use this option as a filler prior to an overlay.

Joints/cracks shall be overfilled by placing the applicator wand in or directly over the recess and carefully discharging the filler/sealer. Strike off the joint using a neoprene type "V" shaped squeegee or sealing shoe that is capable of conforming to the pavement surface. Form a film of material 4 inches wide and 1/16 to 1/8 inch thick, with tapered edges, centered over the joint. The distance between the filler/sealer applicator wand and the squeegee/sealing shoe shall not exceed 2 feet. Properly filled/sealed joints shall be watertight.

A low pressure, light spray of water may be used to accelerate cooling of the filler/sealer. Blotting the filler/sealer with fine aggregate is not allowed. Remove and dispose of filler/sealer that is in excess of the specified film dimensions or that has not bonded to both sides of the joint at the Contractor's expense.

Protect filled/sealed joints until the filler/sealer has cured sufficiently. Clean filled/sealed joints that become damaged with high pressure air and refill/reseal them to meet the specified film amount at no additional cost to the State.

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

Filler or sealant that becomes damaged from traffic or from the removal of over-applied amounts shall be repaired. The areas shall have additional filler or sealant applied, to the satisfaction of the Engineer or agency representative and at the Contractor's expense. Deficient areas where sealant has sunk into the joint/crack more than 3/8 inch below the pavement surface shall have additional filler or sealant installed to the satisfaction of the agency representative, at the price. Cleaning of damaged or deficient areas shall not require removal of the sealant from a crack that has been sealed.

Option 4: (Per Gallon) Traditional Overband Application Method

Heat, Haul, Deliver (in hot oil-heated, containerized, mobile tanks), and APPLY WITH Contractor's Operators who will operate equipment, clean cracks (using air compressor with minimum 125 cubic feet per minute), and apply material at the locations. Traffic control and supervision are to be supplied by purchasing agency or by the Contractor under the Optional Work Zone Traffic Control section of this Contract Award Notification.

The use of this option is restricted. This option can only be used for filling shoulder joints between PCC pavement and HMA shoulder using fiber reinforced PG binder or hot applied sealant. Political subdivisions may use this option as a filler prior to an overlay.

All cracks shall be thoroughly cleaned of dust, dirt, foreign material, sand and any other extraneous materials by high pressure air or a hot air lance. When using a hot air lance, care shall be taken so as not to burn, scorch or ignite the adjoining pavement. The material and debris shall be blown from the crack and pavement to prevent recontamination of the crack. The crack sides shall appear thoroughly clean and dry immediately prior to filling or sealing. Install suitable traps or devices on the compressed air equipment to prevent moisture and oil from contaminating the joint surfaces. Maintain these devices and see that they are functioning properly. The Contractor shall be ordered to reclean cracks if, in the opinion of the agency representative, adequate cleaning and drying is not evident. Any cracks not filled or sealed the same day shall be recleaned prior to filling or sealing.

Joints/cracks shall be overfilled by placing the applicator wand in or directly over the recess and carefully discharging the filler/sealer. Strike off the joint using a neoprene type "V" shaped squeegee or sealing shoe that is capable of conforming to the pavement surface. Form a film of material 4 inches wide and 1/16 to 1/8 inch thick, with tapered edges, centered over the joint. The distance between the filler/sealer applicator wand and the squeegee/sealing shoe shall not exceed 2 feet. Properly filled/sealed joints shall be watertight.

A low pressure, light spray of water may be used to accelerate cooling of the filler/sealer. Blotting the filler/sealer with fine aggregate is not allowed. Remove and dispose of filler/sealer that is in excess of the specified film dimensions or that has not bonded to both sides of the joint at the Contractor's expense.

Protect filled/sealed joints until the filler/sealer has cured sufficiently. Clean filled/sealed joints that become damaged with high pressure air and refill/reseal them to meet the specified film amount at no additional cost to the State.

Filler or sealant that becomes damaged from traffic or from the removal of over-applied amounts shall be repaired. The areas shall have additional filler or sealant applied, to the satisfaction of the Engineer or agency representative and at the Contractor's expense. Deficient areas where sealant has sunk into the joint/crack more than 3/8 inch below the pavement surface shall have additional filler or sealant installed to the satisfaction of the agency representative, at the price. Cleaning of damaged or deficient areas shall not require removal of the sealant from a crack that has been sealed.

Option 5: (Per Gallon) Strike-Off Flush Application Method - ASTM D6690 Type II only

Heat, Haul, Deliver (in hot oil-heated, containerized, mobile tanks), clean cracks (using air compressor with minimum 125 cubic feet per minute), and seal cracks at the locations. Contractor is to supply and operate all equipment, including that required to clean and seal cracks. Traffic control and supervision are to be supplied by purchasing agency or by the Contractor under the Optional Work Zone Traffic Control section of this Contract Award Notification.

Detailed specifications can be found elsewhere in this Contract Award Notification under CLEANING AND SEALING CRACKS IN HOT MIX ASPHALT PAVEMENT.

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

Option 6: (Per Linear Foot) Rout, Clean & Seal Application Method - ASTM D6690 Type II only

Heat, Haul, Deliver (in hot oil-heated, containerized, mobile tanks), rout, clean cracks (using air compressor with minimum 125 cubic feet per minute), and seal cracks at the locations. Contractor is to supply and operate all equipment, including that required to rout, clean and seal cracks. Traffic control and supervision are to be supplied by purchasing agency or by the Contractor under the Optional Work Zone Traffic Control section of this Contract Award Notification.

Detailed specifications can be found elsewhere in this Contract Award Notification under ROUTING, CLEANING AND SEALING CRACKS IN HOT MIX ASPHALT PAVEMENT USING HOT APPLIED SEALANT

Option 7: (Per Gallon)

Deliver 702-0700 Asphalt Filler in 100 pound cardboard containers. The minimum delivery quantity shall be one (1) ton.

Option 8: (Per Gallon)

Material price (Pick-up only)

Work Zone Traffic Control

Price quoted for Work Zone Traffic Control shall be net per gallon or linear foot as applicable.

Additional Flagger(s)

Price quoted for Additional Flagger(s) (if required) shall be net per day (to the nearest quarter day) for additional flagger(s).

Pilot Vehicle(s) With Driver(s)

Price quoted for Pilot Vehicle(s) with Driver(s) shall be net per day per vehicle with driver.

Time Rate

Price quoted for charge for time for each 15 minutes or portion thereof waiting time. Once work has commenced, no further time rate charge is allowed. Time Rate does not apply to material 702-0700.

Note: Price, with the exception of Option 8, must include material and delivery charges per options as indicated.

11.2.2 Insurance

Price shall include the following insurance coverage costs. In particular, price shall include:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

OCP requirements should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

11.3 Asphalt Price Adjustments

11.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the "Adjustment Date", during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.
- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

For Crack Sealing:

Price Adjustment (per gallon)	=	$\frac{\text{New Monthly Average FOB Terminal Price} - \text{Base Average Terminal Price}}{235}$	X	Total Allowable Petroleum %
----------------------------------	---	--	---	-----------------------------

For Routing, Cleaning and Sealing:

Price Adjustment (per linear foot)	=	$\frac{\text{New Monthly Average FOB Terminal Price} - \text{Base Average Terminal Price}}{14,400}$	X	Total Allowable Petroleum %
---------------------------------------	---	---	---	-----------------------------

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Material Designation	<u>Asphalt %</u>	<u>Petroleum Allowance %</u>	<u>Total Allowable Petroleum %</u>
PG 64-22 + Fiber	95.0	0.2	95.2%
702-0700	100.0	0.2	100.2%
ASTM D6690 Type II	56.0	0.2	56.2%
ASTM D6690 Type I	56.0	0.2	56.2%

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.010 per gallon or \$0.002 per linear foot from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from the Invitation for Bids.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

11.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item PG 64-22 + Fiber

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 95.2%

$$\begin{array}{|c|} \hline \text{Price Adjustment} \\ \text{Adjustment} \\ \text{(per gallon)} \\ \hline \end{array} = \frac{(603.000 - 593.000)}{235} \times \begin{array}{|c|} \hline 0.952 \\ \hline \end{array}$$

$$\begin{array}{|c|} \hline \text{Price Adjustment} \\ \text{Adjustment} \\ \text{(per gallon)} \\ \hline \end{array} = \begin{array}{|c|} \hline +\$0.040 \text{ per gallon} \\ \hline \end{array}$$

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

11.4 Required Qualifications

The Contractor must meet the following conditions:

1. The crack filler/sealer shall be obtained from an approved primary source. An approved primary source is a firm that samples, tests and certifies that the materials are in conformance with the NYSDOT materials specifications. Primary sources may be refineries, terminals, line-blend plants, intermediate storage facilities or other similar plants that sample, test and certify the materials.
2. The quantity of crack filler/sealer shall be measured by volume or weight using an accurate measuring device

11.5 Minimum Order

The absolute minimum order is 100 gallons for Material Grade Options 1-5 and 1,000 linear feet per day for Option 6.

11.6 Delivery Ticket

A delivery ticket shall be provided with each load of crack filler/sealer stating the following:

1. Storage facility identification
2. Ticket Number
3. Date/time
4. Item Number and Type
5. Quantity

NOTE: Although the delivery ticket for joint filler is not required to state the quantity delivered in 60° F gallons, payment will be made for 60° F gallons.

11.7 Payment

Payment shall be made at contract price per gallon, excess time rate, or linear foot for the actual quantities of crack filler/sealer furnished to and verified by the receiving agency. This determination as to quantities involved in any contract shall be accepted as final and binding upon the Contractor. A delivery slip stating quantities shall accompany each shipment. An invoice shall be sent promptly by the Contractor to the Engineer of the Region or to the State Agency placing the order. Measurement shall be based on the volume of crack filler/sealer at a temperature of 60° F. The method to be used for volume corrections shall be the method and coefficients of expansion given in the "Standard Petroleum Tables, A.S.T.M. D1250". The price per unit for other than "Specific Projects" arrived at (mutually estimated) by the Contractor and the using agency on the Price Calculation Worksheet or the price per unit resultant from the actual average daily production, whichever is less, shall be the price per unit paid to the Contractor. No additional payment shall be due the Contractor for production rates that are not equal to the rate upon which the calculation work sheet price was based.

11.8 Work Hours

Work will not be permitted on Sundays and Holidays. If the Contractor desires to work overtime on other days, dispensation from the NYS Labor Department must be obtained using Department of Labor Form PW-30 (5/93).

11.9 Optional Work Zone Traffic Control

The Contractor shall submit per gallon or per linear foot prices for Work Zone Traffic Control for the various options and quantity ranges as indicated as prescribed by this specification. When requesting price quotations from the Contractors, the purchasing agency may at their option, include Work Zone Traffic Control by the Contractor for the specific project anticipated.

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

If optional work zone traffic control is included in the project request, the Contractor shall be responsible for work zone traffic control. Traffic shall be controlled in accordance with Sections 619-1 through 619-3 of the Standard Specifications, the Manual of Uniform Traffic Control Devices (MUTCD) and as described herein including modifications to the Standard Specifications. The Contractor shall submit a Work Zone Traffic Control Plan for approval to the resident engineer or agency authorized individual. For two-way roadways, Figures TAST-C1R, TAST-C2R, TAST-C3R, TAST-C4R, TAST-C5R, TAST-C7R, TAST-C1UL, TAST-C2UL, TAST-C3UL, TAST-C4U, TAST-C7UL, TAST-C1UH, TAST-C2UH, TAST-C3UH, and TAST-C7UH (see the NYSDOT Work Zone Traffic Control Drawings included in the Contract Award Notification as an attachment) may be used as a basis for development of a Work Zone Traffic Control Plan. For one-way roadways, Figures TAST-C5UL, TAST-C6UL, TAST-C8UL, TAST-C5UH, TAST-C6UH, and TAST-C8UH may be used as a basis for development of a Work Zone Traffic Control Plan. For one-way Freeways or Expressways, Figures TAST-E1, TAST-E2, TAST-E3, TAST-E4, TAST-E5, TAST-E6, and TAST-E7 may be used as a basis for development of a Work Zone Traffic Control Plan.

All necessary flaggers for Work Zone Traffic Control shall be provided by the Contractor. For two-way roadways, a minimum of three flaggers shall be provided while the crack/joint sealing/filling operation is underway. One shall be stationed at each end of the operation and one shall be stationed with the crack sealant melting unit. For one-way roadways, a minimum of two flaggers shall be provided while the crack/joint sealing/filling operation is underway. One shall be stationed at the beginning of the operation and one shall be stationed with the operator. The Contractor shall station flaggers such that communication is maintained between flaggers. Hand signals, radios, pilot vehicles or some other means of communication may be used subject to the approval of the resident engineer or agency authorized individual. The Contractor shall provide construction signs as specified in Section 619-1 through 619-3 of the Standard Specifications and in the MUTCD. At a minimum the Contractor shall install the construction signs indicated in their Work Zone Traffic Control Plan or as shown on the Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

On major intersecting roads, the Contractor shall place ROAD WORK 500 FT. or ROAD WORK AHEAD signs (W20-1, 36" X 36") 300 to 500 feet in advance of the main line. Major intersecting roads are defined as State, County, Town, Village, or City roads. The Contractor may provide Portable signs as shown in Figure 6F-2 for lane closures during work hours. All costs for Work Zone Traffic Control including flagging, pavement delineation, and construction signs are to be included in the prices per gallon or per linear foot.

11.9.1 Additional Flaggers for Work Zone Traffic Control

If the engineer or agency authorized individual determines that more than three (3) flaggers are necessary to properly control traffic on two-way roadways or more than two (2) flaggers are necessary to properly control traffic on one-way roadways and the Contractor is responsible for Work Zone Traffic Control under this Contract Award Notification, the Contractor shall provide additional flaggers under the Additional Flaggers item. The price per flagger per day shall include all costs of providing a flagger where directed by the engineer or agency authorized individual with all the necessary safety equipment, i.e. stop/slow paddle, flag, vest, hardhat, etc. Price quoted shall be by the day for each flagger provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day (standard eight-hour day). No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight hour work day. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

11.9.2 Optional Pilot Vehicles with Drivers

If the Contractor is responsible for Work Zone Traffic Control and required by the engineer or agency authorized individual, the Contractor shall provide sufficient two-way radio equipped pilot vehicles with drivers to guide traffic around the crack sealing work zone at a maximum of 15 miles per hour. Price quoted shall be by the day for each pilot vehicle with driver provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day (standard eight-hour day). No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight hour work day. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

SECTION 11: GROUP - JOINT AND CRACK FILLER/SEALER (Cont'd)

The pilot vehicles shall be equipped with construction signs meeting the requirements of Section 6F.58 of the MUTCD and a rotating amber beacon:

Sign	Minimum Size	Location
PILOT CAR FOLLOW ME	G20-4 Conventional 36" x 18"	On the back of the pilot vehicle.

The pilot vehicle shall have the name of the Contractor prominently displayed.

11.9.3 Special Note: Work Zone Intrusion Initiative

As part of the Department of Transportation's Work Zone Intrusion Initiative, the following countermeasures shall apply to this Contract Award Notification:

Channelizing Device Spacing Reduction

A maximum channelizing device spacing of 40 feet shall be provided at stationary work sites where workers are exposed to traffic. This spacing shall be maintained a reasonable distance upstream of workers, and shall be used throughout the work zone.

Where tapers are located less than 500 feet from the work site the 40 foot spacing shall be used in the taper as well. Drums or vertical panels are preferred for long-term stationary and intermediate-term stationary work zones, and at any locations where the risk of intrusion is high. Traffic cones are normally adequate for work zones set up and removed on a daily basis.

In long lane or shoulder closures, at least two channelizing devices shall be placed transversely at maximum 800 foot intervals to discourage traffic from driving through the closed lane. **Transversely placed devices are not required where pilot cars are in use.**

Frequent checks shall be made to reset channelizing devices dislodged by traffic.

Flagger Station Enhanced Setups

Additional cones and a flag tree meeting section 6F.62 of the MUTCD shall be used upstream of flagger stations to provide added warning to drivers. These devices shall be used for flagger stations except those that are constantly moving or are in use at one location for no more than a few minutes. If the W20-7a Flagger sign is required, the additional cones and flag tree shall also be used.

For additional details on Flagger Station Enhanced Setups, see the NYSDOT Work Zone Traffic Control Drawings included in this Contract Award Notification as an attachment.

11.10 Detailed Specifications – Joint and Crack Filler/Sealer

Please, see Attachment "Detailed Specifications – Liquid Bituminous Materials"

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL

12.1 Introduction

Microsurfacing is a pavement preventive maintenance treatment which offers minor improvements to rideability and has excellent friction characteristics. Quick Set Slurry Seal is a pavement preventive maintenance treatment that offers minor improvements to rideability and has excellent friction characteristics for low volume roads.

12.2 Pricing Information

12.2.1 General

Clause 24B of Appendix B, the General Specifications has been modified to include the following:
Price quoted shall be to three (3) decimal places.

Price quoted with the exception of "Price Additionals" shall be net per ton furnished, hauled, delivered, and applied with Contractor's equipment at the locations indicated by the resident engineer, State Agency, or individual authorized by using agency and must include material costs. Microsurfacing shall be applied in accordance with NYSDOT's Standard Specifications and as per the attached specification for microsurfacing. Quick set slurry seal shall be applied in accordance with NYSDOT's Standard Specifications and as per the attached material specification for quick set slurry seal. Cleaning and preparing the existing pavement will be the responsibility of the purchasing agency. Erecting warning signs and directing traffic will be the responsibility of the purchasing agency or the Contractor using the optional Work Zone Traffic Control section at the discretion of the purchasing agency.

Price Additionals:

Optional Work Zone Traffic Control Outside of New York City and Nassau, Rockland and Westchester Counties

Price quoted for additional cost per ton for optional work zone traffic control shall be net per ton of completed microsurfacing and/or quick set slurry seal placed. This price shall include all costs to properly control traffic in accordance with these specifications.

Optional Work Zone Traffic Control within New York City and Nassau, Rockland and Westchester Counties

Price quoted for additional cost per ton for optional work zone traffic control in the five boroughs of New York City and the counties of Nassau, Rockland, Westchester and Suffolk shall be net per ton of completed microsurfacing and/or quick set slurry seal placed therein. This price shall include all costs to properly control traffic in accordance with these specifications. This price is an additional price (on top of the basic price for work zone traffic control) for work zone traffic control in the five boroughs of New York City and the counties of Nassau, Rockland, Westchester and Suffolk.

Night Work

Price quoted for additional cost per day of night work shall be net cost per day when directed by the Engineer or agency authorized individual.

Weekends

Price quoted for additional cost per day for Saturday and Sunday work, when directed by the resident engineer or individual authorized by using agency, shall be net per day for Saturday or Sunday work. When requested to work on Saturday and/or Sunday by the resident engineer or agency authorized individual, the Contractor shall be paid the price for Saturday and/or Sunday work, as appropriate. The price per day shall include the cost of all premium labor charges. The Contractor shall only be due the extra payment when work on Saturday and/or Sunday is in the best interest of the State or the using agency. Work done by the Contractor on Saturday and/or Sunday for their own convenience or to make up for rain outs shall not result in extra payment for Saturday and/or Sunday work.

Microsurfacing and/or Quick Set Slurry Seal within the Five Boroughs of New York City

Price quoted for additional cost per ton for microsurfacing and/or quick set slurry seal within the five boroughs of New York City shall be net per ton of completed microsurfacing and/or quick set slurry seal placed therein. This price is an additional price (on top of the basic price per ton of microsurfacing and/or quick set slurry seal) for microsurfacing and/or quick set slurry seal placed in the five boroughs of New York City.

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

Additional Flaggers

Price quoted for additional flaggers (if required) shall be net per day (to the nearest quarter day) for additional flaggers.

Pilot Vehicle with Driver

Price quoted for optional pilot vehicles with drivers (if required) shall be net per day (to the nearest quarter day) for each pilot vehicle with driver.

Additional Construction Signs

Price quoted for optional additional construction signs shall be net per square foot (including signs, sign supports, installation, and removal) of additional construction signs.

Abrading Existing Pavement Markings, Work Zone Traffic Control by Owner Agency

Price quoted for abrading the existing pavement markings by the Contractor, with work zone traffic control by the owner (if required) shall be net per linear foot at 4 inches wide of pavement markings actually abraded by the Contractor. This price shall include all costs for pavement marking abrading including all labor, materials, and equipment necessary to abrade the pavement markings.

Abrading Existing Pavement Markings, Work Zone Traffic Control by Contractor

Price quoted for abrading the existing pavement markings by the Contractor, with work zone traffic control by the Contractor (if required) shall be net per linear foot at 4 inches wide of pavement markings actually abraded by the Contractor. This price shall include all costs for pavement marking abrading including all labor, materials, and equipment necessary to abrade the pavement markings and all costs to properly control traffic.

Milling Recesses to Receive Pavement Markings, Work Zone Traffic Control by Owner Agency

Price quoted for milling recesses to receive pavement markings. Price shall be net per linear foot milled.

Milling Recesses to Receive Pavement Markings, Work Zone Traffic Control by Contractor

Price quoted for milling recesses to receive pavement markings. Price shall be net per linear foot milled.

Longitudinal Joint Repair

Price quoted for additional cost per ton for longitudinal joint repair shall be net per ton of microsurfacing placed.

Notes/Additional Information

The price (mile and ton range) for a specific job will be calculated at the same rate. The rate will be determined by finding the one category which applies to the total mile(s) and tons per job. For example, a job which is 15 miles from the plant will be calculated at the same rate per ton for each mile (from 11 to 25) which is indicated in the 11-25 miles column herein, rather than on a cumulative basis.

Similarly a job that has a total requirement of 450 tons and takes 3 days to complete would be calculated using the rate for 150 tons per day which is indicated in the 101-300 tons column since it would be presumed that equal quantities would be applied each day.

Contractors who did not bid a haul, deliver and apply price are not permitted under this award to offer haul and apply prices to agencies, political subdivisions, or others authorized by law to use Subject Award.

12.2.2 Insurance

Price includes the following insurance coverage costs. In particular, price includes:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

OCP requirements should be reviewed carefully. (Please see Attachment “Insurance Requirements” for detailed insurance requirements.)

12.3 Asphalt Price Adjustments

12.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the “Adjustment Date”, during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.
- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

Price Adjustment (Per Ton)	=	$\left(\begin{array}{c} \text{New Monthly Average} \\ \text{F.O.B. Terminal Price} \end{array} - \begin{array}{c} \text{Base Average F.O.B.} \\ \text{Terminal Price} \end{array} \right)$	X	Total Allowable Petroleum %
-------------------------------	---	---	---	-----------------------------------

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Item #	Material Designation	Asphalt %	Petroleum Allowance %	Total Allowable Petroleum %
18410.1011	Microsurfacing, Type II, F1	9.0	0.2	9.2
18410.1021	Microsurfacing, Type II, F2	9.0	0.2	9.2
18410.1031	Microsurfacing, Type II, F3	9.0	0.2	9.2
18410.1012	Microsurfacing, Type III, F1	7.5	0.2	7.7
18410.1022	Microsurfacing, Type III, F2	7.5	0.2	7.7
18410.1032	Microsurfacing, Type III, F3	7.5	0.2	7.7
18410.1013	Microsurfacing, Type III Rut Filling	7.5	0.2	7.7
18410.1011L	Microsurfacing Type II, F1	9.0	0.2	9.2
18410.1021L	Microsurfacing Type II, F2	9.0	0.2	9.2
18410.1031L	Microsurfacing Type II, F3	9.0	0.2	9.2
18410.1012L	Microsurfacing Type III, F1	7.5	0.2	7.7
18410.1022L	Microsurfacing Type III, F2	7.5	0.2	7.7
18410.1032L	Microsurfacing Type III, F3	7.5	0.2	7.7
18410.1013L	Microsurfacing Type III, Rut Filling	7.5	0.2	7.7
18410.2011	Quick-set Slurry, Type II	13.5	0.2	13.7
18410.2012	Quick-set Slurry, Type III	12.0	0.2	12.2

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.10 per ton from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from the Invitation for Bids.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

12.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item 18410.1011

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 9.2%

$$\begin{array}{|c|} \hline \text{Price} \\ \text{Adjustment} \\ \text{(per ton)} \\ \hline \end{array} = \begin{array}{|c|} \hline (603.000 - 593.000) \\ \hline \end{array} \times \begin{array}{|c|} \hline 0.092 \\ \hline \end{array}$$

$$\begin{array}{|c|} \hline \text{Price} \\ \text{Adjustment} \\ \text{(per ton)} \\ \hline \end{array} = \begin{array}{|c|} \hline +\$0.920 \text{ per ton} \\ \hline \end{array}$$

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

12.4 Delivery Ticket

A delivery ticket shall be provided with each load of bituminous asphalt emulsions stating the following:

1. Storage facility identification
2. Ticket Number
3. Date/time
4. Item Number and Type
5. Quantity ticket printed by machine
6. Quantity in 60° F gallons for emulsions

12.5 Payment

Payment for Micro-Surfacing Types II, and III, Quick Set Slurry Seal types II and III; and Rut Filling shall be made at the contract price per ton for the actual total number of tons of aggregate, mineral filler, and asphalt emulsion verified by the receiving agency used in the accepted portion of the work. An invoice shall be sent promptly by the Contractor to the resident engineer of the region or to the State Agency or to the political subdivision's representative placing the order. The price per unit arrived at (mutually estimated) by the Contractor and the using agency on the Price Calculation Worksheet or the price per unit resultant from the actual average daily production, whichever is less, shall be the price per unit paid to the Contractor. No additional payment shall be due to the Contractor for production rates that are not equal to the rate upon which the calculation work sheet price was based.

Payment for optional work zone traffic control (if required) will be made based on the number of tons of completed microsurfacing and/or quick set slurry seal for the applicable type of highway and quantity range. Payment for optional work zone traffic control in the five boroughs of New York City and the counties of Nassau, Rockland, Westchester and Suffolk (if required) will be made based on the number of tons of completed microsurfacing and/or quick set slurry seal for the applicable type of highway and quantity range. This payment is an additional payment (on top of the basic payment for work zone traffic control) for work zone traffic control therein.

Payment for night work will be based on the actual number of days (nights) worked at the direction of the resident engineer or agency authorized individual

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

Payment for work on Saturday and/or Sunday will be based on the actual number of days worked at the direction of the resident engineer or agency authorized individual.

Payment for microsurfacing and/or quick set slurry seal placed in the five boroughs of New York City will be made based on the actual number of tons of completed microsurfacing and/or quick set slurry seal placed therein. This payment is an additional payment (on top of the basic payment per ton of microsurfacing and/or quick set slurry seal) for microsurfacing and/or quick set slurry seal placed in the five boroughs of New York City.

Payment for additional flaggers (if required) will be made based on the number of days (computed to the nearest quarter day) that additional flaggers are utilized as directed by the engineer or agency authorized individual.

Payment for optional pilot vehicles with drivers will be made based on the number of days (computed to the nearest quarter day) that optional pilot vehicles with drivers are utilized as directed by the engineer or agency authorized individual.

Payment for optional additional construction signs will be made based on the number of square feet (computed to the nearest tenth of a square foot) of additional construction signs that are utilized as directed by the engineer or agency authorized individual.

Payment for abrading the existing pavement markings, with work zone traffic control by the owner agency (if required) will be made based on the number of linear feet at 4 inches wide of pavement markings actually abraded as directed by the engineer or agency authorized individual.

Payment for abrading the existing pavement markings, with work zone traffic control by the Contractor (if required), will be made based on the number of linear feet at 4 inches wide of pavement markings actually abraded as directed by the engineer or agency authorized individual. No separate payment will be made for work zone traffic control when this item is used.

Payment for milling recesses to receive pavement markings, with work zone traffic control by the owner agency (if required), will be made based on the number of linear feet milled as directed by the engineer or agency authorized individual.

Payment for milling recesses to receive pavement markings, with work zone traffic control by the Contractor (if required), will be made based on the number of linear feet milled as directed by the engineer or agency authorized individual. No separate payment will be made for work zone traffic control when this item is used.

Payment for longitudinal joint repair will be made based on the actual number of tons of microsurfacing placed for longitudinal joint repair. This payment is an additional payment on top of the basic payment for microsurfacing used for longitudinal joint repair.

12.6 Pre-Microsurfacing and/or Quick Set Slurry Seal Conference

The Contractor shall schedule a pre-microsurfacing and/or quick set slurry seal conference with the affected resident engineer or agency authorized individual after acceptance of the Contractor's quotation and at least one week prior to the start of the microsurfacing and/or quick set slurry seal. Project level supervisors for both the owner agency and the Contractor should be present at this conference. At this conference, the Contractor shall present their proposed microsurfacing and/or quick set slurry seal schedule (including design curing time), procedure, and Traffic Control Plan (if applicable) to the State (or using agency) for approval along with a copy of their letter of approval for their proposed microsurfacing and/or quick set slurry seal equipment. Prior to the start of microsurfacing and/or quick set slurry seal, the Contractor shall coordinate the details of the microsurfacing and/or quick set slurry seal with the resident engineer or agency authorized individual.

12.7 Supervision

The using agency shall provide supervision for the microsurfacing and/or quick set slurry seal. The resident engineer or agency authorized individual shall designate a microsurfacing and/or quick set slurry seal supervisor and that person shall be in responsible charge of the operation. The following portions of Section 105 – CONTROL OF WORK of the Standard Specifications shall apply to these projects: 105-01 STOPPING WORK, 106-08 COOPERATION BY THE CONTRACTOR, 105-15 CONTRACTOR'S RESPONSIBILITY FOR WORK.

12.8 Work Hours

Work will not be permitted on Sundays and Holidays unless ordered by the State's or political subdivision's representative. If the Contractor desires to work overtime on other days, dispensation from the NYS Labor Department must be obtained using Department of Labor Form PW-30 (5/93).

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

12.9 Construction Details

The construction details shall comply with the requirements specified in the enclosed DETAILED SPECIFICATION. The Contractor shall inform the microsurfacing and/or quick set slurry seal Supervisor of significant deviations from the specifications.

12.10 Restoration of Disturbed Areas

During the course of the work the Contractor shall take reasonable care not to disturb areas outside the existing pavement. Any areas disturbed by the Contractor shall be returned to their original condition at no expense to the owner. Any and all debris generated as part of the work shall be removed by the Contractor upon completion of the project.

12.11 Damaged or Deficient Areas

Prior to acceptance and payment for the microsurfacing and/or quick set slurry seal by the purchasing agency, any mixture that ravel, delaminates, streaks because of oversize stone, fails to properly cure, or is in anyway defective shall be redone to the satisfaction of the resident engineer or agency authorized individual at the Contractor's expense. After acceptance, the terms and conditions of the section of this Contract Award Notification entitled BONDING REQUIREMENTS, Section A, Item 1, Maintenance Material Bond shall control when the Contractor shall repair all defective microsurfacing. Bonding requirements pertain only to microsurfacing projects and not to quick set slurry seal projects.

12.12 Optional Work Zone Traffic Control

The Contractor shall submit per ton prices for work zone traffic control for the various options and quantity ranges as prescribed by this specification. When requesting price quotations from the Contractors, the purchasing agency may at their option, include work zone traffic control by the Contractor for the specific project anticipated.

If optional work zone traffic control is included in the project request, the Contractor shall be responsible for work zone traffic control. Traffic shall be controlled in accordance with Sections 619-1 through 619-3 of the Standard Specifications, the Manual of Uniform Traffic Control Devices (MUTCD), and as described herein **including modifications to the Standard Specifications**. The Contractor shall submit a Work Zone Traffic Control Plan for approval to the resident engineer or agency authorized individual at the Pre-Micro Surfacing and/or Quick Set Slurry Seal Conference. For two-way roadways, Figures TAST-C1R, TAST-C2R, TAST-C3R, TAST-C4R, TAST-C5R, TAST-C7R, TAST-C1UL, TAST-C2UL, TAST-C3UL, TAST-C4U, TAST-C7UL, TAST-C1UH, TAST-C2UH, TAST-C3UH, AND TAST-C7UH (see the NYSDOT Work Zone Traffic Control Drawings included in this Contract Award Notification as an attachment) may be used as a basis for development of a Work Zone Traffic Control Plan. For one-way roadways, Figures TAST-C5UL, TAST-C6UL, TAST-C8UL, TAST-C5UH, TAST-C6UH, and TAST-C8UH may be used as a basis for development of a Work Zone Traffic Control Plan. For one-way Freeways or Expressways, Figures TAST-E1, TAST-E2, TAST-E3, TAST-E4, TAST-E5, TAST-E6, and TAST-E7 may be used as a basis for development of a Work Zone Traffic Control Plan.

All necessary flaggers for work zone traffic control shall be provided by the Contractor. For two-way roadways, a minimum of three flaggers shall be provided while the microsurfacing and/or quick set slurry seal operation is underway. One shall be stationed at each end of the operation and one shall be stationed with the microsurfacing and/or quick set slurry seal machine. For one-way roadways, a minimum of two flaggers shall be provided while the microsurfacing and/or quick set slurry seal operation is underway. One shall be stationed at the beginning of the operation and one shall be stationed with the microsurfacing and/or quick set slurry seal machine. The Contractor shall station flaggers such that communication is maintained between the flaggers. Hand signals, radios, pilot vehicles, or some other means of communication may be used subject to the approval of the resident engineer or agency authorized individual.

The Contractor shall provide construction signs as specified in Section 619-1 through 619-3 of the Standard Specifications and in the MUTCD. At a minimum the Contractor shall install the following permanent construction signs supplemented by temporary signs as needed:

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

SIGN	MINIMUM SIZE	LOCATION
ROAD WORK NEXT _____ MILES	<u>G20-1</u> Conventional 36" x 18" Freeways 48" x 24"	On main line upstream of project in each direction
END ROAD WORK	<u>G20-2</u> Conventional 36" x 18" Freeways 48" x 24"	On main line after end of project in each direction
ROAD WORK AHEAD	<u>W20-1</u> Conventional 36" x 36" Freeways 48" x 48"	On main line in advance of the affected highway segment in each direction and on major intersecting roads 300 -500 feet in advance of main line. Sign should be covered if it conflicts with temporary signing in the vicinity. (Place between the G20-1 and the first warning sign that states condition- i.e. W8-12, W8-9 or W8-15)
DO NOT PASS	<u>R4-1</u> Conventional 24" x 30"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign at or within 100 feet of the beginning of the unmarked area, second within 1,000 feet and subsequent signs, spaced every ½ mile along project in each direction
NO CENTER LINE	<u>W8-12</u> Conventional 36" x 36"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign in advance of the condition and the first "DO NOT PASS" sign: 300' urban is preferred (100' minimum), 500' rural is preferred (200' minimum). Place additional signs spaced every 2 miles on mainline in each direction and after every major intersecting road.

**All signs should maintain an absolute minimum spacing of 200' rural or 100' urban. 500' is preferred on rural and 300' is preferred on urban. Double stacking of any of the above signs, or combination thereof, will NOT be permitted Major intersecting roads are defined as through State, County, Town, Village, or City roads. The Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD and meeting the requirements of Section 619 of the Standard Specifications for lane closures during work hours.

With prior permission of the State's Resident Engineer or political subdivisions representative, the Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD for the above referenced DO NOT PASS and NO CENTER LINE signs. Signs left active at night shall be rigid and reflectorized in accordance with the Standard Specifications. The Contractor shall be responsible for assuring that all signs will be in their upright, visible positions twenty-four hours a day, seven days a week while **2' x 4" temporary yellow markings are used instead of full barrier pavement markings.**

12.12.1 Special Note: Temporary Pavement Markings

The Contractor shall install and maintain temporary pavement markings on any paved surface without permanent pavement markings before opening it to traffic, before nightfall or before the end of the work day, whichever comes soonest except for areas that are open during the work shift with channelizing devices or flaggers. Temporary pavement markings shall meet the requirements of Section 619 of the Standard Specifications except that two-lane, two-way highways may be left without full barrier centerlines in no passing zones for a maximum of 7 calendar days provided that NO CENTER LINE (W8-12, black on orange), NO PASSING ZONE (W14-3, black on orange pennant shaped sign), and DO NOT PASS (R4-1) signs are used consistent with the MUTCD and in conjunction with yellow 2 foot by 4 inch temporary markings consisting of retro-reflective removable pavement marking tape, paint or yellow temporary overlay markers installed on a 40 ft. cycle to delineate the centerline location.

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

The State or political sub division is responsible for the final pavement markings unless otherwise indicated in the contract. If the Contractor chooses to install NO CENTER LINE and DO NOT PASS signs and temporary yellow 2 foot by 4 inch pavement markings in lieu of full barrier centerline markings, the signs shall be left in place until the state or political subdivision has completed installing the final pavement markings. The state or political sub division will normally complete final pavement markings within 7 days of the project completion. However, if unavoidable situations delay the pavement marking installation the signs shall remain in place for 14 calendar days after the project has been completed or until the state has completed installing the final pavement markings, whichever comes first. If permanent pavement marking cannot be installed within 14 days of the project completion, state or political subdivision must install interim pavement marking including center lines, edge lines, stop bars, and simple crosswalks with no hatching before the end of 14 days after project completion.

All costs for Work Zone Traffic Control including flagging, temporary pavement markings, delineation, and construction signs are to be included in the prices per ton for optional work zone traffic control. No separate payment shall be made.

12.12.2 Additional Flaggers for Work Zone Traffic Control

If the engineer or agency authorized individual determines that more than 3 flaggers are necessary to properly control traffic on two-way roadways or more than 2 flaggers are necessary to properly control traffic on one-way roadways and the Contractor is responsible for work zone traffic control under this Contract Award Notification, the Contractor shall provide additional flaggers under the Additional Flaggers item. The price per flagger per day shall include all costs of providing a flagger where directed by the engineer or agency-authorized individual with all the necessary safety equipment, i.e. stop/slow paddle, flag, vest, hardhat, etc. Payment shall be by the day for each flagger provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight hour work day. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual

12.12.3 Optional Pilot Vehicles with Drivers

If required by the engineer or agency authorized individual, the Contractor shall provide sufficient two-way radio equipped pilot vehicles with drivers to guide traffic around the microsurfacing and/or quick set slurry seal work zone at a maximum of 20 miles per hour. Payment shall be by the day for each pilot vehicle with driver provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight hour work day. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

The pilot vehicle(s) shall be equipped with construction signs meeting the requirements of Section 6F.58 of the MUTCD and a rotating amber beacon:

Sign	Minimum Size	Location
PILOT CAR FOLLOW ME	G20-4 Conventional 36" x 18"	On the back of the pilot vehicle.

The pilot vehicle shall have the name of the Contractor prominently displayed.

12.12.4 Optional Additional Construction Signs

If the engineer or agency authorized individual determines that more permanent construction signs are necessary than those called out under the Optional Work Zone Traffic Control section and the Contractor is responsible for work zone traffic control under this Contract Award Notification, the Contractor shall provide additional construction signs under the Optional Additional Construction Signs item. Optional Additional Construction Signs shall be as specified in Sections 619-1 through 619-3 of the Standard Specifications and/or in the MUTCD, or as specified by the engineer or agency authorized individual. The price per square foot shall include all costs of providing the signs as indicated by the engineer or agency authorized individual, the sign supports, installation and removal at locations ordered by the engineer or agency authorized individual. Payment shall be made by the square foot of construction sign face, computed to the nearest tenth of a square foot.

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

12.12.5 Abrading of Existing Pavement Markings with Work Zone Traffic Control by the Owner

If the Contractor, with the concurrence of the Resident Engineer or agency authorized individual, determines that it is necessary for the performance of the microsurfacing and/or quick set slurry seal, the Contractor shall abrade the existing pavement markings so that at least 75% of the glass beads in the existing pavement markings are removed. The method of abrading may include sand blasting, water blasting, grinding, or other method approved by the engineer or agency authorized individual. Care shall be taken to avoid damage to passing traffic. All damage to passing traffic caused by the Contractor's operations shall be the Contractor's responsibility. Traffic will be controlled by the owner.

Payment will be made by the linear foot of pavement marking 4 inches wide. Payment for pavement markings wider than 4 inches or for pavement marking symbols will be made by the following method:

$$\frac{\text{Width of marking (inches) x linear feet}}{4 \text{ inches}}$$

The price for pavement marking abrading shall include all labor, materials, and equipment required to abrade the existing pavement markings to the satisfaction of the engineer or agency authorized individual..

12.12.6 Abrading Existing Pavement Markings with Work Zone Traffic Control by the Contractor

If the Contractor, with the concurrence of the Resident Engineer or agency authorized individual, determines that it is necessary for the performance of the microsurfacing and/or quick set slurry seal, the Contractor shall abrade the existing pavement markings so that at least 75% of the glass beads in the existing pavement markings are removed. The method of abrading may include sand blasting, water blasting, grinding, or other methods approved by the engineer or agency authorized individual. Care shall be taken to avoid damage to passing traffic. All damage to assign traffic caused by the Contractor's operations shall be the Contractor's responsibility. Traffic will be controlled by the Contractor.

The Contractor shall place temporary pavement markings as specified elsewhere in this Contract Award Notification under optional work zone traffic control, unless the microsurfacing and/or quick set slurry seal will be placed the same day as pavement markings are abraded. During the pavement markings abrading operation, traffic will be controlled by the Contractor in accordance with the MUTCD. The Contractor shall submit a proposed Work Zone Traffic Control Plan to the engineer or agency authorized individual for approval. The plan may be based on the Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

Payment will be made by the linear foot of pavement marking 4 inches wide. Payment for pavement markings wider than 4 inches or for pavement marking symbols will be made by the following method:

$$\frac{\text{Width of marking (inches) x Linear Feet}}{4 \text{ inches}}$$

The price for pavement marking abrading shall include all labor, materials, and equipment required to abrade the existing pavement markings and to properly control traffic to the satisfaction of the engineer or agency authorized individual.

12.12.7 Special Note: Work Zone Intrusion Initiative

As part of the Department of Transportation's Work Zone Intrusion Initiative, the following countermeasures shall apply to this Contract Award Notification:

Channelizing Device Spacing Reduction

A maximum channelizing device spacing of 40 feet shall be provided at stationary work sites where workers are exposed to traffic. This spacing shall be maintained a reasonable distance upstream of workers, and shall be used throughout the work zone.

Where tapers are located less than 500 feet from the work site, the 40 foot spacing shall be used in the taper as well.

SECTION 12: GROUP – MICROSURFACING AND/OR QUICK SET SLURRY SEAL (Cont'd)

Drums or vertical panels are preferred for long-term stationary and intermediate-term stationary work zones, and at any locations where the risk of intrusion is high. Traffic cones are normally adequate for work zones set up and removed on a daily basis.

In long lane or shoulder closures, at least two channelizing devices shall be placed transversely at maximum 800 foot intervals to discourage traffic from driving through the closed lane. **Transversely placed devices are not required where pilot cars are in use.**

Frequent checks shall be made to reset channelizing devices dislodged by traffic.

Flagger Station Enhanced Setups

Additional cones and a flag tree meeting Section 6F.62 of the MUTCD shall be used upstream of flagger stations to provide added warning to drivers. These devices shall be used for flagger stations except those that are constantly moving or are in use at one location for no more than a few minutes. If the W20-7a Flagger sign is required, the additional cones and flag tree shall also be used.

For additional details on Flagger Enhanced Setups, see Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

12.13 Detailed Specifications – Microsurfacing and/or Quick Set Slurry Seal

Please, see Attachment “Detailed Specifications – Liquid Bituminous Materials”

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT

13.1 Introduction

Conventional and Rubber Modified Paver Placed Surface Treatment is a preventive maintenance treatment used to preserve highway pavements. The treatment is a surface paving system, placed by a self-priming paver, where a modified emulsion tack coat is placed directly before the application of a conventional or rubber modified hot mix asphalt wearing course.

13.2 Pricing Information

13.2.1 General

Clause 24B of Appendix B, the General Specifications has been modified to include the following:

Price quoted shall be to three (3) decimal places.

Price quoted shall be FOB the Contractor's location per ton based on average daily production for the conventional and rubber modified paver placed surface treatment.

The Contractor is to furnish all necessary labor and equipment to complete the conventional or rubber modified paver placed surface treatment work under this contract. Cleaning the existing pavement shall be the responsibility of the State or political subdivision. Permanent pavement striping will be the responsibility of the State or political subdivision upon completion of the conventional or rubber modified paver placed surface treatment after the Contractor has vacated the project site.

The price for optional work zone traffic control shall be per ton of conventional or rubber modified paver placed surface treatment.

Price quoted for additional flaggers (if required) shall be net per day (to the nearest quarter day) for additional flaggers.

Price quoted for optional pilot vehicles with drivers (if required) shall be net per day (to the nearest quarter day) for each pilot vehicle with driver.

Price quoted for optional additional construction signs shall be net per square foot (including signs, sign supports, installation, and removal) of additional construction signs.

Price quoted for additional cost per day for Saturday and Sunday work, when directed by the resident engineer or individual authorized by using agency, shall be net per day for Saturday or Sunday work.

Price quoted for abrading the existing pavement markings by the Contractor, with work zone traffic control by the owner (if required) shall be net per linear foot at 4 inches wide of pavement markings actually abraded by the Contractor. This price shall include all costs for pavement marking abrading including all labor, materials, and equipment necessary to abrade the pavement markings.

Price quoted for abrading the existing pavement markings by the Contractor, with work zone traffic control by the Contractor (if required) shall be net per linear foot at 4 inches wide of pavement markings actually abraded by the Contractor. This price shall include all costs for pavement marking abrading including all labor, materials, and equipment necessary to abrade the pavement markings and all costs to properly maintain traffic.

Price quoted for overlay splices with work zone traffic control by the owner (if required) shall be net per linear foot at 3 feet wide of overlay splices actually constructed by the Contractor. This price shall include all costs for conventional or rubber modified paver placed surface treatment overlay splices including all labor, materials, and equipment necessary to construct the overlay splices.

Price quoted for splices with work zone traffic control by the Contractor (if required) shall be net per linear foot at 3 feet wide of overlay splices actually constructed by the Contractor. This price shall include all costs for conventional or rubber modified paver placed surface treatment overlay splices including all labor, materials, and equipment necessary to construct the overlay splices and all costs to properly control traffic.

The equipment supplied to place the conventional or rubber modified paver placed surface treatment shall meet the appropriate requirements of the New York State Department of Transportation Standard Specifications. All necessary operators shall be supplied along with the conventional or rubber modified paver placed surface treatment spreader and the rollers. All personnel supplied for the work under this contract shall be qualified and experienced in conventional or rubber modified paver placed surface treatment placement.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

Price Additional for Mobilization from Contractor's Location to Project Location - Price additional quoted for mobilization from Contractor's location to project location shall be net **per ton** of accepted conventional or rubber modified paver placed surface treatment in place performed at the locations indicated by the State's resident engineer or political subdivision's representative. Conventional or rubber modified paver placed surface treatment shall be performed in accordance with NYSDOT's Standard Specifications and as per the attached specifications for conventional or rubber modified paver placed surface treatment. Cleaning the existing pavement will be the responsibility of the State or owner political subdivision. Erecting warning signs and directing traffic will be the responsibility of the purchasing agency or the Contractor using the optional work zone traffic control section of this Contract Award Notification at the discretion of the purchasing agency.

13.2.2 Insurance

Price shall include the following insurance coverage costs. In particular, price shall include:

- Commercial General Liability Insurance with a limit of not less than \$2,000,000 each occurrence;
- Comprehensive Business Automobile Liability Insurance with a limit of not less than \$2,000,000 each accident;
- Each requirement should be reviewed carefully. (Please see Attachment "Insurance Requirements" for detailed insurance requirements.)

Owners and Contractors Protective Insurance Coverage (OCP) shall be a separate price and shall only be included when specifically called for by an ordering agency. Note that pricing for OCP was not required to be bid and is not a requirement for award; however, the Contractor understands and agrees that if any Authorized User, in particular the New York State Department of Transportation (NYSDOT), also requires Owners and Contractors Protective Insurance Coverage (OCP) in addition to the above-referenced insurance, the Contractor must supply it. The request for OCP shall be indicated by the Authorized User on the Quick Quote/ Price Calculation Worksheet (see Attachment). All Quick Quotes submitted must state the cost for such coverage which will be included as part of the Total Cost per Project and evaluated accordingly by the Authorized User. The charge for OCP insurance will be used to determine the lowest cost for the project.

The OCP insurance required shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

OCP requirements should be reviewed carefully. (Please see Attachment "Insurance Requirements" for detailed insurance requirements.)

13.3 Asphalt Price Adjustments

13.3.1 General

- a. Asphalt price adjustments allowed will be based on the October 1, 2013 average of the F.O.B. terminal price per ton of unmodified PG 64-22 binder without anti-stripping agent (base average F.O.B. terminal price). The new monthly average terminal price will be determined by the New York State Department of Transportation based on prices of pre-approved primary sources of performance graded binder in accordance with the New York State Department of Transportation Standard Specification.

The October 1, 2013 average is \$593.000

NOTE: The same grade of asphalt cement used in establishing the base average F.O.B. terminal price shall be used in establishing the new average F.O.B. terminal price.

In the event that one or more of the New York State Department of Transportation pre-approved sources discontinue posting a price for asphalt cement, the base average F.O.B. terminal **price shall not be recalculated.**

- b. The new average F.O.B. terminal price will be determined based on the above F.O.B. terminal prices posted on the 20th of each month, hereafter known as the "Adjustment Date", during the contract period. However, asphalt price adjustments, in accordance with the formula below, will be effective for deliveries made on and after the first of the month following the adjustment date.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

- c. The unit prices of bituminous materials purchased from any award based on this specification will be subject to adjustment based on the following formula:

Price Adjustment (Per Ton)	=	$\left(\begin{array}{l} \text{New Monthly Average} \\ \text{F.O.B. Terminal Price} \end{array} - \begin{array}{l} \text{Base Average F.O.B.} \\ \text{Terminal Price} \end{array} \right)$	X	Total Allowable Petroleum %
-------------------------------	---	---	---	-----------------------------------

Positive Price Adjustment number shall be added to original per gallon Price.
Negative Price Adjustment number shall be subtracted from original per gallon Price.

New Monthly Average F.O.B. Terminal Price

The average F.O.B. terminal price for unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation per New York State Department of Transportation Standard Specification.

Base Average F.O.B. Terminal Price

The average F.O.B. terminal price of unmodified PG 64-22 binder without anti-stripping agent is as determined by the New York State Department of Transportation as of October 1, 2013.

Total Allowable Petroleum

The percentage of total allowable petroleum for each item is as follows:

Item #	Material Designation	Grade	Asphalt %	Petroleum Allowance %	Total Allowable Petroleum %
18403.221xxx	702-PG6422 & 702-4701	PG 64-22 & CRS-1p	6.5	1.0	7.5
18403.222xxx	702-PG6422 & 702-4701	PG 64-22 & CRS-1p	6.5	1.0	7.5
18403.223xxx	702-PG6422 & 702-4701	PG 64-22 & CRS-1p	6.5	1.0	7.5

Asphalt Price Adjustments will not be allowed for materials which do not have an asphalt cement base.

- d. Work performed after the expiration of the contract, where no extension has been granted, resultant from purchase orders placed prior to expiration of the contract will receive the Asphalt Price Adjustments applicable in effect during the last month of the contract.
Asphalt Price Adjustments for any contracts that are extended will be based on the new average for the month in which the work is done applying the same base established for that contract.
- e. Asphalt Price Adjustments allowed by this contract shall be calculated and applied to the original prices. There will not be Asphalt Price Adjustments unless the change amounts to more than \$0.10 per ton from the original price. In these instances, prices will revert back to the original prices.
- f. All Asphalt Price Adjustments will be computed to three decimal places.
- g. Should these provisions result in a price structure which becomes unworkable, detrimental or injurious to the State or in prices which are not truly reflective of market conditions or which are deemed by the Commissioner to be unreasonable or excessive, and no adjustment in price is mutually agreeable, the Commissioner reserves the sole right upon ten days written notice mailed to the Contractor to terminate any contract resulting from the Invitation for Bids.
- h. All Asphalt Price Adjustments shall be published by the State and issued to all contract holders whose responsibility will be to attach the appropriate State notification (based on when the work was performed) to the payment invoice submitted to agency.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

13.3.2 Asphalt Price Adjustment: Example

This example is for illustration purposes only. Actual Base Average Price, etc., may vary:

Item 18403.221101

Base Average Price = \$593.000

New Average Price = \$603.000

% Total Allowable Petroleum = 7.5%

$$\begin{array}{|c|} \hline \text{Price} \\ \hline \text{Adjustment} \\ \hline \text{(per ton)} \\ \hline \end{array} = \begin{array}{|c|} \hline (603.000 - 593.000) \\ \hline \end{array} \times \begin{array}{|c|} \hline 0.075 \\ \hline \end{array}$$

$$\begin{array}{|c|} \hline \text{Price} \\ \hline \text{Adjustment} \\ \hline \text{(per ton)} \\ \hline \end{array} = \begin{array}{|c|} \hline +\$0.750 \text{ per ton} \\ \hline \end{array}$$

Positive Price Adjustment number shall be added to original per gallon Price.

Negative Price Adjustment number shall be subtracted from original per gallon Price.

13.4 Minimum Quantities

The minimum project size for conventional and rubber modified paver placed surface treatment under this contract shall be **50 tons**. This is approximately 0.12 miles of two lane highway at 20 feet wide. A quantity/price change per day occurs at **150 tons**, which is approximately 0.35 miles of a 2 lane highway at 20 feet wide. A second quantity/price change per day occurs at **500 tons**, which is approximately 1.2 miles of a 2 lane highway at 20 feet wide. A third quantity/price change per day occurs at **1000 tons**, which is approximately 2.4 miles of a 2 lane highway at 20 feet wide.

13.5 Delivery Ticket

A delivery ticket shall be provided with each load of bituminous asphalt emulsions stating the following:

7. Storage facility identification
8. Ticket Number
9. Date/time
10. Item Number and Type
11. Quantity ticket printed by machine
12. Quantity in 60° F gallons for emulsions

13.6 Payment

Payment for conventional and rubber modified paver placed surface treatment in place shall be made at the contract price per unit for the actual number of tons of conventional or rubber modified paver placed surface treatment in place verified by the State or receiving political subdivision and used in the accepted portion of the work. The determination as to quantities involved in this contract shall be accepted as final and binding upon the Contractor.

A delivery slip stating quantities of hot mix asphalt concrete for conventional or rubber modified paver placed surface treatment shall accompany each shipment. An invoice listing the quantities of conventional or rubber modified paver placed surface treatment in place shall be sent promptly by the Contractor to the State's resident engineer or to the political subdivision's representative placing the order.

Payment for optional work zone traffic control (if required) will be made based on the average daily production in tons per day of completed conventional or rubber modified paver placed surface treatment.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

Payment for additional flaggers (if required) will be made based on the number of days (computed to the nearest quarter day) that additional flaggers are utilized as directed by the engineer or agency authorized individual.

Payment for optional pilot vehicles with drivers will be made based on the number of days (computed to the nearest quarter day) that optional pilot vehicles with drivers are utilized as directed by the engineer or agency authorized individual.

Payment for optional additional construction signs will be made on the number of square feet (computed to the nearest tenth of a square foot) of additional construction signs that are utilized as directed by the engineer or agency authorized individual.

Payment for work on Saturday and/or Sunday will be based on the actual number of days worked at the direction of the resident engineer or agency authorized individual.

Payment for abrading the existing pavement markings by the Contractor, with work zone traffic control by the owner (if required) will be made based on the number of linear feet at 4 inches wide of pavement markings actually abraded as directed by the engineer or agency authorized individual.

Payment for abrading the existing pavement markings by the Contractor, with work zone traffic control by the Contractor (if required), will be made based on the number of linear feet at 4 inches wide of pavement markings actually abraded as directed by the engineer or agency authorized individual. No separate payment will be made for work zone traffic control when this item is used.

Payment for overlay splices with work zone traffic control by the owner (if required) will be made based on the number of linear feet of overlay splices at 3 feet wide actually constructed by the Contractor as directed by the engineer or agency authorized individual.

Payment for overlay splices with work zone traffic control by the Contractor (if required) will be made based on the number of linear feet of overlay splices at 3 feet wide actually constructed by the Contractor as directed by the engineer or agency authorized individual. No separate payment will be made for maintenance and protection of traffic when this item is used.

The price per unit arrived at (mutually estimated) by the Contractor and the using agency on the Price Calculation Worksheet or the price per unit resultant from the average daily production, whichever is less, shall be the price per unit paid to the Contractor. No additional payment shall be due to the Contractor for production rates that are not equal to the rate upon which the calculation work sheet price was based.

13.7 Pre-Conventional or Rubber Modified Paver Placed Surface Treatment Conference

The Contractor shall schedule a pre-conventional or rubber modified paver placed surface treatment conference with the State or political subdivision at least two weeks prior to the start of work under this contract. Project level supervisors for both the owner agency and the Contractor will be present at this conference. At this conference the Contractor shall present Certificates of Insurance evidencing compliance with the additional insurance requirements, their proposed schedule, mix design, numbers and type of equipment, and Work Zone Traffic Control (if applicable) to the State or political subdivision for approval. The mix design must clearly show all the target gradations and asphalt content used in the mix design and shall be representative of the materials proposed by the Contractor to be used on the project. Adjustments may be required during construction based on field conditions and with the approval of the State or political subdivision.

The Contractor shall also furnish the State or political subdivision copies of the self-priming paver approval at this time. The Contractor shall indicate the aggregate source and the hot mix asphalt concrete source, at this conference. At least one week prior to the start of work under this contract, the Contractor shall coordinate the details of the conventional or rubber modified paver placed surface treatment with the owner's representative.

13.8 Work Hours

Work will not be permitted on Sundays and Holidays unless requested by NYSDOT. If the Contractor desires to work overtime on other days, dispensation from the NYS Labor Department must be obtained.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

13.9 Saturday and Sunday Work

When requested to work on Saturday and/or Sunday by the resident engineer or agency authorized individual, the Contractor shall be paid the price for Saturday and/or Sunday work, as appropriate. The price per day shall include the cost of all premium labor charges. The Contractor shall only be due the extra payment when work on Saturday and/or Sunday is in the best interest of the State or the using agency. Work done by the Contractor on Saturday and/or Sunday for their own convenience or to make up for rainouts shall not be due the extra payment for Saturday and/or Sunday work

13.10 Construction Details

The construction details shall comply with the requirements specified in the enclosed DETAILED SPECIFICATIONS

13.11 Damaged or Deficient Areas

Prior to acceptance and payment for work under this contract by the State or political subdivision, any conventional or rubber modified paver placed surface treatment that ravels, delaminates, fails to properly cure, or is in any way defective shall be redone to the satisfaction of the State's or political subdivision's representative at the Contractor's expense.

13.12 Optional Overlay Splices with Work Zone Traffic Control by the Owner

If required by the Engineer or agency authorized individual, the Contractor shall construct overlay splices (commonly known as rebates) as per the detail Overlay Splices. The price shall include all costs to properly construct the overlay splice including the costs for cutting the existing pavement, milling overlay splices, and cleaning the pavement in the splice area. Payment shall be by the linear foot of overlay splice at 3 feet wide. Work zone traffic control shall be the responsibility of the owner.

13.13 Optional Overlay Splices with Work Zone Traffic Control by the Contractor

If required by the Engineer or agency authorized individual, the Contractor shall construct overlay splices (commonly known as rebates) as per the detail Overlay Splices. The price shall include all costs to properly construct the overlay splice including the costs for cutting the existing pavement, milling overlay splices, cleaning the pavement in the splice area, and maintaining and protecting traffic. Payment shall be by the linear foot of overlay splice at 3 feet wide. Work zone traffic control shall be the responsibility of the Contractor.

13.14 Optional Work Zone Traffic Control

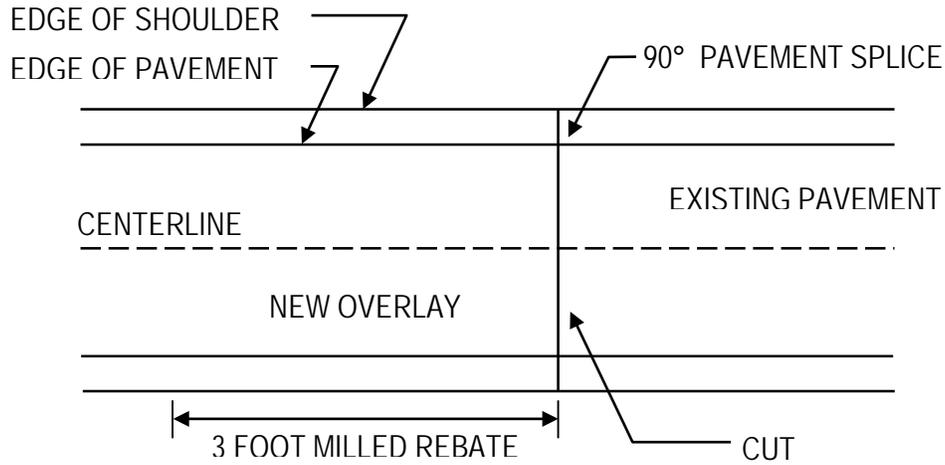
The Contractor shall submit a per square yard price for work zone traffic control as prescribed by this specification. When requesting price quotes from the Contractors, the purchasing agency may, at their option, include work zone traffic control by the Contractor for the specific project anticipated.

If optional work zone traffic control is included in the project request, the Contractor shall be responsible for work zone traffic control. Traffic shall be controlled in accordance with Sections 619-1 through 619-3 of the Standard Specifications, the Manual of Uniform Traffic Control Devices (MUTCD), and as described herein **including modifications to the Standard Specifications**. The Contractor shall submit a Work Zone Traffic Control Plan for approval to the resident engineer or agency authorized individual at the Pre-Conventional or Rubber Modified Paver Placed Surface Treatment Conference. For two-way roadways, Figures TAST-C1R, TASTC2R, TAST-C3R, TAST-C4R, TAST-C5R, TAST-C7R, TAST-C1UL, TAST-C2UL, TAST-C3UL, TAST-C4U, TAST-C7UL, TAST-C1UH, TAST-C2UH, TAST-C3UH, and TAST-C7UH (see the NYSDOT Work Zone Traffic Control Drawings included in this Contract Award Notification as an attachment) may be used as a basis for development of a Work Zone Traffic Control Plan. For one-way roadways, Figures TAST-C5UL, TASTC6UL, TAST-C8UL, TAST-C5UH, TAST-C6UH, and TAST-C8UH may be used as a basis for development of a Work Zone Traffic Control Plan. For one-way Freeways or Expressways, Figures TAST-E1, TAST-E2, TAST-E3, TAST-E4, TAST-E5, TAST-E6, and TAST-E7 may be used as a basis for development of a Work Zone Traffic Control Plan.

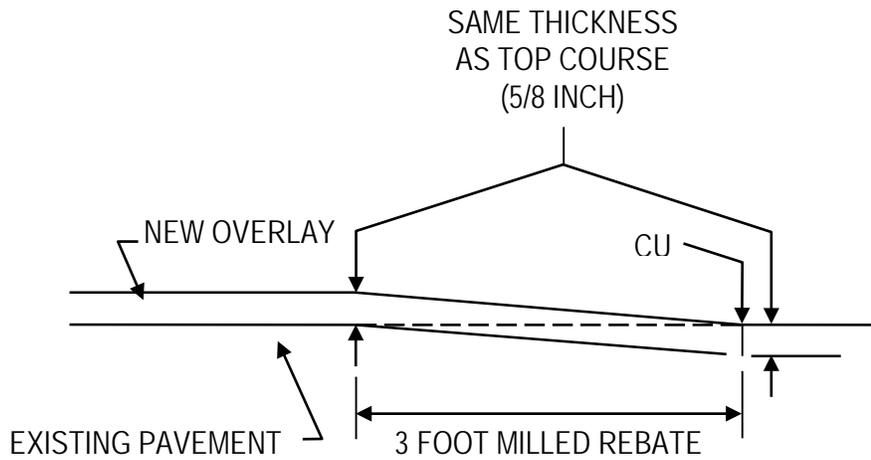
All necessary flaggers for work zone traffic control shall be provided by the Contractor. For two-way roadways, a minimum of three flaggers shall be provided while the conventional or rubber modified paver placed surface treatment operation is underway. One shall be stationed at each end of the operation and one shall be stationed with the paver placed surface treatment machine. For one-way roadways, a minimum of two flaggers shall be provided while the conventional or rubber modified paver placed surface treatment operation is underway. One shall be stationed at the beginning of the operation and one shall be stationed with the paver placed surface treatment machine. The Contractor shall station flaggers such that communication is maintained between the flaggers. Hand signals, radios, pilot vehicles, or some other means of communication may be used subject to the approval of the resident engineer or agency authorized individual.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

OPTIONAL OVERLAY SPLICE:



PLAN



SECTION

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

Unless otherwise specified, the highway shall be kept open to traffic at all times. Traffic shall be discontinued on the lane where the conventional or rubber modified paver placed surface treatment is being placed; and as soon as the newly paved surface has been rolled, traffic may be permitted thereon.

The Contractor shall provide construction signs as specified in Section 619-1 through 619-3 of the Standard Specifications and in the MUTCD. At a minimum the Contractor shall install the following permanent construction signs:

SIGN	MINIMUM SIZE	LOCATION
ROAD WORK NEXT _____ MILES	<u>G20-1</u> Conventional 36" x 18" Freeways 48" x 24"	On main line upstream of project in each direction
END ROAD WORK	<u>G20-2</u> Conventional 36" x 18" Freeways 48" x 24"	On main line after end of project in each direction
ROAD WORK AHEAD	<u>W20-1</u> Conventional 36" x 36" Freeways 48" x 48"	On main line in advance of the affected highway segment in each direction and on major intersecting roads 300 -500 feet in advance of main line. Sign should be covered if it conflicts with temporary signing in the vicinity. (Place between the G20-1 and the first warning sign that states condition- i.e. W8-12, W8-9 or W8-15)
DO NOT PASS	<u>R4-1</u> Conventional 24" x 30"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign at or within 100 feet of the beginning of the unmarked area, second within 1,000 feet and subsequent signs, spaced every ½ mile along project in each direction
NO CENTER LINE	<u>W8-12</u> Conventional 36" x 36"	If 2' x 4" temporary yellow markings are used instead of full barrier centerline pavement markings, place the first sign in advance of the condition and the first "DO NOT PASS" sign: 300' urban is preferred (100' minimum), 500' rural is preferred (200' minimum). Place additional signs spaced every 2 miles on mainline in each direction and after every major intersecting road.
LOW SHOULDER	<u>W8-9</u> Conventional 36" x 36" Freeways 48" x 48"	Place on mainline spaced every 2 miles along project in each direction and after every major intersecting road until shoulder back-up is installed (if conditions warrant use, place between the W8-12 and R4-1, maintaining a minimum of 200' between signs for rural roads and 100' on urban. The W8-12 can be moved upstream to accommodate the required spacing.)
GROOVED PAVEMENT	<u>W8-15</u> Conventional 36" x 36" Freeways 48" x 48"	On any roadway 500 feet in advance of rebates milled under this contract, but not paved. Remove or cover after paving rebate.

**All signs should maintain an absolute minimum spacing of 200' rural or 100' urban. 500' is preferred on rural and 300' is preferred on urban. Double stacking of any of the above signs, or combination thereof, will NOT be permitted

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

Major intersecting roads are defined as through State, County, Town, Village, or City roads. The Contractor may provide portable signs as shown in Figure 6F-2 of the MUTCD and meeting the requirements of the Standard Specifications for lane closures during work hours.

With prior permission of the State's Resident Engineer or political subdivision's representative, the Contractor may provide portable signs as shown in Figure 6F-2 for the above referenced DO NOT PASS and NO CENTER LINE signs. Signs left active at night shall be rigid and reflectorized in accordance with the Standard Specifications. The Contractor shall be responsible for assuring that all signs will be in their upright, visible positions twenty-four hours a day, **seven days a week while 2' x 4" temporary yellow markings are used instead of full barrier pavement markings.**

13.14.1 Special Note: Temporary Pavement Markings

The Contractor shall install and maintain temporary pavement markings on any paved surface without permanent pavement markings before opening it to traffic, before nightfall or before the end of the work day, whichever comes soonest except for areas that are open during the work shift with channelizing devices or flaggers. Temporary pavement markings shall meet the requirements of Section 619 of the Standard Specifications except that two-lane, two-way highways may be left without full barrier centerlines in no passing zones for a maximum of 7 calendar days provided that NO CENTER LINE (W8-12, black on orange), NO PASSING ZONE (W14-3, black on orange pennant shaped sign), and DO NOT PASS (R4-1) signs are used consistent with the MUTCD and in conjunction with yellow 2 foot by 4 inch temporary markings consisting of retro-reflective removable pavement marking tape, paint or yellow temporary overlay markers installed on a 40 ft. cycle to delineate the centerline location.

The State or political sub division is responsible for the final pavement markings unless otherwise indicated in the contract. If the Contractor chooses to install NO CENTER LINE and DO NOT PASS signs and temporary yellow 2 foot by 4 inch pavement markings in lieu of full barrier centerline markings, the signs shall be left in place until the state or political subdivision has completed installing the final pavement markings. The state or political sub division will normally complete final pavement markings within 7 days of the project completion. However, if unavoidable situations delay the pavement marking installation the signs shall remain in place for 14 calendar days after the project has been completed or until the state has completed installing the final pavement markings, whichever comes first. If permanent pavement marking cannot be installed within 14 days of the project completion, state or political subdivision must install interim pavement marking including center lines, edge lines, stop bars, and simple crosswalks with no hatching before the end of 14 days after project completion.

All costs for Work Zone Traffic Control including flagging, temporary pavement markings, delineation, and construction signs are to be included in the prices per ton for optional work zone traffic control. No separate payment shall be made.

13.14.2 Additional Flaggers for Work Zone Traffic Control

If the engineer or agency authorized individual determines that more than 3 flaggers are necessary to properly control traffic on two-way roadways or more than two flaggers are necessary to properly control traffic on one-way roadways and the Contractor is responsible for work zone traffic control under this Contract Award Notification, the Contractor shall provide additional flaggers under the Additional Flaggers item. The price per flagger per day shall include all costs of providing a flagger where directed by the engineer or agency authorized individual with all the necessary safety equipment, i.e. stop/slow paddle, flag, vest, hardhat, etc. Payment shall be by the day for each flagger provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight-hour work day. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual.

13.14.3 Optional Pilot Vehicle with Drivers

The Contractor shall provide sufficient two-way radio equipped pilot vehicles with drivers to guide traffic around the paver placed surface treatment work zone at a maximum of 20 miles per hour. Payment shall be by the day for each pilot vehicle with driver provided. A day shall be determined as including the time period between the commencement and completion of work on any calendar day. No extra payment shall be provided if the Contractor elects to work a longer day than the standard eight-hour workday. Payment shall be made to the nearest quarter day as determined by the engineer or agency authorized individual. The pilot vehicle(s) shall be equipped with construction signs meeting the requirements of Section 6F.58 of the MUTCD and a rotating amber beacon:

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

SIGN	MINIMUM SIZE	LOCATION
PILOT CAR FOLLOW ME	<u>G20-4</u> 36" X 18"	ON BACK OF PILOT VEHICLES.

The pilot vehicle shall have the name of the Contractor prominently displayed.

13.14.4 Optional Additional Construction Signs

If the engineer or agency authorized individual determines that more permanent construction signs are necessary than those called out under the Optional Work Zone Traffic Control section and the Contractor is responsible for work zone traffic control under this Contract Award Notification, the Contractor shall provide additional construction signs under the Optional Additional Construction Signs item. Optional Additional Construction Signs shall be as specified in Sections 619-1 through 619-3 of the Standard Specifications and/or in the MUTCD, or as specified by the engineer or agency authorized individual. The price per square foot shall include all costs of providing the signs as indicated by the engineer or agency authorized individual, the sign supports, installation and removal at locations ordered by the engineer or agency authorized individual. Payment shall be made by the square foot of construction sign face, computed to the nearest tenth of a square foot

13.14.5 Abrading Existing Pavement Markings with Work Zone Traffic Control by the Owner

If the Contractor, with the concurrence of the Resident Engineer or agency authorized individual, determines that it is necessary for the performance of the conventional or rubber modified paver placed surface treatment, the Contractor shall abrade the existing pavement markings so that at least 75% of the glass beads in the existing pavement markings are removed. The method of abrading may include sand blasting, water blasting, grinding, or other method approved by the engineer or agency authorized individual. Care shall be taken to avoid damage to passing traffic. All damage to passing traffic caused by the Contractor's operations shall be the Contractor's responsibility. Traffic will be controlled by the owner.

Payment will be made by the linear foot of pavement marking 4 inches wide. Payment for pavement markings wider than 4 inches or for pavement marking symbols will be made by the following method:

$$\frac{\text{Width of marking (inches)} \times \text{Linear Feet}}{4 \text{ inches}}$$

The price for pavement marking abrading shall include all labor, materials, and equipment required to abrade the existing pavement markings to the satisfaction of the engineer or agency authorized individual.

13.14.6 Abrading Existing Pavement Markings with Work Zone Traffic Control by the Contractor

If the Contractor, with the concurrence of the Resident Engineer or agency authorized individual, determines that it is necessary for the performance of the conventional or rubber modified paver placed surface treatment, the Contractor shall abrade the existing pavement markings so that at least 75% of the glass beads in the existing pavement markings are removed. The method of abrading may include sand blasting, water blasting, grinding, or other methods approved by the engineer or agency authorized individual. Care shall be taken to avoid damage to passing traffic. All damage to passing traffic caused by the Contractor's operations shall be the Contractor's responsibility. Traffic will be controlled by the Contractor.

The Contractor shall place temporary pavement markings as specified elsewhere in this Contract Award Notification under optional work zone traffic control, unless the conventional or rubber modified paver placed surface treatment will be placed the same day as pavement markings are abraded. During the pavement markings abrading operation, traffic will be controlled by the Contractor in accordance with the MUTCD. The Contractor shall submit a proposed Traffic Control Plan to the engineer or agency authorized individual for approval. The plan may be based on the Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

SECTION 13: GROUP – PAVER PLACED SURFACE TREATMENT (Cont'd)

Payment will be made by the linear yard of pavement marking 4 inches wide. Payment for pavement markings wider than 4 inches or for pavement marking symbols will be made by the following method:

$$\frac{\text{Width of marking (inches)} \times \text{Linear Feet}}{4 \text{ inches}}$$

The price for pavement marking abrading shall include all labor, materials, and equipment required to abrade the existing pavement markings and to properly control traffic to the satisfaction of the engineer or agency authorized individual.

13.14.7 Special Note: Work Zone Intrusion Initiative

As part of the Department of Transportation's Work Zone Intrusion Initiative, the following countermeasures shall apply to this Contract Award Notification:

Channelizing Device Spacing Reduction

A maximum channelizing device spacing of 40 feet shall be provided at stationary work sites where workers are exposed to traffic. This spacing shall be maintained a reasonable distance upstream of workers, and shall be used throughout the work zone.

Where tapers are located less than 500 feet from the work site (1,000 feet for high speeds) the 40 foot spacing shall be used in the taper as well.

Drums or vertical panels are preferred for long-term and intermediate term stationary work zones, and at any locations where the risk of intrusion is high. Traffic cones are normally adequate for work zones set up and removed on a daily basis.

In long lane or shoulder closures, at least two channelizing devices shall be placed transversely at maximum 800 foot intervals to discourage traffic from driving through the closed lane. **Transversely placed devices are not required where pilot cars are in use.**

Frequent checks shall be made to reset channelizing devices dislodged by traffic.

Flagger Station Enhanced Setups

Additional cones and a flag tree meeting the requirements of Section 6F.62 of the MUTCD shall be used upstream of flagger stations to provide added warning to drivers. These devices shall be used for flagger stations except those that are constantly moving or are in use at one location or no more than a few minutes. If the W20-7a Flagger sign is used, the additional cones and flag tree shall also be used.

For additional details on Flagger Enhanced Setups, see Work Zone Traffic Control drawings included in this Contract Award Notification as an attachment.

13.15 Detailed Specifications – Paver Placed Surface Treatment (Conventional and Rubber Modified)

Please, see Attachment "Detailed Specifications – Liquid Bituminous Materials"

**State of New York
Office of General Services
NEW YORK STATE PROCUREMENT
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product’s end user.**

Contract No.: _____ **Contractor.** _____

Describe Product* Provided (Include Item No., if available): _____

***Note:** “**Product**” is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term “Product” includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

CONTRACTOR

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: _____

Agency: _____ Prepared by: _____

Address: _____ Title: _____

_____ Date: _____

_____ Phone: _____

_____ E-mail: _____

Please detach or photocopy this form & return by FAX to 518/474-2437 or mail to:

OGS NEW YORK STATE PROCUREMENT
 Customer Services, 38th Floor
 Corning 2nd Tower - Empire State Plaza
 Albany, New York 12242
 * * * * *

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	Page
1. Executory Clause	3
2. Non-Assignment Clause	3
3. Comptroller's Approval	3
4. Workers' Compensation Benefits	3
5. Non-Discrimination Requirements	3
6. Wage and Hours Provisions	3
7. Non-Collusive Bidding Certification	4
8. International Boycott Prohibition	4
9. Set-Off Rights	4
10. Records	4
11. Identifying Information and Privacy Notification	4
12. Equal Employment Opportunities For Minorities and Women	4-5
13. Conflicting Terms	5
14. Governing Law	5
15. Late Payment	5
16. No Arbitration	5
17. Service of Process	5
18. Prohibition on Purchase of Tropical Hardwoods	5-6
19. MacBride Fair Employment Principles	6
20. Omnibus Procurement Act of 1992	6
21. Reciprocity and Sanctions Provisions	6
22. Compliance with New York State Information Security Breach and Notification Act	6
23. Compliance with Consultant Disclosure Law	6
24. Procurement Lobbying	7
25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors	7
26. Iran Divestment Act	7

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS.

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities

List") posted at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not

limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX B
GENERAL SPECIFICATIONS

PLEASE RETAIN THIS DOCUMENT FOR FUTURE REFERENCE

TABLE OF CONTENTS

<u>GENERAL</u>	<u>PAGE</u>	<u>TERMS & CONDITIONS</u>	<u>PAGE</u>
1. Applicability	1	43. Emergency Contracts	9
2. Governing Law	1	44. Purchase Orders	9
3. Ethics Compliance	1	45. Product Delivery	10
4. Conflict of Terms	1	46. Weekend and Holiday Deliveries	10
5. Definitions	1-3	47. Shipping/Receipt of Product	10
		48. Title and Risk of Loss	10
		49. Re-Weighing Product	10
		50. Product Substitution	10
		51. Rejected Product	10
		52. Installation	10
		53. Repaired or Replaced Product/ Components	11
		54. On-Site Storage	11
		55. Employees/Subcontractors/Agents	11
		56. Assignment	11
		57. Subcontractors and Suppliers	11
		58. Performance/Bid Bond	11
		59. Suspension of Work	11
		60. Termination	11
		61. Savings/Force Majeure	12
		62. Contract Billings	12
		63. Default - Authorized User	12
		64. Interest on Late Payments	12
		65. Remedies for Breach	13
		66. Assignment of Claim	13
		67. Toxic Substances	13
		68. Independent Contractor	13
		69. Security	13
		70. Cooperation with Third Parties	13
		71. Contract Term - Renewal	13
		72. Additional Warranties	13
		73. Legal Compliance	15
		74. Indemnification	15
		75. Indemnification Relating to Third Party Rights	15
		76. Limitation of Liability	15
		77. Insurance	15
		<u>THE FOLLOWING CLAUSES PERTAIN TO TECHNOLOGY & NEGOTIATED CONTRACTS</u>	
		78. Software License Grant	15
		79. Product Acceptance	17
		80. Audit of Licensed Product Usage	17
		81. Ownership/Title to Project Deliverables	17
		82. Proof of License	18
		83. Product Version	18
		84. Changes to Product or Service Offerings	18
		85. No Hardstop/Passive License Monitoring	19
		86. Source Code Escrow for Licensed Product	19
<u>BID SUBMISSION</u>			
6. International Bidding	3		
7. Bid Opening	3		
8. Bid Submission	3		
9. Facsimile Submissions	3		
10. Authentication of Facsimile Bids	4		
11. Late Bids	4		
12. Bid Contents	4		
13. Extraneous Terms	4		
14. Confidential/Trade Secret Materials	4		
15. Release of Bid Evaluation Materials	4		
16. Freedom of Information Law	5		
17. Prevailing Wage Rates - Public Works and Building Services Contracts	5		
18. Taxes	6		
19. Expenses Prior to Contract Execution	6		
20. Advertising Results	6		
21. Product References	6		
22. Remanufactured, Recycled, Recyclable Or Recovered Materials	6		
23. Products Manufactured in Public Institutions	6		
24. Pricing	6		
25. Drawings	7		
26. Site Inspection	7		
27. Procurement Card	7		
28. Samples	7		
<u>BID EVALUATION</u>			
29. Bid Evaluation	8		
30. Conditional Bid	8		
31. Clarification/Revisions	8		
32. Prompt Payment Discounts	8		
33. Equivalent or Identical Bids	8		
34. Performance and Responsibility Qualifications	8		
35. Disqualification for Past Performance	8		
36. Quantity Changes Prior To Award	8		
37. Timeframe for Offers	8		
<u>TERMS & CONDITIONS</u>			
38. Contract Creation/Execution	8		
39. Participation in Centralized Contracts	8		
40. Modification of Contract Terms	9		
41. Scope Changes	9		
42. Estimated/Specific Quantity Contracts	9		

GENERAL

1. **APPLICABILITY** The terms and conditions set forth in this Appendix B are expressly incorporated in and applicable to the resulting procurement contracts let by the Office of General Services Procurement Services Group, or let by any other Authorized User where incorporated by reference in its Bid Documents. Captions are intended as descriptive and are not intended to limit or otherwise restrict the terms and conditions set forth herein.

2. **GOVERNING LAW** This procurement, the resulting contract and any purchase orders issued hereunder shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise, and actions or proceedings arising from the contract shall be heard in a court of competent jurisdiction in the State of New York.

3. **ETHICS COMPLIANCE** All Bidders/Contractors and their employees must comply with the requirements of Sections 73 and 74 of the Public Officers Law, other State codes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Bid, Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the Bidding process, termination of contract, and/or other civil or criminal proceedings as required by law.

4. **CONFLICT OF TERMS** Unless otherwise set forth in the procurement or contract documents, conflicts among documents shall be resolved in the following order of precedence:

- a. **Appendix A** (Standard Clauses for NYS Contracts)
- b. **Mini-Bid Project Definition** if applicable and in accordance with the terms and conditions of the Back-Drop Contract.
- c. **Contract and other writing(s)** setting forth the final agreements, clarifications and terms between the Bid Documents and Contractor's Bid. In the latter circumstance, clarifications must specifically note in writing what was offered by the Contractor and what was accepted by the State. If not, such clarifications shall be considered last in the order of precedence under this paragraph.
- d. **Bid Documents** (Other than Appendix A).
 - i. Bid Specifications prepared by the Authorized User.
 - ii. Appendix B (General Specifications).
 - iii. Incorporated Contract Appendices, if any, following the order of precedence as stated for Contract above.
- e. **Contractor's Bid or Mini-Bid Proposal.**
- f. **Unincorporated Appendices** (if any).

5. **DEFINITIONS** Terms used in this Appendix B shall have the following meanings:

AFFILIATE Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) that effectively controls another company in which (a) the Bidder owns more than 50% of the ownership; or (b) any individual or other legal entity which owns more than 50% of the ownership of the Bidder. In addition, if a Bidder owns less than 50% of the ownership of another legal entity, but directs or has the right to direct such entity's daily operations, that entity will be an Affiliate.

AGENCY OR AGENCIES The State of New York, acting by or through one or more departments, boards, commissions, offices or institutions of the State of New York.

ATTORNEY GENERAL Attorney General of the State of New York.

AUTHORIZED USER(S) Agencies, or any other entity authorized by the laws of the State of New York to participate in NYS centralized contracts (including but not limited to political subdivisions, public authorities, public benefit corporations and certain other entities set forth in law), or the State of New York acting on behalf of one or more such Agencies or other entities, provided that each such Agency or other entity shall be held solely responsible for liabilities or payments due as a result of its participation.

BID OR BID PROPOSAL An offer or proposal submitted by a Bidder to furnish a described product or a solution, perform services or means of achieving a practical end, at a stated price for the stated Contract term. As required by the Bid Documents, the Bid or proposal may be subject to modification through the solicitation by the Agency of best and final offers during the evaluation process prior to recommendation for award of the Contract.

BIDDER/OFFERER Any individual or other legal entity (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) which submits a Bid in response to a Bid Solicitation. The term Bidder shall also include the term "offeror." In the case of negotiated Contracts, "Bidder" shall refer to the "Contractor."

BID DOCUMENTS Writings by the State setting forth the scope, terms, conditions and technical specifications for a procurement of Product. Such writings typically include, but are not limited to: Invitation for Bids (IFB), Request for Quotation (RFQ), Request for Proposals (RFP), addenda or amendments thereto, and terms and conditions which are incorporated by reference, including but not limited to, Appendix A (Standard Clauses for NYS Contracts), Appendix B, (General Specifications). Where these General Specifications are incorporated in negotiated Contracts that have not been competitively Bid, the term "Bid Documents" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

BID SPECIFICATION A written description drafted by the Authorized User setting forth the specific terms of the intended procurement, which may include: physical or functional characteristics, the nature of a commodity or construction item, any description of the work to be performed, Products to be provided, the necessary qualifications of the Bidder, the capacity and capability of the Bidder to successfully carry out the proposed Contract, or the process for achieving specific results and/or anticipated outcomes or any other requirement necessary to perform work. Where these General Specifications are incorporated in negotiated Contracts that have not been competitively Bid, the term "Bid Specifications" shall be deemed to refer to the terms and conditions set forth in the negotiated Contract and associated documentation.

COMMISSIONER Commissioner of OGS, or in the case of Bid Specifications issued by an Authorized User, the head of such Authorized User or their authorized representative.

COMPTROLLER Comptroller of the State of New York.

CONTRACT The writing(s) which contain the agreement of the Commissioner and the Bidder/Contractor setting forth the total legal obligation between the parties as determined by applicable rules of law, and which most typically include the following classifications of public procurements:

a. Agency Specific Contracts Contracts where the specifications for a Product or a particular scope of work are described and defined to meet the needs of one or more Authorized User(s).

b. Centralized Contracts Single or multiple award Contracts where the specifications for a Product or general scope of work are described and defined by the Office of General Services to meet the needs of Authorized Users. Centralized Contracts may be awarded through multiple awards or through adoption of another jurisdiction's contract or on a sole source, single source, emergency or competitive basis. Once established, procurements may be made from the selected Contractor(s) without further competition or Mini-Bid unless otherwise required by the Bid Specifications or Contract Award Notification.

c. Back-Drop Contracts Multiple award Centralized Contracts where the Office of General Services defines the specifications for a Product or general scope of work to meet the needs of Authorized Users. Bids may be submitted either at a date and time certain or may be accepted on a continuous or periodic recruitment basis, as set forth in the Bid Specifications. Selection of a Contractor(s) from among Back-Drop contract holders for an actual Product, project or particular scope of work may subsequently be made on a single or sole source basis, or on the basis of a Mini-Bid among qualified Back-Drop contract holders, or such other method as set forth in the Bid Document.

d. Piggyback Contract A Contract let by any department, agency or instrumentality of the United States government, or any department, agency, office, political subdivision or instrumentality of any state or state(s) which is adopted and extended for use by the OGS Commissioner in accordance with the requirements of the State Finance Law.

e. Contract Letter A letter to the successful Bidder(s) indicating acceptance of its Bid in response to a solicitation. Unless otherwise specified, the issuance of a Letter of Acceptance forms a Contract but is not an order for Product, and Contractor should not take any action with respect to actual Contract deliveries except on the basis of Purchase Orders sent from Authorized User(s).

CONTRACT AWARD NOTIFICATION An announcement to Authorized Users that a Contract has been established.

CONTRACTOR Any successful Bidder(s) to whom a Contract has been awarded by the Commissioner.

DOCUMENTATION The complete set of manuals (e.g., user, installation, instruction or diagnostic manuals) in either hard or electronic copy, which are necessary to enable an Authorized User to properly test, install, operate and enjoy full use of the Product.

EMERGENCY An urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

ENTERPRISE The total business operations in the United States of Authorized User (s) without regard to geographic location where such operations are performed or the entity actually performing such operations on behalf of Authorized User.

ENTERPRISE LICENSE A license grant of unlimited rights to deploy, access, use and execute Product anywhere within the Enterprise up to the maximum capacity stated on the Purchase Order or in the Contract.

ERROR CORRECTIONS Machine executable software code furnished by Contractor which corrects the Product so as to conform to the applicable warranties, performance standards and/or obligations of the Contractor.

GROUP A classification of Product, services or technology which is designated by OGS.

INVITATION FOR BIDS (IFB) A type of Bid Document which is most typically used where requirements can be stated and award will be made based on lowest price to the responsive and responsible Bidder(s).

LICENSED SOFTWARE Software transferred upon the terms and conditions set forth in the Contract. "Licensed Software" includes error corrections, upgrades, enhancements or new releases, and any deliverables due under a maintenance or service contract (e.g., patches, fixes, PTFs, programs, code or data conversion, or custom programming).

LICENSEE One or more Authorized Users who acquire Product from Contractor by issuing a Purchase Order in accordance with the terms and conditions of the Contract; provided that, for purposes of compliance with an individual license, the term "Licensee" shall be deemed to refer separately to the individual Authorized User(s) who took receipt of and who is executing the Product, and who shall be solely responsible for performance and liabilities incurred. In the case of acquisitions by State Agencies, the Licensee shall be the State of New York.

LICENSE EFFECTIVE DATE The date Product is delivered to an Authorized User. Where a License involves Licensee's right to copy a previously licensed and delivered Master Copy of a Program, the license effective date for additional copies shall be deemed to be the date on which the Purchase Order is executed.

LICENSOR A Contractor who transfers rights in proprietary Product to Authorized Users in accordance with the rights and obligations specified in the Contract.

MINI-BID PROJECT DEFINITION A Bid Document containing project specific Bid Specifications developed by or for an Authorized User which solicits Bids from Contractors previously qualified under a Back-Drop Contract.

MULTIPLE AWARD A determination and award of a Contract in the discretion of the Commissioner to more than one responsive and responsible Bidder who meets the requirements of a specification, where the multiple award is made on the grounds set forth in the Bid Document in order to satisfy multiple factors and needs of Authorized Users (e.g., complexity of items, various manufacturers, differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, geographic location or other pertinent factors).

NEW PRODUCT RELEASES (Product Revisions) Any commercially released revisions to the licensed version of a Product as may be generally offered and available to Authorized Users. New releases involve a substantial revision of functionality from a previously released version of the Product.

OGS The New York State Office of General Services.

PROCUREMENT RECORD Documentation by the Authorized User of the decisions made and approach taken during the procurement process and during the contract term.

PRODUCT A deliverable under any Bid or Contract which may include commodities, services and/or technology. The term "Product" includes Licensed Software.

PROPRIETARY Protected by secrecy, patent, copyright or trademark against commercial competition.

PURCHASE ORDER The Authorized User's fiscal form or format that is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, electronic Purchase Order, or other authorized instrument).

REQUEST FOR PROPOSALS (RFP) A type of Bid Document that is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and where the method of award is "best value," as defined by the State Finance Law.

REQUEST FOR QUOTATION (RFQ) A type of Bid Document that can be used when a formal Bid opening is not required (e.g., discretionary, sole source, single source or emergency purchases).

RESPONSIBLE BIDDER A Bidder that is determined to have financial and organizational capacity, legal authority, satisfactory previous performance, skill, judgment and integrity, and that is found to be competent, reliable and experienced, as determined by the Commissioner. For purposes of being deemed responsible, a Bidder must also be determined to be in compliance with Sections 139-j and 139-k of the State Finance Law relative to restrictions on contacts during the procurement process and disclosure of contacts and prior findings of non-responsibility under these statutes.

RESPONSIVE BIDDER A Bidder meeting the specifications or requirements prescribed in the Bid Document or solicitation, as determined by the OGS Commissioner.

SINGLE SOURCE A procurement where two or more Bidders can supply the required Product, and the Commissioner may award the contract to one Bidder over the other.

SITE The location (street address) where Product will be executed or services delivered.

SOLE SOURCE A procurement where only one Bidder is capable of supplying the required Product.

SOURCE CODE The programming statements or instructions written and expressed in any language understandable by a human being skilled in the art which are translated by a language compiler to produce executable machine Object Code.

STATE State of New York.

SUBCONTRACTOR Any individual or other legal entity, (including but not limited to sole proprietor, partnership, limited liability company, firm or corporation) who has entered into a contract, express or implied, for the performance of a portion of a Contract with a Contractor.

TERMS OF LICENSE The terms and conditions set forth in the Contract that are in effect and applicable to a Purchase Order at the time of order placement.

VIRUS Any computer code, whether or not written or conceived by Contractor, that disrupts, disables, harms, or otherwise impedes in any manner the operation of the Product, or any other associated software,

firmware, hardware, or computer system (such as local area or wide-area networks), including aesthetic disruptions or distortions, but does not include security keys or other such devices installed by Product manufacturer.

BID SUBMISSION

6. INTERNATIONAL BIDDING All offers (tenders), and all information and Product required by the solicitation or provided as explanation thereof, shall be submitted in English. All prices shall be expressed, and all payments shall be made, in United States Dollars (\$US). Any offers (tenders) submitted which do not meet the above criteria will be rejected.

7. BID OPENING Bids may, as applicable, be opened publicly. The Commissioner reserves the right at any time to postpone or cancel a scheduled Bid opening.

8. BID SUBMISSION All Bids are to be packaged, sealed and submitted to the location stated in the Bid Specifications. Bidders are solely responsible for timely delivery of their Bids to the location set forth in the Bid Specifications prior to the stated Bid opening date/time.

A Bid return envelope, if provided with the Bid Specifications, should be used with the Bid sealed inside. If the Bid response does not fit into the envelope, the Bid envelope should be attached to the outside of the sealed box or package with the Bid inside. If using a commercial delivery company that requires use of their shipping package or envelope, Bidder's sealed Bid, labeled as detailed below, should be placed within the shipper's sealed envelope to ensure that the Bid is not prematurely opened.

All Bids must have a label on the outside of the package or shipping container outlining the following information:

"BID ENCLOSED (bold print, all capitals)

- Group Number
- IFB or RFP Number
- Bid Submission date and time"

In the event that a Bidder fails to provide such information on the return Bid envelope or shipping material, the receiving entity reserves the right to open the shipping package or envelope to determine the proper Bid number or Product group, and the date and time of Bid opening. Bidder shall have no claim against the receiving entity arising from such opening and such opening shall not affect the validity of the Bid or the procurement.

Notwithstanding the receiving agency's right to open a Bid to ascertain the foregoing information, Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

All Bids must be signed by a person authorized to commit the Bidder to the terms of the Bid Documents and the content of the Bid (offer).

9. FACSIMILE SUBMISSIONS Unless specifically prohibited by the terms of the Bid Specifications, facsimile Bids may be SUBMITTED AT THE SOLE OPTION AND RISK OF THE BIDDER. Only the FAX number(s) indicated in the Bid Specifications may be used. Access to the facsimile machine(s) is on a "first come, first serve" basis, and the Commissioner bears no liability or responsibility and makes no guarantee whatsoever with respect to the Bidder's access to such equipment at any specific time. Bidders

are solely responsible for submission and receipt of the entire facsimile Bid by the Authorized User prior to Bid opening and must include on the first page of the transmission the total number of pages transmitted in the facsimile, including the cover page. Incomplete, ambiguous or unreadable transmissions in whole or in part may be rejected at the sole discretion of the Commissioner. Facsimile Bids are fully governed by all conditions outlined in the Bid Documents and must be submitted on forms or in the format required in the Bid Specifications, including the executed signature page and acknowledgment.

10. AUTHENTICATION OF FACSIMILE BIDS The act of submitting a Bid by facsimile transmission, including an executed signature page or as otherwise specified in the Bid Documents, shall be deemed a confirming act by Bidder which authenticates the signing of the Bid.

11. LATE BIDS For purposes of Bid openings held and conducted by OGS, a Bid must be received in such place as may be designated in the Bid Documents or if no place is specified in the OGS Mailroom located in the Empire State Plaza, Albany, New York 12242, at or before the date and time established in the Bid Specifications for the Bid opening. For purposes of Bid openings held and conducted by Authorized Users other than OGS, the term late Bid is defined as a Bid not received in the location established in the Bid Specifications at or before the date and time specified for the Bid opening.

Any Bid received at the specified location after the time specified will be considered a late Bid. A late Bid shall not be considered for award unless: (i) no timely Bids meeting the requirements of the Bid Documents are received or, (ii) in the case of a multiple award, an insufficient number of timely Bids were received to satisfy the multiple award; and acceptance of the late Bid is in the best interests of the Authorized Users. Bids submitted for continuous or periodic recruitment contract awards must meet the submission requirements associated with their specifications. Delays in United States mail deliveries or any other means of transmittal, including couriers or agents of the Authorized User shall not excuse late Bid submissions. Similar types of delays, including but not limited to, bad weather, or security procedures for parking and building admittance shall not excuse late Bid submissions. Determinations relative to Bid timeliness shall be at the sole discretion of the Commissioner.

12. BID CONTENTS Bids must be complete and legible. All Bids must be signed. All information required by the Bid Specifications must be supplied by the Bidder on the forms or in the format specified. No alteration, erasure or addition is to be made to the Bid Documents. Changes may be ignored by the Commissioner or may be grounds for rejection of the Bid. Changes, corrections and/or use of white-out in the Bid or Bidder's response portion of the Bid Document must be initialed by an authorized representative of the Bidder. Bidders are cautioned to verify their Bids before submission, as amendments to Bids or requests for withdrawal of Bids received by the Commissioner after the time specified for the Bid opening, may not be considered.

13. EXTRANEOUS TERMS Bids must conform to the terms set forth in the Bid Documents, as extraneous terms or material deviations (including additional, inconsistent, conflicting or alternative terms) may render the Bid non-responsive and may result in rejection of the Bid.

Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract, but shall be deemed included for informational or promotional purposes only.

Only those extraneous terms that meet all the following requirements may be considered as having been submitted as part of the Bid:

- a. Each proposed extraneous term (addition, deletion, counter-offer, deviation, or modification) must be specifically enumerated in a writing which is not part of a pre-printed form; and
- b. The writing must identify the particular specification requirement (if any) that Bidder rejects or proposes to modify by inclusion of the extraneous term; and
- c. The Bidder shall enumerate the proposed addition, counter offer, modification or deviation from the Bid Document, and the reasons therefore.

No extraneous term(s), whether or not deemed "material," shall be incorporated into a Contract or Purchase Order unless submitted in accordance with the above and the Commissioner or Authorized User expressly accepts each such term(s) in writing. Acceptance and/or processing of the Bid shall not constitute such written acceptance of Extraneous Term(s).

14. CONFIDENTIAL/TRADE SECRET MATERIALS

a. **Contractor** Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the Bidder. Marking the Bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered by the Commissioner or Authorized User to be sufficient without specific justification as to why disclosure of particular information in the Bid would cause substantial injury to the competitive position of the Bidder. Bidders/Contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures. Properly identified information that has been designated confidential, trade secret, or proprietary by the Bidder will not be disclosed except as may be required by the Freedom of Information Law or other applicable State and federal laws.

b. **Commissioner or Authorized User** Contractor further warrants, covenants and represents that any confidential information obtained by Contractor, its agents, Subcontractors, officers, distributors, resellers or employees in the course of performing its obligations, including without limitation, security procedures, business operations information, or commercial proprietary information in the possession of the State or any Authorized User hereunder or received from another third party, will not be divulged to any third parties. Contractor shall not be required to keep confidential any such material that is publicly available through no fault of Contractor, independently developed by Contractor without reliance on confidential information of the Authorized User, or otherwise obtained under the Freedom of Information Act or other applicable New York State laws and regulations. This warranty shall survive termination of this Contract. Contractor further agrees to take appropriate steps as to its agents, Subcontractors, officers, distributors, resellers or employees regarding the obligations arising under this clause to insure such confidentiality.

15. RELEASE OF BID EVALUATION MATERIALS Requests concerning the evaluation of Bids may be submitted under the Freedom of Information Law. Information, other than statistical or factual tabulations or data such as the Bid Tabulation, shall only be released as required by law after Contract award. Bid Tabulations are

not maintained for all procurements. Names of Bidders may be disclosed after Bid opening upon request. Written requests should be directed to the Commissioner.

16. FREEDOM OF INFORMATION LAW During the evaluation process, the content of each Bid will be held in confidence and details of any Bid will not be revealed (except as may be required under the Freedom of Information Law or other State law). The Freedom of Information Law provides for an exemption from disclosure for trade secrets or information the disclosure of which would cause injury to the competitive position of commercial enterprises. This exception would be effective both during and after the evaluation process. If the Bid contains any such trade secret or other confidential or proprietary information, it must be accompanied in the Bid with a written request to the Commissioner to not disclose such information. Such request must state with particularity the reasons why the information should not be available for disclosure and must be provided at the time of submission of the Bid. Notations in the header, footer or watermark of the Bid Document will not be considered sufficient to constitute a request for non-disclosure of trade secret or other confidential or proprietary information. Where a Freedom of Information request is made for trademark or other confidential or proprietary information, the Commissioner reserves the right to determine upon written notice to the Bidder whether such information qualifies for the exemption for disclosure under the law. Notwithstanding the above, where a Bid tabulation is prepared and Bids publicly opened, such Bid tabulation shall be available upon request.

17. PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS If any portion of work being Bid is subject to the prevailing wage rate provisions of the Labor Law, the following shall apply:

a. "Public Works" and "Building Services" - Definitions

i. Public Works Labor Law Article 8 applies to contracts for public improvement in which laborers, workers or mechanics are employed on a "public works" project (distinguished from public "procurement" or "service" contracts). The State, a public benefit corporation, a municipal corporation (including a school district), or a commission appointed by law must be a party to the Contract. The wage and hours provision applies to any work performed by Contractor or Subcontractors.

ii. Building Services Labor Law Article 9 applies to Contracts for building service work over \$1,500 with a public agency, that: (i) involve the care or maintenance of an existing building, or (ii) involve the transportation of office furniture or equipment to or from such building, or (iii) involve the transportation and delivery of fossil fuel to such building, and (iv) the principal purpose of which is to furnish services through use of building service employees.

b. Prevailing Wage Rate Applicable to Bid Submissions A copy of the applicable prevailing wage rates to be paid or provided are annexed to the Bid Documents. Bidders must submit Bids which are based upon the prevailing hourly wages, and supplements in cash or equivalent benefits (i.e., fringe benefits and any cash or non-cash compensation which are not wages, as defined by law) that equal or exceed the applicable prevailing wage rate(s) for the location where the work is to be performed. Bidders may not submit Bids based upon hourly wage rates and supplements below the applicable prevailing wage rates as established by the New York State Department of Labor. Bids that fail to comply with this requirement will be disqualified.

c. Wage Rate Payments / Changes During Contract Term The wages to be paid under any resulting Contract shall not be less than the prevailing rate of wages and supplements as set forth by law. It is

required that the Contractor keep informed of all changes in the Prevailing Wage Rates during the Contract term that apply to the classes of individuals supplied by the Contractor on any projects resulting from this Contract, subject to the provisions of the Labor Law. Contractor is solely liable for and must pay such required prevailing wage adjustments during the Contract term as required by law.

d. Public Posting & Certified Payroll Records In compliance with Article 8, Section 220 of the New York State Labor Law:

i. Posting The Contractor must publicly post on the work site, in a prominent and accessible place, a legible schedule of the prevailing wage rates and supplements.

ii. Payroll Records Contractors and Subcontractors must keep original payrolls or transcripts subscribed and affirmed as true under the penalties of perjury as required by law. For public works contracts over \$25,000 where the Contractor maintains no regular place of business in New York State, such records must be kept at the work site. For building services contracts, such records must be kept at the work site while work is being performed.

iii. Submission of Certified Payroll Transcripts for Public Works Contracts Only Contractors and Subcontractors on public works projects must submit monthly payroll transcripts to the Authorized User that has prepared or directs the preparation of the plans and specifications for a public works project, as set forth in the Bid Specifications. For Mini-Bid solicitations, the payroll records must be submitted to the entity preparing the agency Mini-Bid project specification. For "agency specific" Bids, the payroll records should be submitted to the entity issuing the purchase order. For all other OGS Centralized Contracts, such records should be submitted to the individual agency issuing the purchase order(s) for the work. Upon mutual agreement of the Contractor and the Authorized User, the form of submission may be submitted in a specified disk format acceptable to the Department of Labor provided: 1) the Contractor/Subcontractor retains the original records; and, (2) an original signed letter by a duly authorized individual of the Contractor or Subcontractor attesting to the truth and accuracy of the records accompanies the disk. This provision does not apply to Article 9 of the Labor Law building services contracts.

iv. Records Retention Contractors and Subcontractors must preserve such certified transcripts for a period of three years from the date of completion of work on the awarded contract.

Day's Labor Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law.

No laborers, workmen or mechanics in the employ of the Contractor, Subcontractor or other person doing or contracting to do all or part of the work contemplated by the Contract shall be permitted or required to work more than eight hours in any one calendar day or more than five calendar days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. "Extraordinary emergency" shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the NYS Commissioner of Labor for the preservation of the Contract site or for the protection of the life and limb of the persons using the Contract site.

18. TAXES

a. Unless otherwise specified in the Bid Specifications or Contract, the quoted Bid price includes all taxes applicable to the transaction.

b. Purchases made by the State of New York and certain non-State Authorized Users are exempt from New York State and local sales taxes and, with certain exceptions, federal excise taxes. To satisfy the requirements of the New York State Sales tax exemption, either the Purchase Order issued by a State Agency or the invoice forwarded to authorize payment for such purchases will be sufficient evidence that the sale by the Contractor was made to the State, an exempt organization under Section 1116 (a) (1) of the Tax Law. Non-State Authorized Users must offer their own proof of exemption upon request. No person, firm or corporation is, however, exempt from paying the State Truck Mileage and Unemployment Insurance or Federal Social Security taxes, which remain the sole responsibility of the Bidder/Contractor.

c. Pursuant to Revised Tax Law 5-a, Contractor will be required to furnish sales tax certification on its behalf and for its affiliates, and subcontractors for Contracts with a value greater than \$100,000 in accordance with provisions of the law.

d. Purchases by Authorized Users other than the State of New York may be subject to certain taxes which were not included in the Bid price, and in those instances the tax should be computed based on the Contract price and added to the invoice submitted to such entity for payment.

19. EXPENSES PRIOR TO CONTRACT EXECUTION The Commissioner and any Authorized User(s) are not liable for any costs incurred by a Vendor, Bidder or Contractor in the preparation and production of a Bid, Mini-Bid or best and final offers or for any work performed prior to Contract execution.

20. ADVERTISING RESULTS The prior written approval of the Commissioner is required in order for results of the Bid to be used by the Contractor as part of any commercial advertising. The Contractor shall also obtain the prior written approval of the Commissioner relative to the Bid or Contract for press or other media releases.

21. PRODUCT REFERENCES

a. **“Or Equal”** In all Bid Specifications the words “or equal” are understood to apply where a copyrighted, brand name, trade name, catalog reference, or patented Product is referenced. References to such specific Product are intended as descriptive, not restrictive, unless otherwise stated. Comparable Product will be considered if proof of compatibility is provided, including appropriate catalog excerpts, descriptive literature, specifications and test data, etc. The Commissioner’s decision as to acceptance of the Product as equal shall be final.

b. **Discrepancies in References** In the event of a discrepancy between the model number referenced in the Bid Specifications and the written description of the Products which cannot be reconciled, with respect to such discrepancy, then the written description shall prevail.

22. REMANUFACTURED, RECYCLED, RECYCLABLE OR RECOVERED MATERIALS Upon the conditions specified in the Bid Specifications and in accordance with the laws of the State of New York, Contractors are encouraged to use recycled, recyclable or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is

precluded due to health, welfare, safety requirements or in the Bid Specifications. Contractors are further encouraged to offer remanufactured Products to the maximum extent practicable without jeopardizing the performance or intended end use of the Product and unless such use is precluded due to health, welfare, safety requirements or by the Bid Specifications. Where such use is not practical, suitable, or permitted by the Bid Specifications, Contractor shall deliver new materials in accordance with the “Warranties” set forth below.

Items with recycled, recyclable, recovered, refurbished or remanufactured content must be identified in the Bid or Bidder will be deemed to be offering new Product.

23. PRODUCTS MANUFACTURED IN PUBLIC INSTITUTIONS Bids offering Products that are manufactured or produced in public institutions will be rejected.

24. PRICING

a. **Unit Pricing** If required by the Bid Specifications, the Bidder should insert the price per unit specified and the price extensions in decimals, not to exceed four places for each item unless otherwise specified, in the Bid. In the event of a discrepancy between the unit price and the extension, the unit price shall govern unless, in the sole judgment of the Commissioner, such unit pricing is obviously erroneous.

b. **Net Pricing** Unless otherwise required by the Bid Specifications, prices shall be net, including transportation, customs, tariff, delivery and other charges fully prepaid by the Contractor to the destination(s) indicated in the Bid Specifications, subject to the cash discount.

c. **“No Charge” Bid** When Bids are requested on a number of Products as a Group or Lot, a Bidder desiring to Bid “no charge” on a Product in the Group or Lot must clearly indicate such. Otherwise, such Bid may be considered incomplete and be rejected, in whole or in part, at the discretion of the Commissioner.

d. **Educational Pricing** All Products to be supplied for educational purposes that are subject to educational discounts shall be identified in the Bid and such discounts shall be made available to qualifying institutions.

e. **Third Party Financing** If Product acquisitions are financed through any third party financing, Contractor may be required as a condition of Contract Award to agree to the terms and conditions of a “Consent & Acknowledgment Agreement” in a form acceptable to the Commissioner.

f. **Best Pricing Offer** During the Contract term, if substantially the same or a smaller quantity of a Product is sold by the Contractor outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, at the discretion of the Commissioner, shall be immediately reduced to the lower price.

Price decreases shall take effect automatically during the Contract term and apply to Purchase Orders submitted on or after:

(i) **GSA Changes:** Where NYS Net Prices are based on an approved GSA Schedule, the date the approved GSA Schedule pricing decreases during the Contract term; or

(ii) **Commercial Price List Reductions:** Where NYS Net Prices are based on a discount from Contractor’s list prices, the date Contractor lowers its pricing to its customers generally or to similarly situated government customers during the Contract term; or

(iii) Special Offers/Promotions Generally: Where Contractor generally offers more advantageous special price promotions or special discount pricing to other customers during the Contract term for a similar quantity, and the maximum price or discount associated with such offer or promotion is better than the discount or Net Price otherwise available under this Contract, such better price or discount shall apply for similar quantity transactions under this Contract for the life of such general offer or promotion; and

(iv) Special Offers/Promotions to Authorized Users: Contractor may offer Authorized Users, under either this Contract or any other Contracting vehicle, competitive pricing which is lower than the NYS Net Price set forth herein at any time during the Contract term and such lower pricing shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (iii).

Unless otherwise specified in the Bid Specifications, Contractor may offer lower prices or better terms (see Modification of Contract Terms) on any specific Purchase Order(s) from any Authorized User without being in conflict with, or obligation to comply on a global basis, with the terms of this clause.

g. Best and Final Prices As specified in the Bid Documents and Contract, a Contractor may be solicited at the time of issuance of a Purchase Order or Mini-Bid award for best and final pricing for the Product or service to be delivered to the Authorized User. Contractors are encouraged to reduce their pricing upon receipt of such request.

25. DRAWINGS

a. Drawings Submitted With Bid When the Bid Specifications require the Bidder to furnish drawings and/or plans, such drawings and/or plans shall conform to the mandates of the Bid Documents and shall, when approved by the Commissioner, be considered a part of the Bid and of any resulting Contract. All symbols and other representations appearing on the drawings shall be considered a part of the drawing.

b. Drawings Submitted During the Contract Term Where required to develop, maintain and deliver diagrams or other technical schematics regarding the scope of work, Contractor shall do so on an ongoing basis at no additional charge, and must, as a condition of payment, update drawings and plans during the Contract term to reflect additions, alterations, and deletions. Such drawings and diagrams shall be delivered to the Authorized User's representative.

c. Accuracy of Drawings Submitted All drawings shall be neat and professional in manner and shall be clearly labeled as to locations and type of product, connections and components. Drawings and diagrams are to be in compliance with accepted drafting standards. Acceptance or approval of such plans shall not relieve the Contractor from responsibility for design or other errors of any sort in the drawings or plans, or from its responsibility for performing as required, furnishing product, services or installation, or carrying out any other requirements of the intended scope of work.

26. SITE INSPECTION Where a site inspection is required by the Bid Specifications or Project Definition, Bidder shall be required to inspect the site, including environmental or other conditions for pre-existing deficiencies that may affect the installed Product, equipment, or environment or services to be provided and, which may affect Bidder's ability to properly deliver, install or otherwise provide the required Product. All inquiries regarding such conditions shall be made in writing. Bidder shall be deemed to have knowledge of any deficiencies or conditions which such inspection or inquiry might have disclosed. Bidder must provide a detailed explanation with its Bid if additional work is required under this clause in order to properly

complete the delivery and installation of the required Product or provide the requested service.

27. PROCUREMENT CARD The State has entered into an agreement for purchasing card services. The Purchasing Card enables Authorized Users to make authorized purchases directly from a Contractor without processing a Purchase Orders or Purchase Authorizations. Purchasing Cards are issued to selected employees authorized to purchase for the Authorized User and having direct contact with Contractors. Cardholders can make purchases directly from any Contractor that accepts the Purchasing Card.

The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased products have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty Product in accordance with other Contract requirements, the Contractor shall immediately credit a cardholder's account for products returned as defective or faulty.

28. SAMPLES

a. Standard Samples Bid Specifications may indicate that the Product to be purchased must be equal to a standard sample on display in a place designated by the Commissioner and such sample will be made available to the Bidder for examination prior to the opening date. Failure by the Bidder to examine such sample shall not entitle the Bidder to any relief from the conditions imposed by the Bid Specifications.

b. Bidder Supplied Samples The Commissioner reserves the right to request from the Bidder/Contractor a representative sample(s) of the Product offered at any time prior to or after award of a contract. Unless otherwise instructed, samples shall be furnished within the time specified in the request. Untimely submission of a sample may constitute grounds for rejection of Bid or cancellation of the Contract. Samples must be submitted free of charge and be accompanied by the Bidder's name and address, any descriptive literature relating to the Product and a statement indicating how and where the sample is to be returned. Where applicable, samples must be properly labeled with the appropriate Bid or Contract reference.

A sample may be held by the Commissioner during the entire term of the Contract and for a reasonable period thereafter for comparison with deliveries. At the conclusion of the holding period the sample, where feasible, will be returned as instructed by the Bidder, at the Bidder's expense and risk. Where the Bidder has failed to fully instruct the Commissioner as to the return of the sample (i.e., mode and place of return, etc.) or refuses to bear the cost of its return, the sample shall become the sole property of the receiving entity at the conclusion of the holding period.

c. Enhanced Samples When an approved sample exceeds the minimum specifications, all Product delivered must be of the same enhanced quality and identity as the sample. Thereafter, in the event of a Contractor's default, the Commissioner may procure a Product substantially equal to the enhanced sample from other sources, charging the Contractor for any additional costs incurred.

d. Conformance with Sample(s) Submission of a sample (whether or not such sample is tested by, or for, the Commissioner) and approval thereof shall not relieve the Contractor from full compliance with all terms and conditions, performance related and otherwise, specified in the Bid Specifications. If in the judgment of the Commissioner the sample or product submitted is not in accordance with the specifications or testing requirements prescribed in the Bid Specifications, the Commissioner may reject the Bid. If an award has

been made, the Commissioner may cancel the Contract at the expense of the Contractor.

e. Testing All samples are subject to tests in the manner and place designated by the Commissioner, either prior to or after Contract award. Unless otherwise stated in the Bid Specifications, Bidder samples consumed or rendered useless by testing will not be returned to the Bidder. Testing costs for samples that fails to meet Contract requirements may be at the expense of the Contractor.

f. Requests For Samples By Authorized Users Requests for samples by Authorized Users require the consent of the Contractor. Where Contractor refuses to furnish a sample, Authorized User may, in its sole discretion, make a determination on the performance capability of the Product or on the issue in question.

BID EVALUATION

29. BID EVALUATION The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of offers, and waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the State will be served. The Commissioner, in his/her sole discretion, may accept or reject illegible, incomplete or vague Bids and his/her decision shall be final. A conditional or revocable Bid which clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the offer.

30. CONDITIONAL BID Unless the Bid Specifications provides otherwise, a Bid is not rendered non-responsive if the Bidder specifies that the award will be accepted only on all or a specified group of items or Product included in the specification. It is understood that nothing herein shall be deemed to change or alter the method of award contained in the Bid Documents.

31. CLARIFICATIONS / REVISIONS Prior to award, the Commissioner reserves the right to seek clarifications, request Bid revisions, or to request any information deemed necessary for proper evaluation of Bids from all Bidders deemed to be eligible for Contract award. Failure to provide requested information may result in rejection of the Bid.

32. PROMPT PAYMENT DISCOUNTS While prompt payment discounts will not be considered in determining the low Bid, the Commissioner may consider any prompt payment discount in resolving Bids which are otherwise tied. However, any notation indicating that the price is net, (e.g., net 30 days), shall be understood to mean only that no prompt payment discount is offered by the Bidder. The imposition of service, interest, or other charges, except pursuant to the provisions of Article 11-A of the State Finance Law, which are applicable in any case, may render the Bid non-responsive and may be cause for its rejection.

33. EQUIVALENT OR IDENTICAL BIDS In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient. If two or more Bidders submit substantially equivalent Bids as to pricing or other factors, the decision of the Commissioner to award a Contract to one or more of such Bidders shall be final.

34. PERFORMANCE AND RESPONSIBILITY QUALIFICATIONS The Commissioner reserves the right to investigate or inspect at any time whether or not the Product, services, qualifications or facilities offered by the Bidder/Contractor meet the requirements set forth in the Bid Specifications/Contract or as set forth

during Contract negotiations. Contractor shall at all times during the Contract term remain responsible and responsive. A Bidder/Contractor must be prepared, if requested by the Commissioner, to present evidence of legal authority to do business in New York State, integrity, experience, ability, prior performance, organizational and financial capacity as well as where applicable, a statement as to supply, plant, machinery and capacity of the manufacturer or source for the production, distribution and servicing of the Product offered/Bid. If the Commissioner determines that the conditions and terms of the Bid Documents, Bid Specifications or Contract are not complied with, or that items, services or Product proposed to be furnished do not meet the specified requirements, or that the legal authority, integrity experience, ability, prior performance, organization and financial capacity or facilities are not satisfactory, the Commissioner may reject such Bid or terminate the Contract.

35. DISQUALIFICATION FOR PAST PERFORMANCE AND FINDINGS OF NON-RESPONSIBILITY Bidder may be disqualified from receiving awards if Bidder, or anyone in Bidder's employment, has previously failed to perform satisfactorily in connection with public Bidding or contracts or is deemed non-responsive.

36. QUANTITY CHANGES PRIOR TO AWARD The Commissioner reserves the right, at any time prior to the award of a specific quantity Contract, to alter in good faith the quantities listed in the Bid Specifications. In the event such right is exercised, the lowest responsible Bidder meeting Bid Specifications will be advised of the revised quantities and afforded an opportunity to extend or reduce its Bid price in relation to the changed quantities. Refusal by the low Bidder to so extend or reduce its Bid price may result in the rejection of its Bid and the award of such Contract to the lowest responsible Bidder who accepts the revised qualifications.

37. TIMEFRAME FOR OFFERS The Commissioner reserves the right to make awards within sixty (60) days after the date of the Bid opening or such other period of time as set forth in the Bid Documents, during which period, Bids must remain firm and cannot be withdrawn. Pursuant to Section 163(9)(e) of the State Finance Law and Section 2-205 of the Uniform Commercial Code when applicable, where an award is not made within the sixty (60) day period or other time specified as set forth in the Bid Documents, the Bids shall remain firm until such later time as either a Contract is awarded or the Bidder delivers to the Commissioner written notice of the withdrawal of its Bid. Any Bid which expressly states therein that acceptance must be made within a shorter specified time, may at the sole discretion of the Commissioner, be accepted or rejected.

TERMS & CONDITIONS

38. CONTRACT CREATION / EXECUTION Except for contracts governed by Article 11-B of the State Finance Law, subject to and upon receipt of all required approvals as set forth in the Bid Specifications a Contract shall be deemed executed and created with the successful Bidder(s), upon the Commissioner's mailing or electronic communication to the address on the Bid/Contract of: (i) the final Contract Award Notice; (ii) a fully executed Contract; or (iii) a Purchase Order authorized by the Commissioner.

39. PARTICIPATION IN CENTRALIZED CONTRACTS The following shall not limit or inhibit the OGS Commissioner's authority under State Finance Law, Section 163 (10) (e) (Piggybacking):

a. **Agencies** All State Agencies may utilize and purchase under any state Centralized Contract let by the Commissioner, unless the Bid Documents limit purchases to specific State Agencies.

b. **Non-State Agency Authorized Users** Authorized Users other than State Agencies are permitted to make purchases through state Centralized Contracts where permitted by law, the Contract or the Commissioner.

c. **Voluntary Extension** Purchase Orders issued against a State Centralized Contract by any Authorized User not provided for in the Bid Specifications shall be honored by the Contractor at its discretion and only with the approval of the OGS Commissioner and any other approvals required by law. Contractors are encouraged to voluntarily extend service Contracts to those additional entities authorized to utilize commodity Contracts under Section 163 (3) (iv) of the State Finance Law.

d. **Responsibility for Performance** Participation in state Centralized Contracts by Authorized Users is permitted upon the following conditions: (i) the responsibility with regard to performance of any contractual obligation, covenant, condition or term thereunder by any Authorized User other than State Agencies shall be borne and is expressly assumed by such Authorized User and not by the State; (ii) a breach of the Contract by any particular Authorized User shall neither constitute nor be deemed a breach of the Contract as a whole which shall remain in full force and effect, and shall not affect the validity of the Contract nor the obligations of the Contractor thereunder respecting non-breaching Authorized Users, whether State or otherwise; (iii) for a breach by an Authorized User other than a State Agency, the State specifically and expressly disclaims any and all liability for such breach; and (iv) each non-state agency Authorized User and Contractor guarantees to save the State, its officers, agents and employees harmless from any liability that may be or is imposed by their failure to perform in accordance with its obligations under the Contract.

e. **Contract Migration** Authorized Users holding individual Contracts with a Contractor at the time that Contractor is awarded a Centralized Contract for the same Products or services shall be permitted to migrate to that Centralized Contract effective with its commencement date. Such migration shall not operate to diminish, alter or eliminate any right that the Authorized User otherwise had under the terms and conditions of their individual Contract.

40. **MODIFICATION OF CONTRACT TERMS** The terms and conditions set forth in the Contract shall govern all transactions by Authorized User(s) under this Contract. The Contract may only be modified or amended upon mutual written agreement of the Commissioner and Contractor.

The Contractor may, however, offer Authorized User(s) more advantageous pricing, payment, or other terms and conditions than those set forth in the Contract. In such event, a copy of such terms shall be furnished to the Authorized User(s) and Commissioner by the Contractor at the time of such offer.

Other than where such terms are more advantageous for the Authorized User(s) than those set forth in the Contract, no alteration or modification of the terms of the Contract, including substitution of Product, shall be valid or binding against Authorized User(s) unless authorized by the Commissioner or specified in the Contract Award Notification. No such alteration or modification shall be made by unilaterally affixing such terms to Product upon delivery (including, but not limited to, attachment or inclusion of standard pre-printed order forms, product literature, "shrink wrap" terms accompanying

software upon delivery, or other documents) or by incorporating such terms onto order forms, purchase orders or other documents forwarded by the Contractor for payment, notwithstanding Authorized User's subsequent acceptance of Product, or that Authorized User has subsequently processed such document for approval or payment.

41. **SCOPE CHANGES** The Commissioner reserves the right, unilaterally, to require, by written order, changes by altering, adding to or deducting from the Bid Specifications, such changes to be within the general scope of the Contract. The Commissioner may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the consent of the Contractor, which consent shall not be unreasonably withheld.

42. **ESTIMATED / SPECIFIC QUANTITY CONTRACTS** Estimated quantity contracts are expressly agreed and understood to be made for only the quantities, if any, actually ordered during the Contract term. No guarantee of any quantity(s) is implied or given. Purchases by Authorized Users from Contracts for services and technology are voluntary.

With respect to any specific quantity stated in the contract, the Commissioner reserves the right after award to order up to 20% more or less (rounded to the next highest whole number) than the specific quantities called for in the Contract. Notwithstanding the foregoing, the Commissioner may purchase greater or lesser percentages of Contract quantities should the Commissioner and Contractor so agree. Such agreement may include an equitable price adjustment.

43. **EMERGENCY CONTRACTS** In the event that a disaster emergency is declared by Executive Order under Section 28 of Article 2-B of the Executive Law, or the Commissioner determines pursuant to his/her authority under Section 163 (10) (b) of the State Finance Law that an emergency exists requiring the prompt and immediate delivery of Product, the Commissioner reserves the right to obtain such Product from any source, including but not limited to this Contract(s), as the Commissioner in his/her sole discretion determines will meet the needs of such emergency. Contractor shall not be entitled to any claim or lost profits for Product procured from other sources pursuant to this paragraph. The reasons underlying the finding that an emergency exists shall be included in the procurement record.

44. **PURCHASE ORDERS** Unless otherwise authorized in writing by the Commissioner, no Product is to be delivered or furnished by Contractor until transmittal of an official Purchase Order from the Authorized User. Unless terminated or cancelled pursuant to the authority vested in the Commissioner, Purchase Orders shall be effective and binding upon the Contractor when placed in the mail or electronically transmitted prior to the termination of the contract period, addressed to the Contractor at the address for receipt of orders set forth in the Contract or in the Contract Award Notification.

All Purchase Orders issued pursuant to Contracts let by the Commissioner must bear the appropriate Contract number and, if necessary, required State approvals. As deemed necessary, the Authorized User may confirm pricing and other Product information with the Contractor prior to placement of the Purchase Order. The State reserves the right to require any other information from the Contractor which the State deems necessary in order to complete any Purchase Order placed under the Contract. Unless otherwise specified, all Purchase Orders against Centralized Contracts will be placed by Authorized Users directly with the Contractor and any discrepancy between the terms stated on the vendor's order form, confirmation or acknowledgment, and the Contract terms shall be resolved in favor of the terms most favorable to the Authorized User. Should an

Authorized User add written terms and conditions to the Purchase Order that conflict with the terms and conditions of the Contract, the Contractor has the option of rejecting the Purchase Order within five business days of its receipt but shall first attempt to negotiate the additional written terms and conditions in good faith with the Authorized User, or fulfill the Purchase Order. Notwithstanding the above, the Authorized User reserves the right to dispute any discrepancies arising from the presentation of additional terms and conditions with the Contractor.

If, with respect to an Agency Specific Contract let by the OGS Commissioner, a Purchase Order is not received by the Contractor within two weeks after the issuance of a Contract Award Notification, it is the responsibility of the Contractor to request in writing that the appropriate Authorized User forward a Purchase Order. If, thereafter, a Purchase Order is not received within a reasonable period of time, the Contractor shall promptly notify in writing the appropriate purchasing officer in OGS. Failure to timely notify such officer may, in the discretion of the OGS Commissioner and without cost to the State, result in the cancellation of such requirement by the OGS Commissioner with a corresponding reduction in the Contract quantity and price.

45. PRODUCT DELIVERY Delivery must be made as ordered to the address specified on the Purchase Order and in accordance with the terms of the Contract or Contract Award Notice. Unless otherwise specified in the Bid Documents, delivery shall be made within thirty calendar days after receipt of a Purchase Order by the Contractor. The decision of the Commissioner as to compliance with delivery terms shall be final. The burden of proof for delay in receipt of Purchase Order shall rest with the Contractor. In all instances of a potential or actual delay in delivery, the Contractor shall immediately notify the Commissioner and the Authorized User, and confirm in writing the explanation of the delay, and take appropriate action to avoid any subsequent late deliveries. Any extension of time for delivery must be requested in writing by the Contractor and approved in writing by the Authorized User. Failure to meet such delivery time schedule may be grounds for cancellation of the order or, in the Commissioner's discretion, the Contract.

46. WEEKEND AND HOLIDAY DELIVERIES Unless otherwise specified in the Bid Specifications or by an Authorized User, deliveries will be scheduled for ordinary business hours, Monday through Friday (excluding legal holidays observed by the State of New York). Deliveries may be scheduled by mutual agreement for Saturdays, Sundays or legal holidays observed by the State of New York where the Product is for daily consumption, an emergency exists, the delivery is a replacement, delivery is late, or other reasonable circumstance in which event the convenience of the Authorized User shall govern.

47. SHIPPING/RECEIPT OF PRODUCT

a. Packaging Tangible Product shall be securely and properly packed for shipment, storage and stocking in appropriate, clearly labeled shipping containers and according to accepted commercial practice, without any extra charges for packing materials, cases or other types of containers. The container shall become and remain the property of the Authorized User unless otherwise specified in the Contract documents.

b. Shipping Charges Unless otherwise stated in the Bid Specifications, all deliveries shall be deemed to be freight on board (F.O.B.) destination tailgate delivery at the dock of the Authorized User. Unless otherwise agreed, items purchased at a price F.O.B. Shipping point plus transportation charges shall not relieve the Contractor from responsibility for safe and proper delivery

notwithstanding the Authorized User's payment of transportation charges. Contractor shall be responsible for ensuring that the Bill of Lading states "charges prepaid" for all shipments.

c. Receipt of Product The Contractor shall be solely responsible for assuring that deliveries are made to personnel authorized to accept delivery on behalf of the Authorized User. Any losses resulting from the Contractor's failure to deliver Product to authorized personnel shall be borne exclusively by the Contractor.

48. TITLE AND RISK OF LOSS Notwithstanding the form of shipment, title or other property interest, risk of loss shall not pass from the Contractor to the Authorized User until the Products have been received, inspected and accepted by the receiving entity. Acceptance shall occur within a reasonable time or in accordance with such other defined acceptance period as may be specified in the Bid Specifications or Purchase Order. Mere acknowledgment by Authorized User personnel of the delivery or receipt of goods (e.g., signed bill of lading) shall not be deemed or construed as acceptance of the Products received. Any delivery of Product that is substandard or does not comply with the Bid Specifications or Contract terms and conditions, may be rejected or accepted on an adjusted price basis, as determined by the Commissioner.

49. RE-WEIGHING PRODUCT Deliveries are subject to re-weighing at the point of destination by the Authorized User. If shrinkage occurs which exceeds that normally allowable in the trade, the Authorized User shall have the option to require delivery of the difference in quantity or to reduce the payment accordingly. Such option shall be exercised in writing by the Authorized User.

50. PRODUCT SUBSTITUTION In the event a specified manufacturer's Product listed in the Contract becomes unavailable or cannot be supplied by the Contractor for any reason (except as provided for in the Savings/Force Majeure Clause) a Product deemed in writing by the Commissioner to be equal to or better than the specified Product must be substituted by the Contractor at no additional cost or expense to the Authorized User. Unless otherwise specified, any substitution of Product prior to the Commissioner's written approval may be cause for cancellation of Contract.

51. REJECTED PRODUCT When Product is rejected, it must be removed by the Contractor from the premises of the Authorized User within ten calendar days of notification of rejection by the Authorized User. Upon notification of rejection, risk of loss of rejected or non-conforming Product shall remain with Contractor. Rejected items not removed by the Contractor within ten calendar days of notification shall be regarded as abandoned by the Contractor, and the Authorized User shall have the right to dispose of Product as its own property. The Contractor shall promptly reimburse the Authorized User for any and all costs and expenses incurred in storage or effecting removal or disposition after the ten-calendar day period.

52. INSTALLATION Where installation is required, Contractor shall be responsible for placing and installing the Product in the required locations. All materials used in the installation shall be of good quality and shall be free from any and all defects that would mar the appearance of the Product or render it structurally unsound. Installation includes the furnishing of any equipment, rigging and materials required to install or place the Product in the proper location. The Contractor shall protect the site from damage for all its work and shall repair damages or injury of any kind caused by the Contractor, its employees, officers or agents. If any alteration, dismantling or excavation, etc. is required to effect installation, the Contractor shall thereafter promptly restore the structure or site. Work shall be performed to cause the least inconvenience to the Authorized User(s)

and with proper consideration for the rights of other Contractors or workers. The Contractor shall promptly perform its work and shall coordinate its activities with those of other Contractors. The Contractor shall clean up and remove all debris and rubbish from its work as required or directed. Upon completion of the work, the building and surrounding area of work shall be left clean and in a neat, unobstructed condition, and everything in satisfactory repair and order.

53. REPAIRED OR REPLACED PARTS / COMPONENTS

Where the Contractor is required to repair, replace or substitute Product or parts or components of the Product under the Contract, the repaired, replaced or substituted Products shall be subject to all terms and conditions for new parts and components set forth in the Contract including Warranties, as set forth in the Additional Warranties Clause herein. Replaced or repaired Product or parts and components of such Product shall be new and shall, if available, be replaced by the original manufacturer's component or part. Remanufactured parts or components meeting new Product standards may be permitted by the Commissioner or Authorized User. Before installation, all proposed substitutes for the original manufacturer's installed parts or components must be approved by the Authorized User. The part or component shall be equal to or of better quality than the original part or component being replaced.

54. ON-SITE STORAGE With the written approval of the Authorized User, materials, equipment or supplies may be stored at the Authorized User's site at the Contractor's sole risk.

55. EMPLOYEES, SUBCONTRACTORS & AGENTS All employees, Subcontractors or agents performing work under the Contract must be trained staff or technicians who meet or exceed the professional, technical and training qualifications set forth in the Bid Specifications or the Bid Documents, whichever is more restrictive, and must comply with all security and administrative requirements of the Authorized User. The Commissioner reserves the right to conduct a security background check or otherwise approve any employee, Subcontractor or agent furnished by Contractor and to refuse access to or require replacement of any personnel for cause based on, including but not limited to, professional, technical or training qualifications, quality of work or change in security status or non-compliance with Authorized User's security or other requirements. Such approval shall not relieve the Contractor of the obligation to perform all work in compliance with the Contract terms. The Commissioner reserves the right to reject and/or bar from the facility for cause any employee, Subcontractor, or agents of the Contractor.

56. ASSIGNMENT The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title or interest therein, or its power to execute such contract to any other person, company, firm or corporation in performance of the contract without the prior written consent of the Commissioner or Authorized User (as applicable). Failure to obtain consent to assignment from the Authorized User shall revoke and annul such Contract. Notwithstanding the foregoing, the State shall not hinder, prevent or affect assignment of money by a Contractor for the benefit of its creditors. Prior to a consent to assignment of monies becoming effective, the Contractor shall file a written notice of such monies assignment(s) with the Comptroller. Prior to a consent to assignment of a Contract, or portion thereof, becoming effective, the Contractor shall submit the request to assignment to the Commissioner and seek written agreement from the Commissioner which will be filed with the Comptroller. The Commissioner reserves the right to reject any proposed assignee in his/her discretion.

Upon notice to the Contractor, the Contract may be assigned without the consent of the Contractor to another State Agency or subdivision of the State pursuant to a governmental reorganization or assignment of functions under which the functions are transferred to a successor

Agency or to another Agency that assumes OGS responsibilities for the Contract.

57. SUBCONTRACTORS AND SUPPLIERS The Commissioner reserves the right to reject any proposed Subcontractor or supplier for bona fide business reasons, which may include, but are not limited to: they are on the Department of Labor's list of companies with which New York State cannot do business; the Commissioner determines that the company is not qualified; the Commissioner determines that the company is not responsible; the company has previously provided unsatisfactory work or services; the company failed to solicit minority and women's business enterprises (M/WBE) Bidders as required by prior Contracts.

58. PERFORMANCE / BID BOND The Commissioner reserves the right to require a Bidder or Contractor to furnish without additional cost, a performance, payment or Bid bond or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract. Where required, such bond or other security shall be in the form prescribed by the Commissioner.

59. SUSPENSION OF WORK The Commissioner, in his/her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, in the best interests of the Authorized User. In the event of such suspension, the Contractor will be given a formal written notice outlining the particulars of such suspension. Examples of the reason for such suspension include, but are not limited to, a budget freeze or reduction on State spending, declaration of emergency, contract compliance issues or other such circumstances. Upon issuance of such notice, the Contractor is not to accept any Purchase Orders, and shall comply with the suspension order. Activity may resume at such time as the Commissioner issues a formal written notice authorizing a resumption of performance under the Contract.

An Authorized User may issue a formal written notice for the suspension of work for which it has engaged the Contractor for reasons specified in the above paragraph. The written notice shall set forth the reason for such suspension and a copy of the written notice shall be provided to the Commissioner.

60. TERMINATION

a. For Cause: For a material breach that remains uncured for more than thirty (30) days or other specified period after written notice to the Contractor, the Contract or Purchase Order may be terminated by the Commissioner or Authorized User at the Contractor's expense where Contractor becomes unable or incapable of performing, or meeting any requirements or qualifications set forth in the Contract, or for non-performance, or upon a determination that Contractor is non-responsible. Such termination shall be upon written notice to the Contractor. In such event, the Commissioner or Authorized User may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

b. For Convenience: By written notice, this Contract may be terminated at any time by the State for convenience upon sixty (60) days written notice or other specified period without penalty or other early termination charges due. Such termination of the Contract shall not affect any project or Purchase Order that has been issued under the Contract prior to the date of such termination. If the Contract is terminated pursuant to this subdivision, the Authorized User shall remain liable for all accrued but unpaid charges incurred through the date of the termination. Contractor shall use due diligence and provide any outstanding deliverables.

c. For Violation of the Sections 139-j and 139-k of the State Finance Law: The Commissioner reserves the right to terminate the

Contract in the event it is found that the certification filed by the Bidder in accordance with Section 139-k of the State Finance Law was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of the Contract.

d. For Violation of Revised Tax Law 5a: The Commissioner reserves the right to terminate the contract in the event it is found that the certification filed by the Contractor in accordance with §5-a of the Tax Law is not timely filed during the term of the Contract or the certification furnished was intentionally false or intentionally incomplete. Upon such finding, the Commissioner may exercise its termination right by providing written notification to the Contractor.

61. SAVINGS/FORCE MAJEURE A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the Contractor or the Commissioner in the performance of the Contract which non-performance, by exercise of reasonable diligence, cannot be prevented. Contractor shall provide the Commissioner with written notice of any force majeure occurrence as soon as the delay is known.

Neither the Contractor nor the Commissioner shall be liable to the other for any delay in or failure of performance under the Contract due to a force majeure occurrence. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of such delay or failure shall extend the period for performance to such extent as determined by the Contractor and the Commissioner to be necessary to enable complete performance by the Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Notwithstanding the above, at the discretion of the Commissioner where the delay or failure will significantly impair the value of the Contract to the State or to Authorized Users, the Commissioner may:

- a. Accept allocated performance or deliveries from the Contractor. The Contractor, however, hereby agrees to grant preferential treatment to Authorized Users with respect to Product subjected to allocation; and/or
- b. Purchase from other sources (without recourse to and by the Contractor for the costs and expenses thereof) to replace all or part of the Products which are the subject of the delay, which purchases may be deducted from the Contract quantities without penalty or liability to the State; or
- c. Terminate the Contract or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of the Contract or the relative part thereof.

In addition, the Commissioner reserves the right, in his/her sole discretion, to make an equitable adjustment in the Contract terms and/or pricing should extreme and unforeseen volatility in the marketplace affect pricing or the availability of supply. "Extreme and unforeseen volatility in the marketplace" is defined as market circumstances which meet the following criteria: (i) the volatility is due to causes outside the control of Contractor; (ii) the volatility affects the marketplace or industry, not just the particular Contract source of supply; (iii) the effect on pricing or availability of supply is substantial; and (iv) the volatility so affects Contractor's performance that continued performance of the Contract would result in a substantial loss.

62. CONTRACT BILLINGS Contractor and the distributors/resellers designated by the Contractor, if any, shall provide complete and accurate billing invoices to each Authorized User in order to receive payment. Billings for Authorized Users must contain all information required by the Contract and the State Comptroller. The State Comptroller shall render payment for Authorized User purchases, and such payment shall be made in accordance with ordinary State procedures and practices. Payment of Contract purchases made by Authorized Users, other than Agencies, shall be billed directly by Contractor on invoices/vouchers, together with complete and accurate supporting documentation as required by the Authorized User.

Submission of an invoice and payment thereof shall not preclude the Commissioner from reimbursement or demanding a price adjustment in any case where the Product delivered is found to deviate from the terms and conditions of the Contract or where the billing was inaccurate.

Contractor shall provide, upon request of the Commissioner, any and all information necessary to verify the accuracy of the billings. Such information shall be provided in the format requested by the Commissioner and in a media commercially available from the Contractor. The Commissioner may direct the Contractor to provide the information to the State Comptroller or to any Authorized User of the Contract.

63. DEFAULT – AUTHORIZED USER

a. Breach of Authorized User Not Breach of Centralized Contract. An Authorized User's breach shall not be deemed a breach of the Centralized Contract, rather it shall be deemed a breach of the Authorized User's performance under the terms and conditions of the Centralized Contract.

b. Failure to Make Payment. In the event a participating Authorized User fails to make payment to the Contractor for Products delivered, accepted and properly invoiced, within 60 days of such delivery and acceptance, the Contractor may, upon 10 days advance written notice to both the Commissioner and the Authorized User's purchasing official, suspend additional shipments of Product or provision of services to such entity until such time as reasonable arrangements have been made and assurances given by such entity for current and future Contract payments.

c. Notice of Breach. Notwithstanding the foregoing, the Contractor shall, at least 10 days prior to declaring a breach of Contract by any Authorized User, by certified or registered mail, notify both the Commissioner and the purchasing official of the breaching Authorized User of the specific facts, circumstances and grounds upon which a breach will be declared.

d. It is understood, however, that if the Contractor's basis for declaring a breach is insufficient, the Contractor's declaration of breach and failure to service an Authorized User shall constitute a breach of its Contract and the Authorized User may thereafter seek any remedy available at law or equity.

64. INTEREST ON LATE PAYMENTS

a. State Agencies The payment of interest on certain payments due and owed by Agency may be made in accordance with Article 11-A of the State Finance Law (SFL §179-d et. Seq.) and Title 2 of the New York Code of Rules and Regulations, Part 18 (Implementation of Prompt Payment Legislation -2 NYCRR §18.1 et seq.).

b. By Non-State Agencies The terms of Article 11-A apply only to procurements by and the consequent payment obligations of Agencies. Neither expressly nor by any implication is the statute applicable to Non-State Authorized Users. Neither OGS nor the State Comptroller is responsible for payments on any purchases made by a Non-State Agency Authorized User.

c. By Contractor Should the Contractor be liable for any payments to the State hereunder, interest, late payment charges and collection fee charges will be determined and assessed pursuant to Section 18 of the State Finance Law.

65. REMEDIES FOR BREACH It is understood and agreed that all rights and remedies afforded below shall be in addition to all remedies or actions otherwise authorized or permitted by law:

a. Cover/Substitute Performance In the event of Contractor's material breach, the Commissioner may, with or without formally Bidding: (i) Purchase from other sources; or (ii) If the Commissioner is unsuccessful after making reasonable attempts, under the circumstances then existing, to timely obtain acceptable service or acquire replacement Product of equal or comparable quality, the Commissioner may acquire acceptable replacement Product of lesser or greater quality.

Such purchases may, in the discretion of the Commissioner, be deducted from the Contract quantity and payments due Contractor.

b. Withhold Payment In any case where a question of non-performance by Contractor arises, payment may be withheld in whole or in part at the discretion of the Commissioner. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

c. Bankruptcy In the event that the Contractor files a petition under the U.S. Bankruptcy Code during the term of this Centralized Contract, Authorized Users may, at their discretion, make application to exercise its right to set-off against monies due the Debtor or, under the Doctrine of Recoupment, credit the Authorized User the amounts owed by the Contractor arising out of the same transactions.

d. Reimbursement of Costs Incurred The Contractor agrees to reimburse the Authorized User promptly for any and all additional costs and expenses incurred for acquiring acceptable services, and/or replacement Product. Should the cost of cover be less than the Contract price, the Contractor shall have no claim to the difference. The Contractor covenants and agrees that in the event suit is successfully prosecuted for any default on the part of the Contractor, all costs and expenses expended or incurred by the Authorized User in connection therewith, including reasonable attorney's fees, shall be paid by the Contractor.

Where the Contractor fails to timely deliver pursuant to the guaranteed delivery terms of the Contract, the ordering Authorized User may rent substitute equipment temporarily. Any sums expended for such rental shall, upon demand, be reimbursed to the Authorized User promptly by the Contractor or deducted by the Authorized User from payments due or to become due the Contractor on the same or another transaction.

e. Deduction/Credit Sums due as a result of these remedies may be deducted or offset by the Authorized User from payments due, or to become due, the Contractor on the same or another transaction. If no deduction or only a partial deduction is made in such fashion the Contractor shall pay to the Authorized User the amount of such claim or portion of the claim still outstanding, on demand. The

Commissioner reserves the right to determine the disposition of any rebates, settlements, restitution, liquidated damages, etc., which arise from the administration of the Contract.

66. ASSIGNMENT OF CLAIM Contractor hereby assigns to the State any and all its claims for overcharges associated with this Contract which may arise under the antitrust laws of the United States, 15 USC Section 1, et. seq. and the antitrust laws of the State of New York, General Business Law Section 340, et. seq.

67. TOXIC SUBSTANCES Each Contractor furnishing a toxic substance as defined by Section 875 of the Labor Law, shall provide such Authorized User with not less than two copies of a material safety data sheet, which sheet shall include for each such substance the information outlined in Section 876 of the Labor Law.

Before any chemical product is used or applied on or in any building, a copy of the product label and Material Safety Data Sheet must be provided to and approved by the Authorized User agency representative.

68. INDEPENDENT CONTRACTOR It is understood and agreed that the legal status of the Contractor, its agents, officers and employees under this Contract is that of an independent Contractor, and in no manner shall they be deemed employees of the Authorized User, and therefore are not entitled to any of the benefits associated with such employment. The Contractor agrees, during the term of this Contract, to maintain at Contractor's expense those benefits to which its employees would otherwise be entitled by law, including health benefits, and all necessary insurance for its employees, including worker's compensation, disability and unemployment insurance, and to provide the Authorized User with certification of such insurance upon request. The Contractor remains responsible for all applicable federal, state and local taxes, and all FICA contributions.

69. SECURITY Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Authorized User(s) in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.

70. COOPERATION WITH THIRD PARTIES The Contractor shall be responsible for fully cooperating with any third party, including but not limited to other Contractors or Subcontractors of the Authorized User, as necessary to ensure delivery of Product or coordination of performance of services.

71. CONTRACT TERM - RENEWAL In addition to any stated renewal periods in the Contract, any Contract or unit portion thereof let by the Commissioner may be extended by the Commissioner for an additional period(s) of up to one year with the written concurrence of the Contractor and Comptroller. Such extension may be exercised on a month to month basis or in other stated periods of time during the one year extension.

72. ADDITIONAL WARRANTIES Where Contractor, product manufacturer or service provider generally offers additional or more advantageous warranties than set forth below, Contractor shall offer or pass through any such warranties to Authorized Users. Contractor hereby warrants and represents:

a. Product Performance Contractor warrants and represents that Products delivered pursuant to this Contract conform to the manufacturer's specifications, performance standards and documentation, and the documentation fully describes the proper procedure for using the Products.

b. Title and Ownership Warranty Contractor warrants, represents and conveys (i) full ownership, clear title free of all liens, or (ii) the right to transfer or deliver perpetual license rights to any Products transferred to Authorized User under this Contract. Contractor shall be solely liable for any costs of acquisition associated therewith. Contractor fully indemnifies the Authorized User for any loss, damages or actions arising from a breach of said warranty without limitation.

c. Contractor Compliance Contractor represents and warrants to pay, at its sole expense, for all applicable permits, licenses, tariffs, tolls and fees to give all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid/Contract and any applicable laws, including but not limited to, permits, insurance coverage, licensing, proof of coverage for worker's compensation, and shall provide such proof as required by the Commissioner. Failure to do so may constitute grounds for the Commissioner to cancel or suspend this Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner.

d. Product Warranty Unless recycled or recovered materials are available in accordance with the "Recycled or Recovered Materials" clause, Product offered shall be standard new equipment, current model or most recent release of regular stock product with all parts regularly used with the type of equipment offered; and no attachment or part has been substituted or applied contrary to the manufacturer's recommendations and standard practice.

Contractor further warrants and represents that components or deliverables specified and furnished by or through Contractor shall individually, and where specified and furnished as a system, be substantially uninterrupted or error-free in operation and guaranteed against faulty material and workmanship for the warranty period, or for a minimum of one (1) year from the date of acceptance, whichever is longer ("Project warranty period"). During the Project warranty period, defects in the materials or workmanship of components or deliverables specified and furnished by or through Contractor shall be repaired or replaced by Contractor at no cost or expense to the Authorized User. Contractor shall extend the Project warranty period for individual component(s), or for the System as a whole, as applicable, by the cumulative period(s) of time, after notification, during which an individual component or the System requires servicing or replacement (down time) or is in the possession of the Contractor, its agents, officers, Subcontractors, distributors, resellers or employees ("extended warranty").

Where Contractor, the Independent Software Vendor "ISV," or other third party manufacturer markets any Project Deliverable delivered by or through Contractor with a standard commercial warranty, such standard warranty shall be in addition to, and not relieve the Contractor from, Contractor's warranty obligations during the project warranty and extended warranty period(s). Where such standard commercial warranty covers all or some of the Project warranty or extended warranty period(s), Contractor shall be responsible for the coordination during the Project warranty or extended warranty period(s) with ISV or other third party manufacturer(s) for warranty repair or replacement of ISV or other third party manufacturer's Product.

Where Contractor, ISV or other third party manufacturer markets any Project Deliverable with a standard commercial warranty which goes beyond the Project warranty or extended warranty period(s),

Contractor shall notify the Authorized User and pass through the manufacturer's standard commercial warranty to Authorized User at no additional charge; provided, however, that Contractor shall not be responsible for coordinating services under the third party extended warranty after expiration of the Project warranty and extended warranty period(s).

e. Replacement Parts Warranty If during the regular or extended warranty period's faults develop, the Contractor shall promptly repair or, upon demand, replace the defective unit or component part affected. All costs for labor and material and transportation incurred to repair or replace defective Product during the warranty period shall be borne solely by the Contractor, and the State or Authorized User shall in no event be liable or responsible therefor.

Any part of component replaced by the Contractor under the Contract warranty shall be replaced at no cost to the Authorized User and guaranteed for the greater of: a) the warranty period under paragraph (d) above; or b) if a separate warranty for that part or component is generally offered by the manufacturer, the standard commercial warranty period offered by the manufacturer for the individual part or component.

f. Virus Warranty The Contractor represents and warrants that Licensed Software contains no known viruses. Contractor is not responsible for viruses introduced at Licensee's site.

g. Date/Time Warranty Contractor warrants that Product(s) furnished pursuant to this Contract shall, when used in accordance with the Product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a Contractor proposes or an acquisition requires that specific Products must perform as a package or system, this warranty shall apply to the Products as a system.

Where Contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g., billing, invoicing, claim processing), Contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of Contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the Contractor's or Product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this Contract for breach of warranty.

h. Workmanship Warranty Contract warrants that all components or deliverables specified and furnished by or through Contractor under the Project Definition/Work Order meet the completion criteria set forth in the Project Definition/Work Order and any subsequent statement(s) of work, and that services will be provided in a workmanlike manner in accordance with industry standards.

i. Survival of Warranties All warranties contained in this Contract shall survive the termination of this Contract.

73. LEGAL COMPLIANCE Contractor represents and warrants that it shall secure all notices and comply with all laws, ordinances, rules and regulations of any governmental entity in conjunction with the performance of obligations under the Contract. Prior to award and during the Contract term and any renewals thereof, Contractor must establish to the satisfaction of the Commissioner that it meets or exceeds all requirements of the Bid and Contract and any applicable laws, including but not limited to, permits, licensing, and shall provide such proof as required by the Commissioner. Failure to comply or failure to provide proof may constitute grounds for the Commissioner to cancel or suspend the Contract, in whole or in part, or to take any other action deemed necessary by the Commissioner. Contractor also agrees to disclose information and provide affirmations and certifications to comply with Sections 139-j and 139-k of the State Finance Law.

74. INDEMNIFICATION Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the Authorized Users from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the Authorized Users.

75. INDEMNIFICATION RELATING TO THIRD PARTY RIGHTS The Contractor will also indemnify and hold the Authorized Users harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the Authorized Users in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from the Authorized Users gross negligence or willful misconduct, provided that the State shall give Contractor: (i) prompt written notice of any action, claim or threat of infringement suit, or other suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

If usage shall be enjoined for any reason or if Contractor believes that it may be enjoined, Contractor shall have the right, at its own expense and sole discretion to take action in the following order of precedence: (i) to procure for the Authorized User the right to continue Usage (ii) to modify the service or Product so that Usage becomes non-infringing, and is of at least equal quality and performance; or (iii) to replace said service or Product or part(s) thereof, as applicable, with non-infringing service or Product of at least equal quality and performance. If the above remedies are not available, the parties shall terminate the Contract, in whole or in part as necessary and applicable, provided the Authorized User is given a refund for any amounts paid for the period during which Usage was not feasible.

The foregoing provisions as to protection from third party rights shall not apply to any infringement occasioned by modification by the Authorized User of any Product without Contractor's approval.

In the event that an action at law or in equity is commenced against the Authorized User arising out of a claim that the Authorized User's use of the service or Product under the Contract infringes any patent, copyright or proprietary right, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify the Authorized User and the

Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract. Contractor shall in such event protect the interests of the Authorized User and secure a continuance to permit the Authorized User to appear and defend its interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the Authorized User may have. This constitutes the Authorized User's sole and exclusive remedy for patent infringement, or for infringement of any other third party proprietary right.

76. LIMITATION OF LIABILITY Except as otherwise set forth in the Indemnification Paragraphs above, the limit of liability shall be as follows:

a. Contractor's liability for any claim, loss or liability arising out of, or connected with the Products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the charges specified in the Purchase Order for the Products and services, or parts thereof forming the basis of the Authorized User's claim, (said amount not to exceed a total of twelve (12) months charges payable under the applicable Purchase Order) or (ii) one million dollars (\$1,000,000), whichever is greater.

b. The Authorized User may retain such monies from any amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like asserted against the Authorized User unless Contractor at the time of the presentation of claim shall demonstrate to the Authorized User's satisfaction that sufficient monies are set aside by the Contractor in the form of a bond or through insurance coverage to cover associated damages and other costs.

c. Notwithstanding the above, neither the Contractor nor the Authorized User shall be liable for any consequential, indirect or special damages of any kind which may result directly or indirectly from such performance, including, without limitation, damages resulting from loss of use or loss of profit by the Authorized User, the Contractor, or by others.

77. INSURANCE Contractor shall secure and maintain insurance coverage as specified in the Bid Documents and shall promptly provide documentation of specified coverages to the Authorized User. If specified, the Contractor may be required to add the Authorized User as an additional insured.

**THE FOLLOWING CLAUSES PERTAIN TO
TECHNOLOGY & NEGOTIATED CONTRACTS**

78. SOFTWARE LICENSE GRANT Where Product is acquired on a licensed basis the following shall constitute the license grant:

a. **License Scope** Licensee is granted a non-exclusive, perpetual license to use, execute, reproduce, display, perform, or merge the Product within its business enterprise in the United States up to the maximum licensed capacity stated on the Purchase Order. Product may be accessed, used, executed, reproduced, displayed or performed up to the capacity measured by the applicable licensing unit stated on the Purchase Order (i.e., payroll size, number of employees, CPU, MIPS, MSU, concurrent user, workstation). Licensee shall have the right to use and distribute modifications or customizations of the Product to and for use by any Authorized Users otherwise licensed to use the Product, provided that any modifications, however extensive, shall not diminish Licensor's proprietary title or interest. No license, right or

interest in any trademark, trade name, or service mark is granted hereunder.

b. License Term The license term shall commence upon the License Effective Date, provided, however, that where an acceptance or trial period applies to the Product, the License Term shall be extended by the time period for testing, acceptance or trial.

c. Licensed Documentation If commercially available, Licensee shall have the option to require the Contractor to deliver, at Contractor's expense: (i) one (1) hard copy and one (1) master electronic copy of the Documentation in a mutually agreeable format; (ii) based on hard copy instructions for access by downloading from the Internet (iii) hard copies of the Product Documentation by type of license in the following amounts, unless otherwise mutually agreed:

- Individual/Named User License - one (1) copy per License
- Concurrent Users - 10 copies per site
- Processing Capacity - 10 copies per site

Software media must be in a format specified by the Authorized User, without requiring any type of conversion.

Contractor hereby grants to Licensee a perpetual license right to make, reproduce (including downloading electronic copies of the Product) and distribute, either electronically or otherwise, copies of Product Documentation as necessary to enjoy full use of the Product in accordance with the terms of license.

d. Product Technical Support & Maintenance Licensee shall have the option of electing the Product technical support and maintenance ("maintenance") set forth in the Contract by giving written notice to Contractor any time during the Centralized Contract term. Maintenance term(s) and any renewal(s) thereof are independent of the expiration of the Centralized Contract term and will not automatically renew.

Maintenance shall include, at a minimum, (i) the provision of error corrections, updates, revisions, fixes, upgrade and new releases to Licensee, and (ii) Help Desk assistance with locally accessible "800" or toll free, local telephone service, or alternatively on-line Help Desk accessibility. Contractor shall maintain the Products so as to provide Licensee with the ability to utilize the Products in accordance with the Product documentation without significant functional downtime to its ongoing business operations during the maintenance term.

Authorized User shall not be required to purchase maintenance for use of Product, and may discontinue maintenance at the end of any current maintenance term upon notice to Contractor. In the event that Authorized User does not initially acquire or discontinues maintenance of licensed Product, it may, at any time thereafter, reinstate maintenance for Product without any additional penalties or other charges, by paying Contractor the amount which would have been due under the Contract for the period of time that such maintenance had lapsed, at then current NYS net maintenance rates.

e. Permitted License Transfers As Licensee's business operations may be altered, expanded or diminished, licenses granted hereunder may be transferred or combined for use at an alternative or consolidated site not originally specified in the license, including transfers between Agencies ("permitted license transfers"). Licensee(s) do not have to obtain the approval of Contractor for permitted license transfers, but must give thirty (30) days prior written notice to Contractor of such move(s) and certify in writing that the Product is not in use at the prior site. There shall be no additional license or other transfer fees due Contractor, provided that: i) the

maximum capacity of the consolidated machine is equal to the combined individual license capacity of all licenses running at the consolidated or transferred site (e.g., named users, seats, or MIPS); or ii) if the maximum capacity of the consolidated machine is greater than the individual license capacity being transferred, a logical or physical partition or other means of restricting access will be maintained within the computer system so as to restrict use and access to the Product to that unit of licensed capacity solely dedicated to beneficial use for Licensee. In the event that the maximum capacity of the consolidated machine is greater than the combined individual license capacity of all licenses running at the consolidated or transferred site, and a logical or physical partition or other means of restricting use is not available, the fees due Contractor shall not exceed the fees otherwise payable for a single license for the upgrade capacity.

f. Restricted Use By Outsourcers / Facilities Management, Service Bureaus / or Other Third Parties Outsourcers, facilities management or service bureaus retained by Licensee shall have the right to use the Product to maintain Licensee's business operations, including data processing, for the time period that they are engaged in such activities, provided that: 1) Licensee gives notice to Contractor of such party, site of intended use of the Product, and means of access; and 2) such party has executed, or agrees to execute, the Product manufacturer's standard nondisclosure or restricted use agreement which executed agreement shall be accepted by the Contractor ("Non-Disclosure Agreement"); and 3) if such party is engaged in the business of facility management, outsourcing, service bureau or other services, such third party will maintain a logical or physical partition within its computer system so as to restrict use and access to the program to that portion solely dedicated to beneficial use for Licensee. In no event shall Licensee assume any liability for third party's compliance with the terms of the Non-Disclosure Agreement, nor shall the Non-Disclosure Agreement create or impose any liabilities on the State or Licensee.

Any third party with whom a Licensee has a relationship for a state function or business operation, shall have the temporary right to use Product (e.g., JAVA Applets), provided that such use shall be limited to the time period during which the third party is using the Product for the function or business activity.

g. Archival Back-Up and Disaster Recovery Licensee may use and copy the Product and related Documentation in connection with: i) reproducing a reasonable number of copies of the Product for archival backup and disaster recovery procedures in the event of destruction or corruption of the Product or disasters or emergencies which require Licensee to restore backup(s) or to initiate disaster recovery procedures for its platform or operating systems; ii) reproducing a reasonable number of copies of the Product and related Documentation for cold site storage. "Cold Site" storage shall be defined as a restorable back-up copy of the Product not to be installed until and after the declaration by the Licensee of a disaster; iii) reproducing a back-up copy of the Product to run for a reasonable period of time in conjunction with a documented consolidation or transfer otherwise allowed herein. "Disaster Recovery" shall be defined as the installation and storage of Product in ready-to-execute, back-up computer systems prior to disaster or breakdown which is not used for active production or development.

h. Confidentiality Restrictions The Product is a trade secret, copyrighted and proprietary product. Licensee and its employees will keep the Product strictly confidential, and Licensee will not disclose or otherwise distribute or reproduce any Product to anyone other than as authorized under the terms of Contract. Licensee will not remove or destroy any proprietary markings of Contractor.

i. Restricted Use by Licensee Except as expressly authorized by the terms of license, Licensee shall not:

- (i) Copy the Product;
- (ii) Cause or permit reverse compilation or reverse assembly of all or any portion of the Product;
- (iii) Export the Licensed Software in violation of any U.S. Department of Commerce export administration regulations.

79. PRODUCT ACCEPTANCE Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User(s) shall have thirty (30) days from the date of delivery to accept hardware products and sixty (60) days from the date of delivery to accept all other Product. Where the Contractor is responsible for installation, acceptance shall be from completion of installation. Failure to provide notice of acceptance or rejection or a deficiency statement to the Contractor by the end of the period provided for under this clause constitutes acceptance by the Authorized User(s) as of the expiration of that period. The License Term shall be extended by the time periods allowed for trial use, testing and acceptance unless the Commissioner or Authorized User agrees to accept the Product at completion of trial use.

Unless otherwise provided by mutual agreement of the Authorized User and the Contractor, Authorized User shall have the option to run testing on the Product prior to acceptance, such tests and data sets to be specified by User. Where using its own data or tests, Authorized User must have the tests or representative set of data available upon delivery. This demonstration will take the form of a documented installation test, capable of observation by the Authorized User, and shall be made part of the Contractor's standard documentation. The test data shall remain accessible to the Authorized User after completion of the test.

In the event that the documented installation test cannot be completed successfully within the specified acceptance period, and the Contractor or Product is responsible for the delay, Authorized User shall have the option to cancel the order in whole or in part, or to extend the testing period for an additional thirty (30) day increment. Authorized User shall notify Contractor of acceptance upon successful completion of the documented installation test. Such cancellation shall not give rise to any cause of action against the Authorized User for damages, loss of profits, expenses, or other remuneration of any kind.

If the Authorized User elects to provide a deficiency statement specifying how the Product fails to meet the specifications within the testing period, Contractor shall have thirty (30) days to correct the deficiency, and the Authorized User shall have an additional sixty (60) days to evaluate the Product as provided herein. If the Product does not meet the specifications at the end of the extended testing period, Authorized User, upon prior written notice to Contractor, may then reject the Product and return all defective Product to Contractor, and Contractor shall refund any monies paid by the Authorized User to Contractor therefor. Costs and liabilities associated with a failure of the Product to perform in accordance with the functionality tests or product specifications during the acceptance period shall be borne fully by Contractor to the extent that said costs or liabilities shall not have been caused by negligent or willful acts or omissions of the Authorized User's agents or employees. Said costs shall be limited to the amounts set forth in the Limitation of Liability Clause for any liability for costs incurred at the direction or recommendation of Contractor.

80. AUDIT OF LICENSED PRODUCT USAGE Contractor shall have the right to periodically audit, no more than annually, at Contractor's expense, use of licensed Product at any site where a copy

of the Product resides provided that: (i) Contractor gives Licensee(s) at least thirty (30) days advance written notice, (ii) such audit is conducted during such party's normal business hours, (iii) the audit is conducted by an independent auditor chosen on mutual agreement of the parties. Contractor shall recommend a minimum of three (3) auditing/accounting firms from which the Licensee will select one (1). In no case shall the Business Software Alliance (BSA), Software Publishers Association (SPA), Software and Industry Information Association (SIIA) or Federation Against Software Theft (FAST) be used directly or indirectly to conduct audits, or be recommended by Contractor; (iv) Contractor and Licensee are each entitled to designate a representative who shall be entitled to participate, and who shall mutually agree on audit format, and simultaneously review all information obtained by the audit. Such representatives also shall be entitled to copies of all reports, data or information obtained from the audit; and (v) if the audit shows that such party is not in compliance, Licensee shall be required to purchase additional licenses or capacities necessary to bring it into compliance and shall pay for the unlicensed capacity at the NYS Net Price in effect at time of audit, or if none, then at the Contractor's U.S. Commercial list price. Once such additional licenses or capacities are purchased, Licensee shall be deemed to have been in compliance retroactively, and Licensee shall have no further liability of any kind for the unauthorized use of the software.

81. OWNERSHIP/TITLE TO PROJECT DELIVERABLES

a. Definitions

(i) For purposes of this paragraph, "Products." A deliverable furnished under this Contract by or through Contractor, including existing and custom Products, including, but not limited to: a) components of the hardware environment, b) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings), whether printed in hard copy or maintained on diskette, CD, DVD or other electronic media c) third party software, d) modifications, customizations, custom programs, program listings, programming tools, data, modules, components, and e) any properties embodied therein, whether in tangible or intangible form (including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, object code).

(ii) For purposes of this paragraph, "Existing Products." Tangible Products and intangible licensed Products that exist prior to the commencement of work under the Contract. Contractor bears the burden of proving that a particular product was in existence prior to the commencement of the Project.

(iii) For purposes of this paragraph, "Custom Products." Products, preliminary, final or otherwise, which are created or developed by Contractor, its Subcontractors, partners, employees or agents for Authorized User under the Contract.

b. Title to Project Deliverables Contractor acknowledges that it is commissioned by the Authorized User to perform the services detailed in the Purchase Order. Unless otherwise specified in writing in the Bid or Purchase Order, the Authorized User shall have ownership and license rights as follows:

(i) Existing Products:

1. Hardware - Title and ownership of Existing Hardware Product shall pass to Authorized User upon Acceptance.

2. Software - Title and ownership to Existing Software Product(s) delivered by Contractor under the Contract that is normally commercially distributed on a license basis by the Contractor or other independent software vendor proprietary owner ("Existing Licensed Product"), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or the proprietary owner of other independent software

vendor(s) (ISV). Effective upon acceptance, such Product shall be licensed to Authorized User in accordance with the Contractor or ISV owner's standard license agreement, provided, however, that such standard license, must, at a minimum: (a) grant Authorized User a non-exclusive, perpetual license to use, execute, reproduce, display, perform, adapt (unless Contractor advises Authorized User as part of Contractor's proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the Authorized User's satisfaction) and distribute Existing Licensed Product to the Authorized User up to the license capacity stated in the Purchase Order or work order with all license rights necessary to fully effect the general business purpose(s) stated in the Bid or Authorized User's Purchase Order or work order, including the financing assignment rights set forth in paragraph (c) below; and (b) recognize the State of New York as the licensee where the Authorized User is a state agency, department, board, commission, office or institution. Where these rights are not otherwise covered by the ISV's owner's standard license agreement, the Contractor shall be responsible for obtaining these rights at its sole cost and expense. The Authorized User shall reproduce all copyright notices and any other legend of ownership on any copies authorized under this paragraph.

(ii.) **Custom Products:** Effective upon creation of Custom Products, Contractor hereby conveys, assigns and transfers to Authorized User the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor, its agents, employees, or Subcontractors. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a Purchase Order, project definition or work order in the course of Contractor's business. Authorized User may, by providing written notice thereof to the Contractor, elect in the alternative to take a non-exclusive perpetual license to Custom Products in lieu of Authorized User taking exclusive ownership and title to such Products. In such case, Licensee on behalf of all Authorized Users shall be granted a non-exclusive perpetual license to use, execute, reproduce, display, perform, adapt and distribute Custom Product as necessary to fully effect the general business purpose(s) as stated in paragraph (b)(i)(2), above.

c. Transfers or Assignments to a Third Party Financing Agent It is understood and agreed by the parties that a condition precedent to the consummation of the purchase (s) under the Contract may be the obtaining of acceptable third party financing by the Authorized User. The Authorized User shall make the sole determination of the acceptability of any financing proposal. The Authorized User will make all reasonable efforts to obtain such financing, but makes no representation that such financing has been obtained as of the date of Bid receipt. Where financing is used, Authorized User may assign or transfer its rights in Licensed Products (existing or custom) to a third party financing entity or trustee ("Trustee") as collateral where required by the terms of the financing agreement. Trustee's sole rights with respect to transferability or use of Licensed Products shall be to exclusively sublicense to Authorized User all of its Licensee's rights under the terms and conditions of the License Agreement; provided, further, however, in the event of any termination or expiration of such sublicense by reason of payment in full, all of Trustee's rights in such Licensed Product shall terminate immediately and Authorized User's prior rights to such Existing Licensed Product shall be revived.

d. Sale or License of Custom Products Involving Tax-Exempt Financing (i.e., Certificates of Participation - COPS) The Authorized User's sale or other transfer of Custom Products which were acquired by

the Authorized User using third party, tax-exempt financing may not occur until such Custom Products are, or become, useable. In the event that the Contractor wishes to obtain ownership rights to Custom Product(s), the sale or other transfer shall be at fair market value determined at the time of such sale or other transfer, and must be pursuant to a separate written agreement in a form acceptable to the Authorized User which complies with the terms of this paragraph.

e. Contractor's Obligation with Regard to ISV (Third Party) Product Where Contractor furnishes Existing Licensed Product(s) as a Project Deliverable, and sufficient rights necessary to effect the purposes of this section are not otherwise provided in the Contractor or ISV's standard license agreement, Contractor shall be responsible for obtaining from the ISV third party proprietary owner/developer the rights set forth herein to the benefit of the Authorized User at Contractor's sole cost and expense.

82. PROOF OF LICENSE The Contractor must provide to each Licensee who places a Purchase Order either: (i) the Product developer's certified License Confirmation Certificates in the name of such Licensee; or (ii) a written confirmation from the Proprietary owner accepting Product invoice as proof of license. Contractor shall submit a sample certificate, or alternatively such written confirmation from the proprietary developer. Such certificates must be in a form acceptable to the Licensee.

83. PRODUCT VERSION Purchase Orders shall be deemed to reference Manufacturer's most recently released model or version of the Product at time of order, unless an earlier model or version is specifically requested in writing by Authorized User and Contractor is willing to provide such version.

84. CHANGES TO PRODUCT OR SERVICE OFFERINGS

a. Product or Service Discontinuance Where Contractor is the Product Manufacturer/Developer, and Contractor publicly announces to all U.S. customers ("date of notice") that a Product is being withdrawn from the U.S. market or that maintenance service or technical support provided by Contractor ("withdrawn support") is no longer going to be offered, Contractor shall be required to: (i) notify the Commissioner, each Licensee and each Authorized User then under contract for maintenance or technical support in writing of the intended discontinuance; and (ii) continue to offer Product or withdrawn support upon the Contract terms previously offered for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) at Authorized User's option, provided that the Authorized User is under contract for maintenance on the date of notice, either: provide the Authorized User with a Product replacement or migration path with at least equivalent functionality at no additional charge to enable Authorized User to continue use and maintenance of the Product.

In the event that the Contractor is not the Product Manufacturer, Contractor shall be required to: (i) provide the notice required under the paragraph above, to the entities described within five (5) business days of Contractor receiving notice from the Product Manufacturer, and (ii) include in such notice the period of time from the date of notice that the Product Manufacturer will continue to provide Product or withdraw support.

The provisions of this subdivision (a) shall not apply or eliminate Contractor's obligations where withdrawn support is being provided by an independent Subcontractor. In the event that such Subcontractor ceases to provide service, Contractor shall be responsible for subcontracting such service, subject to state approval, to an alternate Subcontractor.

b. **Product or Service Re-Bundling** In the event that Contractor is the Product manufacturer and publicly announces to all U.S. customers (“date of notice”) that a Product or maintenance or technical support offering is being re-bundled in a different manner from the structure or licensing model of the prior U.S. commercial offering, Contractor shall be required to: (i) notify the State and each Authorized User in writing of the intended change; (ii) continue to provide Product or withdrawn support upon the same terms and conditions as previously offered on the then-current NYS Contract for the greater of: a) the best terms offered by Contractor to any other customer, or b) not less than twelve (12) months from the date of notice; and (iii) shall submit the proposed rebundling change to the Commissioner for approval prior to its becoming effective for the remainder of the Contract term. The provisions of this section do not apply if the Contractor is not the Product manufacturer.

85. NO HARDSTOP/PASSIVE LICENSE MONITORING

Unless an Authorized User is otherwise specifically advised to the contrary in writing at the time of order and prior to purchase, Contractor hereby warrants and represents that the Product and all Upgrades do not and will not contain any computer code that would disable the Product or Upgrades or impair in any way its operation based on the elapsing of a period of time, exceeding an authorized number of copies, advancement to a particular date or other numeral, or other similar self-destruct mechanisms (sometimes referred to as “time bombs,” “time locks,” or “drop dead” devices) or that would permit Contractor to access the Product to cause such disablement or impairment (sometimes referred to as a “trap door” device). Contractor agrees that in the event of a breach or alleged breach of this provision that Authorized User shall not have an adequate remedy at law, including monetary damages, and that Authorized User shall consequently be entitled to seek a temporary restraining order, injunction, or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which Authorized User shall be entitled.

86. SOURCE CODE ESCROW FOR LICENSED PRODUCT

If Source Code or Source Code escrow is offered by either Contractor or Product manufacturer or developer to any other commercial customers, Contractor shall either: (i) provide Licensee with the Source Code for the Product; or (ii) place the Source Code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the State, and who shall be directed to release the deposited Source Code in accordance with a standard escrow agreement acceptable to the State; or (iii) will certify to the State that the Product manufacturer/developer has named the State, acting by and through the Authorized User, and the Licensee, as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the State and Licensee, and who shall be directed to release the deposited Source Code in accordance with the terms of escrow. Source Code, as well as any corrections or enhancements to such source code, shall be updated for each new release of the Product in the same manner as provided above and such updating of escrow shall be certified to the State in writing. Contractor shall identify the escrow agent upon commencement of the Contract term and shall certify annually that the escrow remains in effect in compliance with the terms of this paragraph.

The State may release the Source Code to Licensees under this Contract who have licensed Product or obtained services, who may use such copy of the Source Code to maintain the Product.

FOR NEGOTIATED CONTRACTS THE FOLLOWING CLAUSES ARE RESERVED BECAUSE BIDDING DOES NOT APPLY:

Clauses: 7, 8, 9, 10, 11, 12, 13, 16, 15, 21, 25, 26, 28, 29, 30, 31, 32, 33, 36, 49, 50, 52, 54 and 37

INDEX

	<u>Paragraph</u>		<u>Paragraph</u>
	<u>No.</u>		<u>No.</u>
<u>A</u>			
Additional Warranties	72	<u>M</u>	
Advertising Results	20	Modification of Contract Terms	40
Applicability	1	<u>N</u>	
Assignment	56	No Hardstop/Passive License Monitoring	85
Assignment of Claim	66	<u>O</u>	
Audit of Licensed Product Usage	80	On-Site Storage	54
Authentication of Facsimile Bids	10	Ownership/Title to Project Deliverables	81
<u>B</u>			
Bid Contents	12	<u>P</u>	
Bid Evaluation	29	Participation in Centralized Contracts	39
Bid Opening	7	Performance and Responsibility Qualifications	34
Bid Submission	8	Performance/Bid Bond	58
<u>C</u>			
Changes to Product or Service Offerings	84	Prevailing Wage Rates Public Works & Building Services Contracts	17
Clarification/Revisions	31	Pricing	24
Confidential/Trade Secret Materials	14	Procurement Card	27
Conflict of Terms	4	Product Acceptance	79
Conditional Bid	30	Product Delivery	45
Contract Billings	62	Product References	21
Contract Creation/Execution	38	Product Substitution	50
Contract Term - Renewal	71	Product Version	83
Cooperation with Third Parties	70	Products Manufactured in Public Institutions	23
<u>D</u>			
Default - Authorized User	63	Prompt Payment Discounts	32
Definitions	5	Proof of License	82
Disqualification for Past Performance	35	Purchase Orders	44
Drawings	25	<u>Q</u>	
<u>E</u>			
Emergency Contracts	43	Quantity Changes Prior to Award	36
Employees/Subcontractors/Agents	55	<u>R</u>	
Equivalent or Identical Bids	33	Rejected Product	51
Estimated/Specific Quantity Contracts	42	Release of Bid Evaluation Materials	15
Ethics Compliance	3	Re-Weighing Product	49
Expenses Prior to Contract Execution	19	Remanufactured, Recycled, Recyclable or Recovered Materials	22
Extraneous Terms	13	Remedies for Breach	65
<u>F</u>			
Facsimile Submissions	9	Repaired or Replaced Product/Components	53
Freedom of Information Law	16	<u>S</u>	
<u>G</u>			
Governing Law	2	Samples	28
<u>I</u>			
Indemnification	74	Savings/Force Majeure	61
Indemnification Relating to Third Party Rights	75	Scope Changes	41
Independent Contractor	68	Security	69
Installation	52	Site Inspection	26
Insurance	77	Shipping/Receipt of Product	47
Interest on Late Payments	64	Software License Grant	78
International Bidding	6	Source Code Escrow for Licensed Product	86
<u>L</u>			
Late Bids	11	Subcontractors and Suppliers	57
Legal Compliance	73	Suspension of Work	59
Limitation of Liability	76	<u>T</u>	
<u>M</u>			
<u>N</u>			
<u>O</u>			
<u>P</u>			
<u>Q</u>			
<u>R</u>			
<u>S</u>			
<u>T</u>			
<u>W</u>			
		Weekend and Holiday Deliveries	46