



**AGENDA FOR THE COUNCIL MEETING OF THE BOROUGH OF MOUNTAIN LAKES
HELD AS A REMOTE MEETING ON ZOOM**

JUNE 28, 2021

PUBLIC SESSION – BEGINS AT 7:30 PM

To Participate via computer please use the following link: <https://zoom.us/j/208487754> or call iPhone one-tap : US: +13126266799,, 208487754# or +19292056099,,208487754#
Or Telephone: Dial (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 929 205 6099 or +1 346 248 7799 or +1 669 900 6833 or
+1 253 215 8782 or +1 301 715 8592 Webinar ID: 208 487 If calling into the meeting via telephone,
the following commands can be entered via DTMF tones using your phone's dial pad while in a Zoom
meeting: *6 - Toggle mute/unmute *9 - Raise hand (once hand is raised, it cannot be lowered. If you
change your mind and choose not to speak, when called upon, please let us know that you have
changed your mind).

- 1) **CALL TO ORDER AND OPEN PUBLIC MEETINGS ACT STATEMENT – Mayor**
This meeting is being held in compliance with Public Law 1975, Chapter 231, Sections 4 and 13, as notice of this meeting has been reported to The Citizen and the Morris County Daily Record and The Star Ledger on January 7, 2021 and posted in the municipal building.
 - 2) **ROLL CALL ATTENDANCE - Clerk**
 - 3) **FLAG SALUTE – Mayor**
 - 4) **EXECUTIVE SESSION**
 - 5) **COMMUNITY ANNOUNCEMENTS**
 - 6) **RESOLUTIONS**
 - 7) **SPECIAL PRESENTATIONS**
 - 8) **REPORTS OF BOROUGH ESTABLISHED BOARDS, COMMISSIONS AND COMMITTEES**
 - a. Borough Hall & Public Safety Infrastructure Advisory Committee Q2 2021 Project Update
 - 9) **BOROUGH COUNCIL DISCUSSION ITEMS**
 - 10) **PUBLIC COMMENT**
Please state your name and address for the record. Each speaker is limited to one (1) comment of no more than five (5) minutes and no yielding of time to another person.
 - 11) **ATTORNEY'S REPORT**
 - 12) **MANAGER'S REPORT**
 - 13) **ORDINANCES TO INTRODUCE**
 - 14) **ORDINANCES TO ADOPT**
 - a. Ordinance 11-21, Amending Chapter 245 of the Revised General Ordinances of the Borough of Mountain Lakes to Make Cannabis Establishments Prohibited Uses Within the Borough of Mountain Lakes
- PUBLIC COMMENT/HEARING**
Please state your name and address for the record. Each speaker is limited to one (1) comment of no more than five (5) minutes and no yielding of time to another person.
- b. Ordinance 13-21, Amending Chapter 111 of the Revised General Ordinances of the Borough of Mountain Lakes and Amending Certain Municipal Fees

PUBLIC COMMENT/HEARING

Please state your name and address for the record. Each speaker is limited to one (1) comment of no more than five (5) minutes and no yielding of time to another person.

15) *CONSENT AGENDA ITEMS

Matters listed as Consent Agenda Items are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

***RESOLUTIONS**

- a. R106-21, Authorizing the Use of the Public Rights-of-Way by Planet Networks, Inc.
- b. R120-21, Authorizing the Payment of Bills
- c. R121-21, Authorizing Execution of an Agreement Between the Borough of Mountain Lakes and NJ Department of Transportation (NJDOT)
- d. R122-21, Renewing Liquor License for 2021-2022 Licensing Term
- e. R123-21, Authorizing the Refund of Overpayment of Taxes
- f. R124-21, Authorizing the Refund of Overpayment of Taxes

***APPROVAL OF MINUTES**

6/14/21 (Regular)

***BOARD, COMMITTEE AND COMMISSION APPOINTMENTS**

16) DEPARTMENT REPORTS SUBMITTED FOR FILING

- ☒ Construction Department
- ☒ Department of Public Works
- ☒ Fire Department
- ☒ Health Department
- ☒ Police Department
- ☒ Recreation Department
- ☒ Code Enforcement/Property Maintenance

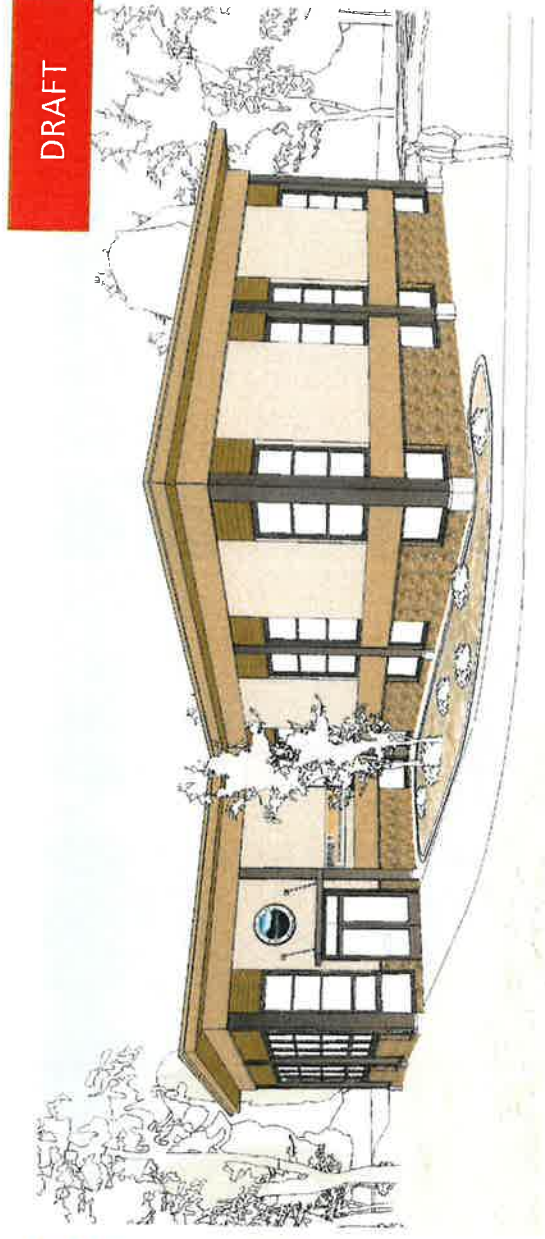
17) COUNCIL REPORTS

18) PUBLIC COMMENT

Please state your name and address for the record. Each speaker is limited to one (1) comment of no more than five (5) minutes and no yielding of time to another person.

19) NEXT STEPS AND PRIORITIES

20) ADJOURNMENT



2Q 2021 Project Update

Borough Hall & Public Safety Infrastructure Advisory Committee

June 28, 2021

Agenda

- Construction Update
- Schedule
- Budget Update
- Borough Hall Administration & Public Safety Operations During Construction

Construction Update

DRAFT

Completed this Quarter

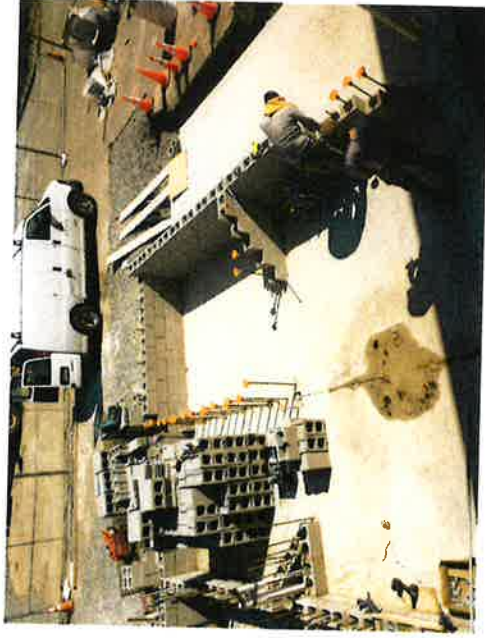
- ✓ Masonry Block Walls for Rear Addition
- ✓ Removal of Existing Air Handling Equipment
- ✓ Install Metal Door Frames in Rear Addition
- ✓ Upper-Level Floor Grinding / Leveling
- ✓ Rear Addition Structural Steel Delivery
- ✓ Front Entry Demo & Front Addition Excavation
- ✓ Preparations to Erect Steel
- ✓ Borough Admin Move to 420 Boulevard
- ✓ Interior Demolition of 2nd Floor
- ✓ ML Police Department Move-Out

In Progress

- Rear Addition Construction
- Footings & Foundation Work on Front Addition
- Procurement of Front Addition Structural Steel
- Interior Demolition of 1st Floor
- Removal of Attic Insulation in Preparation for Roof Removal
- Materials Procurement: HVAC, Roofing and Windows

Next Quarter

- Erect Rear Addition Steel
- Exterior / Interior Wall Framing on Rear Addition
- Rear Addition Fire Stair Procurement
- Completion of Footings & Foundations for Front Addition
- Front Addition Structural Steel Delivery
- Interior Framing for New Partitions in Existing Building



Masonry Block Walls for Rear Addition



Masonry Walls for Rear Addition – 1st Floor Complete



Front Addition Construction Begins

Front Addition - Excavation & Prep for Slabs



Interior Demolition



2nd Floor Demo Complete & Grinding/Leveling Floors



Schedule: December 2020 – August 2022

Construct Rear Addition: December 2020 – December 2021

Foundations – Above Grade Masonry – Steel Framing/Pour 2nd Floor – Frame & Sheath
Exterior Walls – Roof – Fire Stairs Installation – Exterior Finishes & Windows – Interior Fit Out

Construct Front Addition: April 2021 – May 2022

Foundations – Above Grade Masonry/Elevator Shaft – Steel Framing/Pour 2nd Floor Deck – Frame & Sheath Exterior
Walls – Entry Stairs Installation – Elevator Installation – Roof – Exterior Finishes & Windows – Interior Fit Out

Exterior Envelope/Interior Remodel: April 2021 – August 2022

Replace Roof – Exterior Finishes & Windows – First Floor Demo – First Floor Walls – First Floor Ceilings – Finishes –
Fixtures – Second Floor Demo – Second Floor Walls – Second Floor Ceilings – Finishes – Fixtures

Budget Update

DRAFT

Project Expenses through 5.31.21

Total Budget	Expenses	Encumbered	Balance
\$4,513,000	\$503,663	\$225,420	\$3,783,917

Borough Hall Administration & Public Safety Operations During Construction

Borough Hall Administration

- Borough Administration has relocated to 420 Boulevard for the duration of the project

Public Meetings

- Borough Council meetings will be held in-person starting in July at the Mountain Lakes High School Media Center
- Planning Board and Zoning Board are reviewing plans for returning to in-person meetings

Mountain Lakes Police Department

- The Police Department is in the process of relocating to 420 Boulevard and trailer facilities at 400 Boulevard.

ML Volunteer Fire Department

- The Fire Department will remain on-site for the foreseeable future.

Thank You



BOROUGH OF MOUNTAIN LAKES

LISTED IN NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

Mitchell Stern
Borough Manager
mstern@mtnlakes.org

400 Boulevard
Mountain Lakes, NJ 07046
P -973-334-3131 ext .2006
F -973-402-5595

TO: Honorable Mayor and Borough Council
SUBJ: Manager's Report
CC: Robert Oostdyk, Borough Attorney

The following represents the Manager's report for the Borough Council meeting of June 28, 2021.

Intervale Road Preliminary Engineering Costs For Grant Application – As requested, below is a breakdown of costs that will be incurred for preliminary engineering should you wish to move forward with a grant application for new sidewalks on Intervale Road between Sherwood Drive and Yorke Road.

Scope of Work for Preliminary Engineering Evaluation Intervale Road Sidewalk – Sherwood Dr. to Yorke Rd.		
Task	Description	Estimated Cost
Survey	Perform topographic and location survey, and preparation of base mapping of the project area.	\$12,000
Preliminary Plan	Prepare sketch plan showing the proposed sidewalk, retaining walls and any needed right of way acquisitions.	\$5,000
Cost Estimate	Prepare preliminary estimate of construction costs.	\$1,000

Beach Badges Required at Beaches – As a reminder, beach badges are required to enter the beach areas at Island Beach and Birchwood Lake everyday from 10am – 7pm through Labor Day weekend, whenever lifeguards are on duty. I have received reports of lifeguards being harassed when asking to see beach badges. Recreation staff has been advised to call the police should anyone harass them or exhibit rude behavior. Instances of harassment or other improper behavior will not be tolerated and will result in the loss of beach badges and criminal charges where appropriate.

As always, I encourage anyone with questions or concerns to reach out to me.

Mitchell

RESOLUTION AND ORDINANCE REVIEW FOR THE JUNE 28, 2021 MEETING

TO: MAYOR AND COUNCIL

FROM: MITCHELL STERN, MANAGER

RESOLUTIONS

R106-21, AUTHORIZING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY PLANET NETWORKS, INC. – this resolution allows Planet Networks to upgrade and expand their fiber optic network in the public right-of-way. This resolution addresses concerns that were raised when the resolution was first introduced.

R121-21, AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE BOROUGH OF MOUNTAIN LAKES AND NJ DEPARTMENT OF TRANSPORTATION (NJDOT) – The execution of this agreement is a prerequisite to the release of reimbursement funds to the Borough and has been prepared to satisfy federal grant requirements. The agreement has been reviewed by the Borough Attorney.

R122-21, RENEWING LIQUOR LICENSES FOR 2021-2022 LICENSING TERM - this resolution authorizes the approval of the Borough's annual Liquor Licenses for the 2021-2022 licensing term.

R123-21, AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES – this resolution, requested by the Tax Collector, authorizes a refund in the amount of \$5,650.87 for the overpayment of property taxes by the resident for Block 59 Lot 6 also known as 111 Boulevard. The resident refinanced their property and both the old and new mortgage companies paid the 2nd quarter taxes.

R124-21, AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES – this resolution, requested by the Tax Collector, authorizes a refund in the amount of \$4,011.06 for the overpayment of property taxes by the resident for Block 116 Lot 3.12 also known as 4 Bridle Court. The resident refinanced their property and both the old and new mortgage companies paid the 2nd quarter taxes.

ORDINANCES TO INTRODUCE

None

ORDINANCES TO ADOPT

11-21, AMENDING CHAPTER 245 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES TO MAKE CANNABIS ESTABLISHMENTS PROHIBITED USES WITHIN THE BOROUGH OF MOUNTAIN LAKES – this ordinance prohibits all classes of cannabis establishments within the Borough.

13-21, AMENDING CHAPTER 111 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND AMENDING CERTAIN MUNICIPAL FEES – this ordinance adds the Honorary / Memorial Tree fee to the Borough's Fee Schedule and also increases the fee for an Honorary / Memorial Tree from \$250 to \$350.

If there are any questions prior to the meeting, please feel free to contact me.

**BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY**

ORDINANCE 11-21

**ORDINANCE AMENDING THE CHAPTER 245 OF THE REVISED
GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES
TO MAKE CANNABIS ESTABLISHMENTS PROHIBITED USES WITHIN
THE BOROUGH OF MOUNTAIN LAKES**

WHEREAS, the Legislature of the State of New Jersey recently enacted P.L.2021, c.16, known as the New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act (hereinafter referred to as “Act”); and

WHEREAS, Section 31 of the Act authorizes a municipality to prohibit the operations of any one or more classes of cannabis establishments that may operate within the municipality subsequent to the adoption of the Act; and

WHEREAS, the Borough Council of the Borough of Mountain Lakes believes it is appropriate to prohibit the operations of cannabis establishments within its jurisdiction at this time;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Mountain Lakes, in the County of Morris, and State of New Jersey, as follows:

SECTION 1. Chapter 245 Zoning, Article 4 Use Regulations, Section 15 Supplementary Use Regulations, is hereby amended to include a new paragraph “W. Cannabis Establishments and Uses Prohibited.” to read in its entirety as follows:

“W. Cannabis Establishments and Uses Prohibited. The operation of all classes of cannabis establishments as defined by P.L.2021, c. 16, including but not limited to, cannabis retailers, cultivators, manufactures, distributors, wholesalers, testing facilities, delivery services, medical cannabis dispensaries, alternative cannabis treatment centers, including such operators holding a medical cannabis dispensary permit pursuant to P.L.2009, c.307 (C. 24:61-7), are expressly prohibited uses within the jurisdictional boundaries of the Borough of Mountain Lakes.”

SECTION 2. This Ordinance may be renumbered for codification purposes.

SECTION 3. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this

[illegible]

**Borough of Mountain Lakes
Mountain Lakes, NJ 07046**

June 14, 2021

TO: Borough Council

FROM: Cynthia Shaw, Planning Board Administrator

The Planning Board conducted a special meeting on June 10, 2021, during which time it reviewed proposed Ordinance 11-21.

The Planning Board found Ordinance 11-21 to not be inconsistent with the Master Plan.

The Planning Board found one typographical error that should be corrected before the public hearing.

Section 1.

Remove the word "*in*" in the 1st sentence.

**BOROUGH OF MOUNTAIN LAKES
MORRIS COUNTY, NEW JERSEY**

ORDINANCE 13-21

**ORDINANCE AMENDING CHAPTER 111 OF THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF MOUNTAIN LAKES AND AMENDING CERTAIN MUNICIPAL FEES**

BE IT ORDAINED by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 111, Section 11-3 entitled "Fee Schedule"; Subsection A "Borough Clerk" shall be amended to add the following fee:

(7) Honorary/Memorial Tree	\$350.00
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Section 2. Chapter 111, Section 11-3 entitled ""Fee Schedule"; shall be amended by the inclusion of new subsection P, "Tree Removal", which shall read, in its entirety, as follows:

P. Tree Removal

Tree Removal Permit under § <u>102-36</u>	\$350 per tree removed. *
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* No fee is required for the removal of 50% of the trees from the setback area up to a maximum of three trees in a twelve-month period.

Section 3. Chapter 102, Section 102-37 entitled "Fees, violations and penalties", Subsection A shall be amended to read, in its entirety, as follows:

A. Fees. The fee for a tree removal permit shall be as set forth in Chapter 111

Section 4. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 5. All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 6.

This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Introduced: 6/14/21

Adopted: 6/28/21

Name	Motion	Second	Aye	Nay	Absent	Abstain	Motion	Second	Aye	Nay	Absent	Abstain
Happer					X							
Korman		X	X									
Lane			X									
Richter	X		X									
Sheikh			X									
Barnett			X									
Menard			X									

Mitchell Stern, Acting Municipal Clerk

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 106-21

**“RESOLUTION AUTHORIZING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY
PLANET NETWORKS, INC.**

WHEREAS, Planet Networks Inc. ("Planet Networks") is a provider of telecommunications services that is authorized by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout New Jersey; and

WHEREAS, Planet Networks has petitioned the Borough of Mountain Lakes for consent to use the public rights-of-way under Borough jurisdiction to place its fiber optic cabling aerially on existing poles and/or in underground conduit; and

WHEREAS, Planet Networks has represented to the Borough that it has or will enter into agreements with other utility companies for the use of their poles or conduit; and

WHEREAS, N.J.S.A. 48:3-19 provides that "[t]he consent of the municipality shall be obtained for the use by a person of the poles of another person unless each person has a lawful right to maintain poles in such street, highway or other public place;" and

WHEREAS, the Borough Council finds that Planet Networks has provided sufficient information to be granted the statutorily required municipal consent to place its fiber optic cabling aerially on existing poles and/or in existing underground conduit in the rights-of-way under Borough jurisdiction.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, County of Morris, that consent for the use of public rights-of-way under Borough jurisdiction to place telecommunication facilities aerially on existing poles and/or in existing underground conduit is hereby granted to Planet Networks subject to the following terms and conditions:

- a) Planet Networks shall adhere to all applicable federal, State, and local laws in connection with its use of the public right-of-way including obtaining all applicable permits which may be required by the Borough prior to beginning construction. Such permission be and is hereby given upon the further condition that in the use of the public right-of-way Planet Networks, its successors and assigns, shall become subject to any lawful Ordinance or Resolution now or hereafter adopted by the Borough.
- b) Such permission be and is hereby given upon the condition and provision that Planet Networks its successors and assigns, not only indemnify and save harmless the Borough of Mountain Lakes, its officers, agents, and servants, from any claims whatsoever arising from or in any way connected to the acts or omissions of Planet Networks in use of the public right-of-way but shall agree on behalf of the Borough to defend any action at law or equity which may be brought against the Borough upon such claims or from claims arising any acts in connection with this Resolution, excluding in all instances claims arising out of gross negligence or willful misconduct on the part of the Borough.
- c) Planet Networks shall procure and maintain, at its cost and expense, commercial general liability insurance with combined limits not less than \$5,000,000 for injury to or death and \$500,000 for damage or destruction to property in any one occurrence and shall include the municipality as an additional insured on said insurance policy. Proof of said coverage, naming the Borough as an insured and including the indemnification clause in Section b shall be filed with the Borough Clerk prior to the installation of any facility and/or conduit. The Borough shall have the right to increase the amount of commercial general liability insurance and to alter the

terms of insurance called for under this section provided it does so generally in the same manner for all companies using the public right-of-way within the Borough. Said insurance shall not be subject to cancellation or change until thirty (30) days after the Borough Clerk has received written notice thereof as evidenced by return receipt of certified or registered letter.

- d) Planet Networks shall be responsible for the repair of any damage arising from its construction, installation or maintenance of its facilities and/or conduits. All such repairs shall be completed to the reasonable satisfaction of the Borough.
- e) This consent is specifically limited to the placement of fiber optic cabling and related telecommunication facilities (excluding any wireless facilities) on existing poles and/or existing underground conduit owned by other utilities within the rights-of-way under the jurisdiction of the Borough of Mountain Lakes and that additional consent from the Borough Council shall be sought in the event placement of new poles to be owned by Planet Networks becomes necessary or for any other uses on poles and/or underground conduit.
- f) The permission and authority hereby granted shall be for a period of 15 years. Such permission and authority shall be automatically extended for additional periods of ten (10) years each; provided, however, that the Borough shall have the right to terminate permission and authority effective at the end of the currently effective term, by Resolution with a minimum three (3) years notice to Planet Networks to sell or liquidate its facilities in the public right-of-way. Conversely, Planet Networks shall be allowed to terminate permission and authority effective at the end of the currently effective term, by request of Resolution with a minimum of three (3) years from passage of such Resolution to sell or liquidate its facilities in the public right-of-way. Planet Networks shall remove all its facilities from the right of way at the end of the currently effective term unless otherwise permitted by the Borough. Any removal of Planet Network facilities at the end of the currently effective term shall be only on prior notice to the Borough of at least three (3) years, and all necessary permits must be obtained prior to such work.
- g) The Borough Manager is hereby authorized to execute and the Clerk to attest to any other documents necessary to effectuate the terms of this resolution.

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on June 28, 2021.

Mitchell Stern, Acting Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Happer						
Korman						
Lane						
Richter						
Sheikh						
Barnett						
Menard						



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August 25, 2020

Town of Mountain Lakes
ATTN: Mitchell Stern, Municipal Clerk

Dear Mitchell:

Planet Networks is in the process of upgrading and expanding its fiber optic network by deploying fiber optic cabling in the public right-of-way. This fiber optic cabling will be used to provide high-speed Internet access, phone services, and other ancillary Internet-enabled services to the businesses and residents of your municipality. Part of the planning process includes securing the permissions necessary for that deployment.

Obtaining consent from municipalities to locate and operate in the right-of-way is required under NJ statute. Planet Networks would like to receive non-site-specific consent granting permission to locate and operate in the right-of-way in the municipality on by attaching to existing and new utility poles and/or in underground conduits. As such, Planet Networks is requesting consent from the governing body of the municipality to use facilities lawfully erected in the public right-of-way for fiber optic cabling and respectfully requests to be placed on the next available agenda for consideration of this request by the governing body.

To facilitate this request, Planet Networks has provided a fact sheet with details of the proposal, a proposed form of resolution for adoption by the governing body, and relevant statutes for reference.

Questions about this proposal can be directed to Robert Boyle at (862) 300-3103 or robert@planet.net. Notices regarding this proposal and hearing date should be sent electronically to robert@planet.net or by mail to:

Planet Networks
Attn: Municipal Approvals
4 Park Place
Newton, NJ 07860

Sincerely,

Robert Boyle
CEO
Planet Networks, Inc.



What is Planet Networks planning in our area?

Planet Networks is deploying fiber optic cable in the municipal and county rights-of-way in New Jersey, which enables Planet Networks to provide both high-speed fiber optic Internet and phone services to both businesses and consumers.

Fiber optic cable contains strands of glass fibers inside a protective casing. Light traveling via fiber optic cable enables long distance, high-performance data transmission and telecommunications. High speed fiber-optic Internet access enables speeds of hundreds of Gigabits are possible today with faster speeds in the future. Planet Networks already offers Gigabit and 10 Gigabit fiber Internet services which are 10 to 1000 times faster than services typically available from the phone and cable companies which still utilize copper wires for their consumer and small business services.

When will Planet Networks offer service in our area?

Planet Networks is deploying as quickly as we can. We fund new network builds internally from operating profits. The faster new customers sign up, the faster we can build. We begin planning our roll out for each municipality after we receive municipal consent for access to the right of way. We typically focus on major roads first and higher density housing areas. We will branch off from these areas to serve less dense areas over time.

Is Planet Networks using existing utility poles or installing new utility poles?

The consent that Planet Networks is seeking from the municipality is permission to operate in the public right of way. This consent will allow Planet Networks to construct fiber optic cabling utilizing existing poles and conduits located in the municipal right of way typically owned by the phone and power companies already serving the municipality.

Planet Networks will occasionally need to install a new pole when either: a.) there is not enough space available on an existing pole for Planet to attach and the work and disruption to services required to replace such a pole would not be feasible or b.) we need to serve a new area which does not have a pole where it is needed. When deploying fiber in neighborhoods with underground utilities, we will need to bury new conduit in the ground along the streets. We will work with the municipality to permit these additional uses within the right of way on a case by case basis.

Understanding the visual sensitivities of residents and leaders, Planet Networks is committed to first, using existing infrastructure, and second, only installing new infrastructure when necessary, and ensuring that any new infrastructure is in character with the existing streetscape. Additionally, Planet Networks will not install new wood poles that are taller than existing utility poles unless required to maintain safe street clearances for vehicles or to comply with relevant safety codes, nor will Planet install utility poles made of steel or other non-wood material in an area with existing

wood utility poles.

What does Planet Networks seek from the municipality?

A provision of the New Jersey Public Utility Act, N.J.S.A. 48:3-18 (copy enclosed), permits any company (not necessarily public utilities) to use poles that have been lawfully erected in the public right-of-way. Where the second company is not itself a franchised utility, which is the case with Planet Networks, the consent of the municipality is required under N.J.S.A. 48:3-19 (copy enclosed). A form of proposed resolution for adoption to formalize such consent is attached.

Can the municipality reject the request?

Under Federal law, specifically Section 253 of the Federal Telecommunications Act, 47 U.S.C. 253 (copy enclosed), the municipality may not withhold approval, but it may impose reasonable conditions, such as requiring insurance and repair to any damage caused, which have been included in the attached proposed resolution.

Can the municipality negotiate free services for municipal building, our library, or our schools for this?

Planet Networks is a Competitive Local Exchange Carrier (CLEC) regulated by the New Jersey Board of Public Utilities. Planet is not a cable company seeking a franchise in the municipality. With respect to fees or costs to utilize the public rights-of-way, a municipality may only request "reasonable fees for actual services made by any municipal, regional or county governmental agency." N.J.S.A. 54:30A-124 (copy enclosed).

What Sort of Fee is the municipality allowed to charge Planet Networks?

The municipality may not impose a tax on these facilities, but it is entitled to recover the reasonable costs for actual services that it incurs in reviewing and approving Planet Networks' request. The relevant state statute is N.J.S.A. 54:30A-124 (copy enclosed).

What does Planet Networks **NOT** seek to do in the municipality?

Planet Networks is aware that many wireless service providers and other telecommunications infrastructure providers are also seeking consent from municipalities in New Jersey to install wireless transmitting equipment in the public rights of way also known as 5G towers a/k/a micro or nano cell towers. Planet Networks is NOT a cellular phone company and does not install antennas on telephone poles nor does Planet Networks operate any cellular wireless infrastructure. In fact, Planet's agreements with the pole owners usually specifically prohibit this type of activity.

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GAIL L. PRICE*+

FREDERIC M. SHULMAN*+

LOUIS L. D'ARMINIO*◇

JOHN R. EDWARDS, JR.*

MICHAEL K. BREEN*

PAUL A. CONCIATORI*#

WILLIAM D. BIERMAN*

CATHY J. POLLAK*

THOMAS C. MARTIN*

JOHN L. MOLINELLI*x

RICHARD M. FRICKE*+

MARK W. GREENE*◇

KAREN E. EDLER*

MICHAELA. OROZCO**

RICK A. STEINBERG*◇

DOROTHY A. KOWAL

JENNIFER M. KNARICH*◇

GREGORY K. ASADURIAN

RENEE A. FATOVIC*

ALLYSON KASSETTA*

JENNIFER M. BERARDO*

JACQUELINE E. SHULMAN*

NATALIE N. DIRATSOUIAN*

MICHELLE L. KRONE

* Also admitted in NY

+ Also admitted in DC

◇ Also admitted in PA

◇ Also admitted in CT

* Also admitted NY Fed Cir.

Also LEEDAP

x Bergen County Prosecutor (ret.)

Additional Offices:

+ WEST RED OAK LANE, SUITE 302

WHITE PLAINS, NEW YORK 10604

TELEPHONE (914) 251-1618

FACSIMILE (914) 251-1230

ONE GATEWAY CENTER, SUITE 2600

NEWARK, NEW JERSEY 07102

TELEPHONE (973) 799-8551

FACSIMILE (973) 735-2719

July 2019

**Re: Planet Networks, Inc.
Petition for Consent
To Utilize the Public Rights-of-Way
To Install Fiber Optic Cable on New and Existing Utility Poles**

To Whom It May Concern:

Please be advised that this office represents Planet Networks, Inc.¹ in connection with its petition for consent pursuant to N.J.S.A. 48:3-19, N.J.S.A. 27:16-6 and N.J.S.A. 48:17-8, to deploy fiber optic cable on new and existing utility poles in the public rights-of-way in New Jersey. I am writing to provide you with a brief legal memorandum regarding the applicable State and federal law and a proposed consent resolution for your consideration.

The legal requirements for the use of the public rights-of-way are found in both federal and State law. Federal law provides unambiguous and powerful support for approving the deployment of telecommunications infrastructure in the public rights-of-way. In particular, the Telecommunications Act of 1996 (the "TCA"), 47 U.S.C. §332(c)(7)(B)(i)(II), mandates that "the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof...shall not prohibit or have the effect of prohibiting the provision of personal wireless service."

On September 26, 2018, the Federal Communications Commission ("FCC") provided its "definitive interpretation of the effective prohibition standard" contained in the TCA. Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84, FCC-18-133A1, para. 34, p. 13 Sept. 26, 2018 (the "Order"). The FCC held that "an effective prohibition occurs where a state or local legal requirement materially inhibits a provider's ability to engage in any of a variety of activities related to its provision of a covered service. . . a state or local legal requirement could materially inhibit service in numerous ways—not only by rendering a service provider unable to provide an existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services." Order at para 36, p15-16.

The FCC noted that "courts have recognized that states and localities 'hold the public streets and sidewalks in trust for the public' and 'manage public ROW in their regulatory

¹ Planet Network, Inc. was granted authorization to provide local exchange and interexchange telecommunications services throughout New Jersey by New Jersey Board of Public Utilities. BPU Docket No. TE19020198, May 28, 2019. See attached Order. It is a "Telecommunications Carrier" and provides a "Telecommunications Service" as defined in 47 USCS §153.

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capabilities." Order at para 92, p. 44. See, State v. Township of South Hackensack, 65 N.J. 377, 383 (1974); New Jersey Payphone Ass'n v. Town of West N.Y., 130 F. Supp. 2d 631, 638 (D.N.J. 2001), aff'd 299 F.3d 235 (3rd Cir. 2002); Halsey v. Rapid Transit S.R. Co., 47 N.J. Eq. 380 (1890). The FCC held that "Section 253(c) is properly construed to suggest that Congress did not intend to permit states and localities to rely on their ownership of property within a ROW as a pretext to advance regulatory objectives that prohibit or have the effect of prohibiting the provision of covered services, and thus that such conduct is preempted." Order at para. 93, p. 45.

In addition to access to the public rights-of-way, the FCC also noted that other state and municipal requirements, including fees, aesthetics, undergrounding requirements and delays in the issuance of approvals may each violate the prohibition of service proscription of the TCA. The FCC adopted the "Shot Clock" that imposes a 90-day limit to process a collocation application and a 150-day deadline for action on all other applications in order to reduce the delay involved in municipal reviews of such applications. In re Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B), 24 FCC Rcd. 13994, 13995 (2009); City of Arlington v. FCC, 133 S.Ct. 1863 (2013). "The Shot Clock Ruling contemplates not just that a local government will take some action on an application within the deadline, but that it will 'resolve [the] application' before the deadline." New Cingular Wireless PCS, LLC v. Town of Stoddard, N.H., 853 F. Supp. 2d 198, 203-04 (D.N.H. 2012) quoting 2009 FCC Order at ¶ 38).

In New Jersey, the regulation of the use of the public rights-of-way lies outside of the Municipal Land Use Law in the Public Utilities provisions of the New Jersey statutes. Planet Networks seeks permission from the Township to utilize the public rights-of-way pursuant to N.J.S.A. 48:3-19² (for its fiber deployment on existing poles), N.J.S.A. 27:16-6³ (for installations utilizing the County rights-of-way located within the municipality), and N.J.S.A. 48:17-8⁴ (for the installation of new utility poles). Planet Networks has agreements (or is currently negotiating agreements) to attach fiber optic cables to utility poles owned by Jersey Central Power and Light Company, Sussex Rural Electric Cooperative, United Telephone of New Jersey d/b/a CenturyLink Telephone and Verizon. These companies are required to provide

² N.J.S.A. 48:3-19 provides: "The consent of the municipality shall be obtained for the use by a person of the poles of another person unless each person has a lawful right to maintain poles in such street, highway or other public place."

³ N.J.S.A. 27:16-6 provides, in part: "The board of chosen freeholders shall not grant an easement, right of way, or use in, under or over, any portion of a county road in a municipality, unless the governing body of the municipality, or the board of public utility commissioners, shall consent thereto. When, in connection with any such grant, the consent of property owners is required by law, it shall be obtained before such grant of any such easement, right of way or use."

⁴ N.J.S.A. 46:17-8 provides: "Any telegraph or telephone company organized under the laws of this or any other State, or of the United States may erect, construct and maintain the necessary poles, wires, conduits, and other fixtures for its lines, in, upon, along, over or under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles, and through, across or under any of the waters within this State and upon, through or over any other land, subject to the right of the owners thereof to full compensation for the same."

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nondiscriminatory access to any pole, duct, conduit, or right-of-way they own or control pursuant to federal law. 47 U.S.C. §224.

With respect to fees or costs to utilize the public rights-of-way, a municipality may only request "reasonable fees for actual services made by any municipal, regional or county governmental agency." N.J.S.A. 54:30A-124. Such fees are themselves further restricted by the Order which held that "ROW access fees, and fees for the use of government property in the ROW such as light poles, traffic lights, utility poles, and other similar property . . . violate Sections 253 or 332(c)(7) unless these conditions are met: (1) the fees are a reasonable approximation of the state or local government's costs, (2) only objectively reasonable costs are factored into those fees, and (3) the fees are no higher than the fees charged to similarly-situated competitors in similar situations." Order at para 48, p 22.

We hope that the above statement of the law is helpful in your review of Planet Networks' petition.

Very truly yours,



Gregory D. Meese

gdm/encl.

cc: Mr. Robert Boyle

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 120-21

"RESOLUTION AUTHORIZING THE PAYMENT OF BILLS"

WHEREAS, the Borough Manager has reviewed and approved purchase orders requested by the Department Heads; and

WHEREAS, the Finance Office has certified that funds are available in the proper account; and

WHEREAS, the Borough Treasurer has approved payment, upon certification from the Borough Department Heads that the goods and/or services have been rendered to the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, County of Morris, State of New Jersey, that the current bills, dated **June 28, 2021** and on file and available for public inspection in the Office of the Treasurer and approved by him for payment, be paid.

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CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on June 28, 2021.

Mitchell Stern, Acting Municipal Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Happer						
Korman						
Lane						
Richter						
Sheikh						
Barnett						
Menard						

List of Bills - CLAIMS/CLEARING CHECKING ACCOUNT

Meeting Date: 06/28/2021 For bills from 06/10/2021 to 06/24/2021

Check#	Vendor	Description	Payment	Check Total
18884	4166 - ABSOLUTE FENCE SERVICES, INC.	PO 22562 STORM RECOVERY - STORM ISAIAS - FENCE RE	3,370.00	3,370.00
18885	4019 - ADVANCED FIREPROOF DOOR, INC	PO 23290 BH RENO: ACCESS PANEL DOOR, HARDWARE, W	170.94	170.94
18886	4219 - AFP 104 CORP	PO 23563 ADMIN: 2021 NJ MUNICIPAL MGMT FALL CONF	319.00	319.00
18887	4051 - ALL TRAFFIC SOLUTIONS	PO 23470 POLICE: RENEWAL 6/23/2021 - 6/23/2022 -	1,500.00	1,500.00
18888	196 - ALLIED OIL	PO 23411 DPW - FUEL EXPENSES - UNLEADED - BLANKET	2,301.98	2,301.98
18889	189 - ANCHOR ACE HARDWARE	PO 23396 DPW - DEPARTMENT SUPPLIES - BLANKET	722.32	
		PO 23398 RECREATION - DEPARTMENT SUPPLIES - BLANK	407.86	1,130.18
18890	189 - ANCHOR ACE HARDWARE	PO 23517 FIRE DEPT: EQUIPMENT - BLANKET	18.99	18.99
18891	3973 - ARCARI & IOVINO ARCHITECTS, PC	PO 23185 BORO HALL: CONSTRUCTION ADMINISTRATION P	6,108.00	6,108.00
18892	4148 - ATAK TRUCKING, INC.	PO 23569 ISLAND BEACH - SAND	3,399.90	3,399.90
18893	4211 - ATD HIGHWAY PRODUCTS, LLC	PO 23566 DPW - TRAFFIC SAFETY EQUIPMENT	722.50	722.50
18894	2147 - CCTMO LLC	PO 23664 JUNE 2021 - CELL TOWER REIMBURSEMENT CRO	1,885.00	1,885.00
18895	1852 - CERBO LUMBER & HARDWARE	PO 23732 DPW - EQUIPMENT REPAIR - TRAILER	1,111.52	1,111.52
18896	456 - CHADLER SOLUTIONS, LLC	PO 23722 2021 RISK MANAGEMENT FEE - FIRST INSTALL	4,893.00	4,893.00
18897	2196 - CHRISTINA WHITAKER	PO 22962 2021 QUATERLY HEALTH BENEFITS REIMBURSEM	517.17	517.17
18898	497 - CLARION OFFICE AND FURNITURE	PO 23728 OFFICE FURNITURE	655.00	655.00
18899	4150 - CLEARY GIACOBBE ALFIERIE JACOBS,	PO 23721 MAY 2021 LABOR ATTORNEY SERVICES	528.00	528.00
18900	2902 - CLEMENTE'S AUTO BODY	PO 23691 POLICE DEPARTMENT - VEHICLE REPAIR	2,355.80	2,355.80
18901	3927 - CORELOGIC	PO 23758 REFUND OF TAX OVERPAYMENT 80 MELROSE ROA	12,654.50	12,654.50
18902	2971 - DIRECT ENERGY BUSINESS	PO 23765 ACCT#: 614054 - 936656 - MAY 2021	69.47	69.47
18903	2517 - FF1 FIREFIGHTER ONE, LLC	PO 23742 FIRE DEPT: GLOVES	594.00	594.00
18904	2429 - GARDEN STATE FIREWORKS	PO 23644 2021 FIREWORK SHOW - BLANKET	10,200.00	10,200.00
18905	814 - GARDEN STATE HIGHWAY PRODUCTS	PO 23525 BOROUGH HALL PROJECT - SIGNS	166.47	166.47
18906	876 - GARDEN STATE LABORATORIES, INC	PO 23479 WATER DEPT - WELL TESTING - BLANKET	3,094.00	3,094.00
18907	4225 - HECHT TRAILERS, LLC	PO 23673 BH: RENOVATION	1,097.00	
		PO 23725 BH: RENOVATION	340.00	1,437.00
18908	503 - HERBERT J. COHRS	PO 22963 2021 QUARTERLY HEALTH BENEFITS REIMBURSE	1,159.63	1,159.63
18909	911 - HOME DEPOT CREDIT SERVICES	PO 23445 WOODLANDS: TRAIL PROJECT - WILCOX PARK	1,357.60	
		PO 23770 BH: RENOVATION	1,111.32	2,468.92
18910	4209 - HUNTER CARRIER SERVICES	PO 23369 ADMIN: INTERIM PHONE SYSTEM - ACCT BOML	747.60	747.60
18911	859 - JCP&L	PO 23754 MAST ACCT# 200 000 021 275 / BILL DATE:	873.38	
		PO 23755 MASTER ACCT#200 000 574 000/ BILL DATE:	55.21	
		PO 23756 M/A #200 000 053 658 / BILL DATE: JUNE 7	2,046.81	2,975.40
18912	859 - JCP&L	PO 23757 M/A #200 000 054 011/ BILL DATE: JUNE 7,	557.97	557.97
18913	4230 - JOEY BELLA MEMORIAL FUND	PO 23733 RETURN OF DONATION	2,000.00	2,000.00
18914	3153 - KANSAS STATE BANK	PO 23554 COPIER- JULY 2021 SEMI ANNUAL LEASE PAYM	2,308.00	2,308.00
18915	1090 - KENVIL POWER MOWER	PO 23238 DPW - EQUIPMENT REPAIRS - BLANKET	86.38	86.38
18916	4066 - KEYTECH	PO 23771 BH: RENOVATION	1,620.00	1,620.00
18917	1095 - KINGS SUPER MARKET	PO 23640 DPW - RETIREMENT LUNCHEON - BLANKET	282.79	282.79
18918	1082 - KIWANIS AMBULANCE SERVICE	PO 23379 2021 KIWANIS AMBULANCE SERVICE - QUARTER	3,750.00	3,750.00
18919	4061 - LIBERTY BUILDING PRODUCTS	PO 23652 BH RENO: CONSTRUCTION SUPPLIES	4,255.50	
		PO 23682 DPW - DEPARTMENT SUPPLIES	966.00	
		PO 23716 BH: RENOVATION	1,300.00	6,521.50
18920	4228 - LIBERTY TRANSPORTATION & STORAGE CO., IN	PO 23720 BH RENO: MOVING CHARGES	8,419.00	8,419.00
18921	1438 - MAIN POOL & CHEMICAL COMPANY	PO 23483 WATER DEPARTMENT - TREATMENT OF WELLS -	825.60	825.60
18922	2790 - MC PUBLIC SAFETY TRAINING ACADEMY	PO 23590 FIRE DEPT: FIRE ACADEMY CREW TRAINING	250.00	250.00
18923	4167 - MIKE FITZPATRICK CONTRACTORS, INC	PO 22559 MORRIS AVENUE ROAD IMPROVEMENT PROJECT:	272,178.34	272,178.34
18924	3132 - MORRIS CO. LEAGUE OF MUNICIPALITIES	PO 23698 COUNCIL: DINNER FOR MCLM	50.00	
		PO 23701 COUNCIL: CYNTHIA KORMAN - SEMINAR FOR M	50.00	100.00
18925	2534 - MORRIS COUNTY OVERHEAD DOOR COMPANY	PO 23769 FIRE DEPT: EMERGENCY REPAIR	150.00	150.00
18926	3033 - MORRIS COUNTY TAX COLLECTORS	PO 23586 TAX COLLECTOR- LEGISLATIVE UPDAT & ETHIC	30.00	30.00
18927	1309 - MORRIS CTY TAX COLL/TREAS ASSN	PO 23582 FINANCE - LEGISLATIVE UPDATE & ETHICS MT	35.00	35.00
18928	1311 - MORRIS CTY TREASURER	PO 23378 2021 MORRIS COUNTY COMMUNICAITONS DISPAT	26,497.42	26,497.42
18929	4196 - MOUNTAIN LAKES REALTY, LLC	PO 23293 BH: LEASE PAYMENTS FOR TEMP BORO HALL	2,500.00	2,500.00
18930	3099 - MTN LAKES MEDICAL CENTER, LLC	PO 23727 POLICE: NEW HIRE PHYSICALS	160.00	
		PO 23737 FIRE DEPT: NEW MEMBER PHYSICALS	1,695.00	1,855.00
18931	1371 - MTN. LAKES BOARD OF EDUCATION	PO 23749 JULY 2021 MTN LAKES SCHOOL DISTRICT GENE	2,548,575.90	2,548,575.90
18932	1394 - MTN. LAKES PUBLIC LIBRARY	PO 23357 2021 MTN LAKES PUBLIC LIBRARY AID - BLAN	25,309.00	25,309.00
18933	3168 - MUNICIPAL CLERK'S ASSOC. OF MORRIS	PO 23699 CLERK: 2021 MEMBERSHIP	50.00	50.00
18934	1472 - MURPHY MCKEON P.C.	PO 23724 MAY 2021 LEGAL SERVICES	3,045.00	3,045.00
18935	4235 - NET2PHONE, INC.	PO 23772 DEDICATED EFAX LINE - ACCT# 954962	24.79	24.79
18936	3367 - NEW JERSEY EZ PASS	PO 22919 POLICE: TOLLS - ACCT# 2000 1214 1640 8 -	1.00	1.00
18937	1553 - NEW JERSEY NATURAL GAS	PO 23753 MAY - JUNE 2021 SERVICE	756.08	756.08
18938	1559 - NJ STATE ASSOC. OF CHIEFS OF POLICE	PO 23697 POLICE: SERGEANT'S PROMOTIONAL EXAM	2,750.00	
		PO 23726 109th ANNUAL TRAINING CONFERENCE 2021	385.00	3,135.00
18939	2595 - NORTH JERSEY MUNICIPAL EMPLOYEE	PO 23377 2021 DENTAL PREMIUMS - GROUP 1624 - APR	2,632.00	2,632.00
18940	3659 - OPTIMUM	PO 23358 BORO INTERNET SERVICES ACCT# 07876-58071	186.26	186.26
18941	4213 - OPTIMUM	PO 23504 BORO (TEMP SPACE) INTERNET SVCS. ACCT# 0	156.23	156.23
18942	3785 - PROPAC, INC.	PO 23593 POLICE: PATCHES	105.64	105.64

List of Bills - CLAIMS/CLEARING CHECKING ACCOUNT

Meeting Date: 06/28/2021 For bills from 06/10/2021 to 06/24/2021

Check#	Vendor	Description	Payment	Check Total
18943	1734 - READYREFRESH BY NESTLE	PO 23020 ACCT# 0016496903 - 2021 BLANKET (6 MONTH	208.79	208.79
18944	2397 - ROCKAWAY AUTO RESOURCES, LLC	PO 23641 DPW - VEHICLE REPAIR - BLANKET	961.06	961.06
18945	285 - SHAWN BENNETT	PO 23746 POLICE: REIMBURSEMENT	45.00	45.00
18946	1948 - SHEAFFER SUPPLY, INC.	PO 23222 WATER DEPT - SUPPLIES - BLANKET	8.64	8.64
18947	1994 - SHERWIN-WILLIAMS COMPANY	PO 23583 BH: RENOVATION	4,721.88	
		PO 23683 BH: RENOVATIONS - FLOORS	1,122.50	5,844.38
18948	114 - SOLITUDE LAKE MANAGEMENT	PO 23729 LAKES MANAGEMENT - AERATOR	290.27	290.27
18949	1935 - SPATIAL DATA LOGIC, INC	PO 23689 CONSTRUCTION: 2021 SPATIAL DATA LOGIC SO	6,400.00	6,400.00
18950	2774 - STAPLES CONTRACT & COMMERCIAL, LLC	PO 22918 POLICE: OFFICE SUPPLIES - 2021 BLANKET	40.23	40.23
18951	1916 - STICKEL, KOENIG, SULLIVAN & DRILL,	PO 23750 2021 PROFESSIONAL SERVICES FOR MICHAEL D	3,500.00	3,500.00
18952	1943 - STRUCTURAL STONE CO., INC.	PO 23523 ISLAND BEACH - BOAT RACK GRAVEL - BLANKE	948.00	948.00
18953	1981 - SUBURBAN DISPOSAL, INC	PO 23476 2021 SOLID WASTE / RECYCLING COLLECTION	36,439.99	36,439.99
18954	3861 - SYNCE/AMAZON	PO 23539 POLICE: ORDER# 112-1315370-5780233	40.05	
		PO 23545 ADMIN: ORDER# 112-6717810-3909012	28.40	
		PO 23546 BH RENO: ORDER#MULTI ORDER	2,121.43	
		PO 23573 POLICE: ORDER# 112-0571792-5747426	20.71	
		PO 23620 DPW ORDER# 112-9563966-8708228	116.00	2,326.59
18955	3861 - SYNCE/AMAZON	PO 23621 RECREATION ORDER# 112-7042852-2404225	251.38	
		PO 23629 POLICE ORDER# 112-6560906-9367456	129.78	
		PO 23752 BH: RENOVATION - FROM PO# 23157	159.06	540.22
18956	3903 - TCF EQUIPMENT FINANCE	PO 23399 POLICE CAR LEASE / CUST# 730289 - 2021 B	2,247.19	2,247.19
18957	3093 - THE RODGERS GROUP, LLC	PO 23719 POLICE DEPT: ONLINE TRAINING	2,796.00	2,796.00
18958	2108 - THE UPS STORE 4650	PO 22916 POLICE: POSTAGE - 2021 BLANKET	10.71	10.71
18959	253 - THOMAS BARBATO	PO 22965 2021 QUARTERLY HEALTH BENEFITS REIMBURSE	622.15	622.15
18960	4233 - TIMOTHY E WILLKE	PO 23748 REFUND OF OVERPAYMENT OF TAXES	8,880.93	8,880.93
18961	3292 - TREASURER - STATE OF NJ	PO 23642 DPW VEHICLE REGISTRATION SOLID WASTE TRA	178.00	178.00
18962	4088 - TURN OUT UNIFORMS, INC	PO 23534 POLICE: BADGES	657.00	
		PO 23686 POLICE: ACADEMY UNIFORMS	1,056.88	1,713.88
18963	1736 - TWP OF PARSIPPANY - TROY HILLS	PO 23381 2021 SEWER MAINTENANCE CHARGES - BLANKET	39,416.67	39,416.67
18964	2536 - UNUM LIFE INSURANCE COMPANY	PO 23315 STD/LTD / LIFE INSURANCE - 2021 BLANKET	2,832.31	2,832.31
18965	2135 - VERIZON WIRELESS	PO 23751 ACCT# 882388054-00001 / MAY 05 - JUN 04	827.15	827.15
18966	832 - W.W. GRAINGER, INC	PO 22946 STREETS & ROADS - DEPARTMENT SUPPLIES -	214.20	214.20
18967	4227 - WALTER AERTKER	PO 23747 REFUND OF OVERPAYMENT FOR SPRINKLERS	244.80	244.80
18968	4003 - WARSHAUER ELECTRIC SUPPLY CO.	PO 23773 BH:RENOVATION	263.81	263.81
18969	2649 - WAJTEBERO	PO 23459 MOUNTAIN LAKES TRASH BAG - QUOTE	11,090.25	11,090.25
TOTAL				3,109,389.09

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
01-192-18-001-000	CURRENT YEAR TAXES RECEIVED			21,535.43	
01-201-20-100-020	GENERAL ADMIN - OTHER EXPENSE	2,128.00			
01-201-20-110-020	MAYOR & COUNCIL - OTHER EXP'S	100.00			
01-201-20-120-020	MUNICIPAL CLERK - OTHER EXP'S	50.00			
01-201-20-130-020	FINANCE - OTHER EXPENSES	35.00			
01-201-20-140-020	COMPUTER SERVICES	370.89			
01-201-20-145-020	TAX COLLECTOR - OTHER EXPENSES	30.00			
01-201-20-155-020	LEGAL SERVICES - OTHER EXPENSE	3,573.00			
01-201-21-185-020	BD OF ADJUST - OTHER EXPENSES	3,500.00			
01-201-22-195-020	UNIFORM CONST - OTHER EXPENSES	6,400.00			
01-201-23-210-020	INSURANCE - LIABILITY	4,893.00			
01-201-23-220-020	GROUP INSURANCE PLANS-EMPLOYEE	7,763.26			
01-201-25-240-020	POLICE DEPT - OTHER EXPENSES	12,286.77			
01-201-25-250-020	INTERLOCAL SERVICES: MC DISPATCH - OE	26,497.42			
01-201-25-252-020	EMERGENCY MGMT - OTHER EXPENSE	105.64			
01-201-25-255-020	FIRE DEPT - OTHER EXPENSES	1,307.99			
01-201-25-260-020	VOL. AMBULANCE SQUAD CONTRIB	3,750.00			
01-201-26-290-020	STREETS & ROADS - OTHER EXP.	4,798.71			
01-201-26-305-020	SOLID WASTE - OTHER EXPENSES	47,708.24			
01-201-26-310-020	BLDG & GROUNDS - MUNIC BLDG	358.79			
01-201-26-315-020	VEHICLE REPAIRS & MAINTENANCE	3,316.86			
01-201-27-337-020	WOODLAND COMMITTEE - OTHER EXPENSE	1,357.60			
01-201-28-370-020	PARKS & PLAYGROUNDS OTHER EXP.	10,581.16			
01-201-28-375-020	MAINT OF PARKS (BEACHES/LAKES)	698.13			
01-201-29-390-020	AID TO PUBLIC LIBRARY	25,309.00			
01-201-31-435-020	ELECTRICITY - ALL DEPARTMENTS	2,604.78			

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
01-201-31-437-020	NATURAL GAS	825.55			
01-201-31-440-020	TELECOMMUNICATIONS	1,599.54			
01-201-31-447-020	PETROLEUM PRODUCTS	2,301.98			
01-203-25-255-020	(2020) FIRE DEPT - OTHER EXPENSES		1,250.00		
01-207-55-000-000	LOCAL SCHOOL TAXES PAYABLE			2,548,575.90	
01-260-05-100	DUE TO CLEARING			0.00	2,747,497.64
01-290-55-000-005	DUE TO T-MOBILE - SPRINT FEES			1,885.00	
TOTALS FOR	Current Fund	174,251.31	1,250.00	2,571,996.33	2,747,497.64
04-215-55-982-000	2016 CAPITAL ORDINANCE 06-16			4,347.90	
04-215-55-986-000	2019 CAPITAL ORDINANCE 10-19			106,655.62	
04-215-55-987-000	2020 CAPITAL ORDINANCE 4-20			167,142.72	
04-215-55-989-000	2020 CAPITAL ORD. 8-20 BORO HALL RENOV.			33,856.91	
04-260-05-100	DUE TO CLEARING			0.00	312,003.15
TOTALS FOR	General Capital	0.00	0.00	312,003.15	312,003.15
05-192-17-000-000	WATER OPERATING REVENUES			244.80	
05-201-55-520-520	Water Operating - Other Expenses	4,801.62			
05-260-05-100	DUE TO CLEARING			0.00	5,046.42
TOTALS FOR	Water Operating	4,801.62	0.00	244.80	5,046.42
07-201-55-520-520	Sewer Operating - Other Expenses	39,471.88			
07-260-05-100	DUE TO CLEARING			0.00	39,471.88
TOTALS FOR	Sewer Operating	39,471.88	0.00	0.00	39,471.88
18-260-05-100	Due to Clearing			0.00	5,370.00
18-300-70-000-208	RESERVE FOR STORM RECOVERY			5,370.00	
TOTALS FOR	Other Trust	0.00	0.00	5,370.00	5,370.00

Total to be paid from Fund 01 Current Fund	2,747,497.64
Total to be paid from Fund 04 General Capital	312,003.15
Total to be paid from Fund 05 Water Operating	5,046.42
Total to be paid from Fund 07 Sewer Operating	39,471.88
Total to be paid from Fund 18 Other Trust	5,370.00
	<u>3,109,389.09</u>

List of Bills - (1710101001002) Escrow - Developers - Checking **Developer's Escrow**

Meeting Date: 06/28/2021 For bills from 06/10/2021 to 06/24/2021

Check#	Vendor	Description	Payment	Check Total
5240	4169 - BURGIS ASSOCIATES, INC.	PO 23736 APRIL 2021 PROFESSIONAL SERVICES - ESCRO	728.75	728.75
5241	4170 - DEWBERRY ENGINEERS, INC	PO 23735 APRIL 2021 PROFESSIONAL SERVICES - ESCRO	1,080.00	1,080.00
5242	4177 - WEINER LAW GROUP, LLP	PO 23734 MAY 2021 PROFESSIONAL SERVICES - ESCROW	3,520.00	3,520.00
TOTAL				5,328.75

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
17-101-01-001-002	Escrow - Developers - Checking			0.00	5,328.75
17-500-00-091-319	HIGHVIEW HOMES LLC			5,328.75	
TOTALS FOR	Developer's Escrow	0.00	0.00	5,328.75	5,328.75

Total to be paid from Fund 17 Developer's Escrow

5,328.75

5,328.75



List of Bills - (3310101001001) CASH - RECREATION**Recreation Trust**

Meeting Date: 06/28/2021 For bills from 06/10/2021 to 06/24/2021

Check#	Vendor	Description	Payment	Check Total
5386	765 - FIRST STUDENT, INC	PO 23679 2021 TEEN CAMP - WEEK 1	2,645.00	2,645.00
5387	765 - FIRST STUDENT, INC	PO 23762 2021 TEEN CAMP - WEEK 3	3,270.00	3,270.00
5388	765 - FIRST STUDENT, INC	PO 23763 2021 TEEN CAMP - WEEK 2	3,270.00	3,270.00
5389	765 - FIRST STUDENT, INC	PO 23764 2021 SURF CAMP - WEEK 4	2,975.00	2,975.00
5390	3611 - FLORHAM PARK ROLLER SKATING RINK	PO 23606 TEEN CAMP - WEEK ONE - 7/6/21	425.00	425.00
5391	3611 - FLORHAM PARK ROLLER SKATING RINK	PO 23607 TEEN CAMP - WEEK TWO - 7/14/21	425.00	425.00
5392	3611 - FLORHAM PARK ROLLER SKATING RINK	PO 23608 TEEN CAMP - WEEK THREE - 7/23/21	425.25	425.25
5393	3289 - GLOBAL MED INDUSTRIES, LLC	PO 23704 2021 AED replacement - Birchwood Lake +	1,097.05	1,097.05
5394	3609 - JENKINSON'S PAVILION	PO 23609 TEEN CAMP - WEEK ONE - 7/7/21	180.00	180.00
5395	3609 - JENKINSON'S PAVILION	PO 23610 TEEN CAMP - WEEK TWO - 7/13/21	180.00	180.00
5396	3609 - JENKINSON'S PAVILION	PO 23611 TEEN CAMP - WEEK THREE - 7/20/21	180.00	180.00
5397	4224 - KATHLEEN GORSKI	PO 23718 2021 SAIL CAMP TSHIRTS	1,050.00	1,050.00
5398	1177 - LAKELAND TRACK AND FIELD	PO 23685 2021 SPRING TRACK FEES	600.00	600.00
5399	3861 - SYNCB/AMAZON	PO 23657 ORDER# 112-9199248-6032218	100.16	100.16
TOTAL				16,822.46

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	CREDIT
33-101-01-001-001	CASH - RECREATION			0.00	16,822.46
33-600-00-090-000	Recreation Trust Reserves			16,822.46	
TOTALS FOR	Recreation Trust	0.00	0.00	16,822.46	16,822.46

Total to be paid from Fund 33 Recreation Trust

16,822.46

16,822.46

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 121-21

**“RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE BOROUGH OF
MOUNTAIN LAKES AND NJ DEPARTMENT OF TRANSPORTATION (NJDOT)”**

BE IT RESOLVED that the Mayor and Council of the Borough of Mountain Lakes approves the Utility Engineering and Construction Grant Agreement between the Borough and the New Jersey Department of Transportation in connection with the UECA-11- Route. 46, Main Street to Route. 287 – 148040 in the form attached hereto; and

BE IT FURTHER RESOLVED that the Mayor and Acting Borough Clerk are hereby authorized to sign the agreement on behalf of the Borough of Mountain Lakes and that their signature constitutes acceptance of the terms and conditions of the agreement and approves the execution of the agreement.

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on June 28, 2021.

Mitchell Stern, Acting Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Happer						
Korman						
Lane						
Richter						
Sheikh						
Barnett						
Menard						



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O. Box 600
Trenton, New Jersey 08625-0600

PHILIP D. MURPHY
Governor

DIANE GUTIERREZ-SCACCETTI
Commissioner

SHEILA Y. OLIVER
Lt. Governor

Date: 6/11/2021

Doug Edler – Director of Public Works
Borough of Mountain Lakes
55 Pocono Rd,
Mountain Lakes, NJ 07046

Re:

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS

Rockaway Boro, Denville Twp., Mountain Lakes Boro & Parsippany-Troy Hills Twp.
Morris County
UECA-11- Rt. 46, Main St to Rt. 287-148040
UPC # 148040

Dear Mr. Egbert:

The New Jersey Department of Transportation is in transition to new agreements approved by the Federal Highway Administration. Currently, the Utility is being asked to simultaneously execute a Municipal Utility Engineering and Construction Agreement (UECA), Utility Engineering and Construction Agreement Municipal Amendment (Amendment) with Exhibits 1-10.

Enclosed herewith are four (4) copies of proposed Utility Engineering and Construction Agreement **UECA-11- Rt. 46, Main St to Rt. 287-148040** covering the understandings between the State of New Jersey Department of Transportation and **Borough of Mountain Lakes** for the verification, design, protection and/or relocation of certain public works facilities in connection with the design and construction of the above referenced project. We are requesting that your company comply with the Buy America Federal Regulation as stated in the proposed Agreement.

Please take the following actions:

- Have four (4) copies of the Agreement signed, attested to and embossed with your official seal affixed.

- Type or print the name and title of the signer and attester beneath each signature on the Agreement.
- Complete the Vendor Identification Verification form. If the name of the "Utility" provided on the Verification form is not identical to the name of the "Utility" shown on the first paragraph of the Agreement, please make changes to the Agreement so that they **exactly match**.
- Prepare a resolution authorizing execution of this Agreement. Said resolution must have Original Signatures & Seal Verify that the Delegated Authority in the Resolution is the same Authority on the Agreement. Please identify the signer of the Agreement by name.
(Municipalities only)
- Return three (3) signed and attested copies of the Agreement to this office. The fourth copy is for your file.
- Complete the attached "Buy America Commitment Letter" acknowledging that the Utility will comply with the Buy America Federal Regulation Requirements 23 U.S.C. 313 and 23 CFR 635.410 and return with the three signed and attested copies of Agreement to this office.
- Submit with the Agreement a "Buy America Assurance Plan" as noted in the Utility Engineering Construction Agreement (UECA) verifying the Utility Company's compliance with the Federal Buy America requirements for materials and the assurance that the Company will maintain records for three years after the acceptance of the Project. The Utility Company's Buy America Assurance Plan can be generic and upon approval by the Department can be used for all future Projects.
- The Notification of submission of "FINAL" construction invoice will include "Buy America Certificate of Compliance" (DC-17U). The Final construction Invoice must include the "Buy America Certificate of Compliance".

The Agreement's date is to be left blank. Said date will be established and entered by the Commissioner upon final Departmental action.

When ready, the Designer will forward to you the approved Utility Owner Design Authorization (Check List) with a schematic drawing indicating the location of your existing and proposed facilities, and the current proposed highway plans to assist you in developing:

- A. Owner plans.
- B. Owner cost estimate.
- C. Pre-construction notice time.
- D. Estimated construction time to accomplish your proposed work.

Also, enclosed herewith are four (4) copies of proposed Utility Engineering and Construction Agreement Amendment with Exhibits 1 thru 10 to **UECA-11- Rt. 46, Main St to Rt. 287-148040** covering the understandings between the State of New Jersey Department of Transportation and **Borough of Mountain Lakes** for the required Federal Regulations pursuant to 2 C.F.R. 200 and 2 C.F.R. 200 Appendix II and implementing regulations of the Federal Highway Administration's procurement requirements.

The Amendment template and Exhibits have been reviewed and approved by the Federal Highway Administration for use by the Department of Transportation with utilities within New Jersey. This template was approved specifically for utility owned and controlled by a municipality or group of municipalities. This Amendment is only for the listed project above.

Please take the following actions:

- Have four (4) copies of the Agreement signed, attested to, and embossed with your official seal affixed.
- Type or print the name and title of the signer and attester beneath each signature on the Agreement.
- Verify the utility's DUNS number in the designated space on the upper right hand of the document. This is a new requirement from the Federal Highway Administration, failure to provide the DUNS No. could result in a delay of receiving payment.
- Return three (3) signed and attested copies of the Agreement to this office. The fourth copy is for your file.

Return to: - NJDOT, P.O. Box 600, Trenton NJ 08625-0600.

Division of Project Management, Team D. (Attn: Dishit Patel)

The Agreement's date is to be left blank. Said date will be established and entered by the Commissioner upon final Departmental action.

When ready, the Project Manager will send you an executed copy for your use.

Should you have any questions, please contact Dishit Patel, Asst. Project Manager at (609) 963-1025 or by email: Dishitkumar.patel@dot.nj.gov.

Sincerely,



Bhavesh Shah
Project Management Specialist 2
Division of Project Management, Team D

Enclosures
c: Project File

Commitment Letter Instructions

Project Managers / Assistant Project Managers complete the following before sending out to the Utility Companies:

1. Fill in the Date.
2. Fill in the Project Manager's Name at the appropriate locations.
3. Fill in the Utility Company's address.
4. Fill in the Project Description and Project Location.
5. Fill in the agreement number – UECA-_____.
6. Fill in the UPC number.
7. Fill in the Utility Company's name at four (4) locations in the body of the letter.

Utility Company Letterhead

Date:

NJDOT

1035 Parkway Avenue

P.O. Box 600

Trenton NJ 08625-0600

E&O Building

ATTN: **Bhavesh Shah**

Re: Buy America Commitment Letter

Borough of Mountain Lakes

55 Pocono Rd,

Mountain Lakes, NJ 07046

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
Rockaway Boro, Denville Twp., Mountain Lakes Boro & Parsippany-Troy Hills Twp.
Morris County
UECA-11-Rt. 46, Main St to Rt. 287-148040
UPC # 148040

Utility Company to check the appropriate box(es)

Bhavesh Shah,

☐ **Borough of Mountain Lakes** acknowledges that all steel and iron products that will be used for permanent incorporation for the subject will comply with Buy America Federal Regulations U.S.C. 313 and 23 CFR 635.410. This requires that such products will be made from steel and iron that it is melted and manufactured in the United States, and that the application of coatings which protect or enhance the value of the material are performed in the United States.

Borough of Mountain Lakes will maintain records from all suppliers, fabricators and manufacturers verifying the same, and will comply with its Buy America Assurance Plan dated _____, which has been submitted to and approved by the New Jersey Department of Transportation.

☐ **Borough of Mountain Lakes** has an Assurance Plan on file with NJDOT Utility Management.

OR

☐ **Borough of Mountain Lakes** acknowledges that no iron and/or steel materials will be installed and/or supplied by the Utility and that the only work to be performed would be labor for engineering, project management, flagging and/or construction inspection, therefore, an Assurance Plan is not required at this time.

Sincerely,

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
*Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.*

Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

THIS AGREEMENT made this _____ day of _____, _____, between the COMMISSIONER OF TRANSPORTATION, acting for and in the name of the STATE OF NEW JERSEY, hereinafter called the "State", and the **Borough of Mountain Lakes**, hereinafter called the "Utility".

WHEREAS, State is about to undertake the design and construction of **Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS** located in *Rockaway Boro, Denville Twp., Mountain Lakes Boro & Parsippany-Troy Hills Twp. Morris County*, hereinafter called the "Project"; and

WHEREAS, the Project may require the construction of new, and/or the protection, relocation and/or adjustment of facilities of the existing **Water & Sewer** system which is owned and operated by the Utility; and

WHEREAS, Utility's legal right to occupy public right-of-way, subject to the conditions imposed by the State, is in no way mitigated by this Agreement; and

WHEREAS, Utility is not obligated by State law or agreement to relocate its own facilities at its own expense for this type of Project; and

WHEREAS, the provisions of the State's Accommodation of Utilities within Highway Right-of-Way N.J.A.C. 16:25 and Code of Federal Regulations, 23 C.F.R. 645, Subpart B are applicable.

NOW THEREFORE, State and Utility, for the mutual benefits to be obtained, agree as follows:

- (1) The State and Utility shall cooperate in developing plans and cost estimates for their respective work necessitated by the Project.
- (2) The Utility shall designate a responsible representative to coordinate its effort with those of the State.
- (3) The State will, at its sole cost and expense, contract for and cause to be constructed, all items indicated in the State's contract plans and specifications for the Project, related to existing and proposed facilities owned and operated by the Utility.
- (4) The State will authorize and reimburse the Utility for its actual costs for design, review, approval and inspection, for the protection, relocation or adjustment of its existing facilities necessary to accomplish the Project.
- (5) The Utility's preliminary engineering design costs for correspondence, meetings and exchanges of engineering information are eligible for reimbursement and the State will

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
*Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.*

Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

accept billing of these costs after this Agreement is fully executed and issued.

- (6) The Utility shall disclose and verify its existing facilities at no cost to State within the Project limits identifying the facility type, size and operating potentials.
- (7) The State will indicate the existing and proposed utility facilities, owned and operated by the Utility, and to be constructed by the State, in State's contract documents for the Project.
- (8) When the State proceeds to develop the Project plans, the State and Utility shall jointly identify potential conflicts between the Utility's facilities and the Project, and shall jointly develop a scheme for the protection, relocation, rearrangement and/or betterment of facilities in accordance with N.J.A.C. 16:25 Utility Accommodation to accomplish the Project.
- (9) Subsequent to the development of the above scheme with the approval of the State and concurrence of the Utility, the State will issue a "Utility Owner Design Authorization (Check List)" describing the utility work and authorizing the State's designer to finalize design plans, estimates, and schedules necessary to construct new, and/or protect, relocate, and/or rearrange facilities in concert with the Project, and incorporate them into the State's Project contract documents.
- (10) The State will develop a "Utility Agreement Modification" which may include a Utility Agreement Plan outlining work "To be performed by State's contractor at State Expense", estimated cost for field engineering, inspection and/or valve turning operations to be performed by Utility's personnel. This will be issued in the person of the Executive Regional Manager Team **(D)** (NJDOT).
- (11) The purpose of this Agreement is to cover all the required utility facility construction, protection, relocation, and rearrangement work necessitated by the Project; however, it is agreed that the State, in the person of the Executive Regional Manager Team **(D)** (NJDOT), will issue modifications to this Agreement to cover unanticipated work, resulting from Project activities and/or field conditions.
- (12) State will supply the Utility with a copy of the contract plans and specifications when the Project is advertised.
- (13) The State will request, by certified mail, the Utility to submit final invoices for costs incurred by the Utility upon; (a) completion of design; (b) completion of the utility work; or (c) cancellation of the Project. All such invoices shall be submitted to the State within sixty (60) days of this request. The State may not accept invoices for payment submitted after the sixty (60) day period.

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
 Rockaway Boro, Denville Twp., Mountain Lakes Boro &
 Parsippany-Troy Hills Twp.
 Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

- (14) All matters pertaining to subcontracted work, billing, estimates, survey control, extra work items and inspection responsibility shall be in accordance with the Memorandum Of Record dated January 10, 2013, entitled: "Procedures Governing Estimation of Costs, Requirements During Construction and Billing the New Jersey Department of Transportation for Public Utility Work", and in accordance with the Federal Regulations 23 CFR 645, Subpart A and with it being understood that where the State's Regulations are in conflict with the Federal Regulations, the Federal Regulations shall govern. Billing shall be based on accounting methods used by the Utility in conformity with the system of accounts adopted and prescribed by the Division of Local Government Services of the State of New Jersey. The matter of "Credit for Expired Service Life" has been considered for all items and where allowances apply, same are hereinafter specified in description of items and the cost summary.
- (15) The Utility will comply with the Buy America Federal Regulation requirements U.S.C. 313 and 23 CFR 635.410, for all steel and iron materials furnished by the Utility and its Subcontractors for permanent incorporation in this Project. Under this requirement, all manufacturing processes for steel and iron products shall occur in the United States including all melting, rolling, extruding, machining, bending, grinding, drilling and coating. The Utility Company shall submit a Buy America Commitment letter at the time of execution of this Agreement affirmatively stating that the Utility is committed to complying with all the requirements of the Buy America Federal Regulations, and that the Utility will comply with its approved Buy America Assurance Plan. The Utility's Buy America Assurance Plan shall indicate how the Utility will ensure that only materials that comply with the Federal Buy America requirements will be used for permanent incorporation into this Project. This will include how the Utility will maintain the records of certification from suppliers, fabricators and manufacturers verifying compliance with Buy America Federal Regulations. The State reserves the right to audit such records at the completion of the Project. The lack of these documents will be justification for rejection of the steel and/or iron product thus resulting in nonpayment for all work performed by the Utility.
- With the Final Construction Invoice submission, the Utility shall submit a "Buy America Certification of Compliance" certifying that:
- All steel and iron products provided for permanent incorporation in the Project, were made from steel and iron that was melted and manufactured in the United States including the application of coatings which protect or enhance the value of the material.**
- Or if any material does not comply with these requirements, the Utility will indicate what material does not comply. The State may require the Utility to remove and replace material that does not comply with the Buy America requirements, at no expense to the Department and may deny the Utility reimbursement for all the relocation costs incurred by the Utility.

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
*Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.*

Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

- (16) The Utility shall perform the work, specified herein, with its own forces wherever possible and only have that portion of the work performed by a consultant or contractor that the Utility is not adequately staffed or equipped to perform with its own forces.
- (17) The intention of this Agreement is that facilities which are removed, relocated, or disrupted will be replaced in such a manner that shall result in services being restored to the status and degree of use as existed prior to said changes. The Utility and the State agree to jointly use their best efforts to relocate, adjust and/or abandon the existing facilities and construct any new facilities without detrimentally affecting or interrupting services to the Utility's customers. In the event during construction of the Project it is necessary to detrimentally affect or interrupt services, the Utility shall be notified at least 48 hours in advance, unless the particular circumstances dictate less notice.
- (18) The design of utility facilities intended to be constructed by the State for the Utility shall be approved by the Utility before the State includes such facilities in the State's contract documents before the Project is advertised.
- (19) In no case will the State pay for betterment of facilities nor will the State pay any costs for work performed for the sole benefit or convenience of the Utility, the State's contractor, or the Utility's contractor.
- (20) Utility facilities constructed under the terms of this Agreement shall become the sole property of the Utility and the Utility shall be solely responsible for their operation, repair, and maintenance.
- (21) The State will obtain and bear the cost of all permits, environmental or otherwise, relating to the construction of new, and/or the protection, relocation and/or rearrangement of existing facilities, as necessitated by the Project, whether the necessary utility work is within or outside of the highway right-of-way. However, should the Utility choose to install facilities that constitute betterment, then it is the sole responsibility of the Utility to obtain the permits necessary for said betterment. It is further understood that should the Utility desire to install additional facilities, at a future date within the highway right-of-way, the Utility shall obtain the appropriate Utility Permit from the authority having jurisdiction over the highway. This Agreement is the Utility Permit for the work authorized herein.
- (22) Subject to provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-et seq., the State will be responsible for personal injuries and property damage caused by the actions of the State, its employees or agents which arises out of this Agreement. Any claim for such personal injury or property damage must be filed in accordance with N.J.S.A. 59:8-1 et seq.

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
*Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.*

Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

- (23) Subject to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et. Seq., the Utility will be responsible for personal injuries and property damage caused by the actions of the Utility, its employees or agents which arises out of this Agreement. Any claim for such personal injury or property damage must be filed in accordance with N.J.S.A. 59:8-1 et seq.
- (24) The State has estimated the Utility's engineering costs for the Project and will adjust these costs to reflect the actual costs incurred by the Utility by issuing the appropriate Utility Agreement Modification.
- (25) The Utility's engineering costs incurred for the Project are eligible for reimbursement as of 2/5/2020 and are estimated to be \$5,000.00.

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
*Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.*
Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the date and year first written above.

ATTEST:

BOROUGH OF MOUNTAIN LAKES

Name:

Title:

By: _____

Name:

Title:

ATTEST:

**STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION**

Anika James, Secretary
Department of Transportation

By: _____

Paul F. Schneider, Director
Capital Program Support

Date: _____

This aforementioned Agreement has been
reviewed and approved as to form.

**GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY**

Recommended:

Date:

By: _____

Nonee Lee Wagner
Deputy Attorney General

Bhavesh Shah,
Project Management Specialist 2,
Team - D

Date: _____

EXHIBITS

Certificate of Compliance

DC-17U Instructions

Project Managers / Assistant Project Managers complete the following before sending out to the Utility Companies:

1. Fill in the Date.
2. Fill in the Utility Company's Name and Address.
3. Fill in the Project Description and Project Location.
4. Fill in the agreement number – UECA-_____.
5. Fill in the UPC number.
6. Fill in the DP # (Taken from Advertisement). Leave blank at this time.
7. Fill in the Utility Company's name at two (2) locations.
8. Fill in the names who receives a copy of the certification.

**BUY AMERICA
CERTIFICATE OF COMPLIANCE (UTILITY)**

Date: _____

Utility Name: _____

Address: _____

Project Description: _____

Project Location: _____

UECA- _____ UPC#: _____ DP Number: _____

_____ Certify that in accordance with the "Buy America" requirements
of the Federal Regulations U.S.C. 313 and 23 CFR 635.410:

- ☐ *All steel and iron products provided for permanent incorporation in the Project, were made from steel and iron that was melted and manufactured in the United States including the application of coatings which protect or enhance the value of the material*
- ☐ *The total value of foreign steel as described in the "Buy America" requirements for this project does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00 whichever is greater.*
- ☐ *"Buy America" Federal Regulation compliance is not applicable because all permanently incorporated Materials in the Project were non-steel and non-iron.*
- ☐ *No material(s) was permanently incorporated into the project. The only work performed was inspection and/or flagging.*

As required _____ will maintain all records and documents from all suppliers, fabricators and manufacturers pertinent to the "Buy America" Federal Regulations for not less than three (3) years from the date of Final Construction Invoice payment after Project completion and acceptance. These records will be available for inspection and verification by the New Jersey Department of Transportation and/or FHWA for audit upon request.

Sincerely,

c: _____ Utility Management Unit

_____ Utility Coordinator

_____ Regional Construction Engineer

Project File

EXHIBIT 2

COMPLIANCE WITH APPLICABLE FEDERAL LAWS AND REGULATIONS

General Federal Legislation

1. a. Davis-Bacon Act – 40 U.S.C. §§ 3141, et seq., as applicable under 23 U.S.C. 113
2. b. Federal Fair Labor Standards Act – 29 U.S.C. §§ 201, et seq.
3. c. Hatch Act – 5 U.S.C. §§ 1501, et seq.
4. d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 – 42 U.S.C. §§ 4601, et seq.
5. e. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108
6. f. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. §§ 312501, et seq.
7. g. Native American Graves Protection and Repatriation Act – 25 U.S.C. §§ 3001, et seq.
8. h. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. §§ 7401, et seq.
9. i. Section 404 of the Clean Water Act, as amended – 33 U.S.C. § 1344
10. j. Section 7 of the Endangered Species Act, P.L. 93-205, as amended – 16 U.S.C. § 1536
11. k. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. §§ 1451, et seq.
12. l. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a
13. m. Age Discrimination Act of 1975 – 42 U.S.C. §§ 6101, et seq.
14. n. American Indian Religious Freedom Act, P.L. 95-341, as amended
15. o. Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101, et seq.
16. p. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. §§ 4541, et seq.
17. q. Sections 523 and 527 of the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2
18. r. Architectural Barriers Act of 1968 – 42 U.S.C. § 4151, et seq.
19. s. Power Plant and Industrial Fuel Use Act of 1978, P.L. 100-42 – Section 403 - 42 U.S.C. § 8373

20. t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.
21. u. Copeland Anti-kickback Act, as amended – 18 U.S.C. § 874 and 40 U.S.C. § 3145
22. v. National Environmental Policy Act of 1969 – 42 U.S.C. §§ 4321, et seq.
23. w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. §§ 1271, et seq.
24. x. Federal Water Pollution Control Act, as amended – 33 U.S.C. §§ 1251-1376
25. y. Single Audit Act of 1984 - 31 U.S.C. §§ 7501, et seq.
26. z. Americans with Disabilities Act of 1990 – 42 U.S.C. § 12101, et seq.
27. aa. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. § 1681 through § 1683, and § 1685 through § 1687
28. bb. Section 504 of the Rehabilitation Act of 1973, as amended – 29 U.S.C. § 794
29. cc. Title VI of the Civil Rights Act of 1964 – 42 U.S.C. §§ 2000d *et seq.*
30. dd. Title IX of the Federal Property and Administrative Services Act of 1949 – 40 U.S.C. §§ 1101 -1104, 541, et seq.
31. ee. Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352
32. ff. Freedom of Information Act – 5 U.S.C. § 552, as amended
33. gg. Magnuson-Stevens Fishery Conservation and Management Act – 16 U.S.C. § 1855
34. hh. Farmland Protection Policy Act of 1981 – 7 U.S.C. § 4201, et seq.
35. ii. Noise Control Act of 1972 – 42 U.S.C. § 4901, et seq.
36. jj. Fish and Wildlife Coordination Act of 1956 – 16 U.S.C. § 661, et seq.
37. kk. Section 9 of the Rivers and Harbors Act and the General Bridge Act of 1946 – 33 U.S.C. §§ 401 and 525
38. ll. Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and 23 U.S.C. § 138
39. mm. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended – 42 U.S.C. §§ 9601, et seq.
40. nn. Safe Drinking Water Act – 42 U.S.C. §§ 300f to 300j-26
41. oo. Wilderness Act – 16 U.S.C. §§ 1131-1136

- 42. pp. Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 – 42 U.S.C. § 6901, et seq.
- 43. qq. Migratory Bird Treaty Act 16 U.S.C. § 703, et seq.
- 44. rr. The Federal Funding Transparency and Accountability Act of 2006, as amended (Pub. L. 109–282, as amended by section 6202 of Public Law 110–252)
- 45. ss. Cargo Preference Act of 1954 – 46 U.S.C. § 55305

Executive Orders

- a. Executive Order 11246 – Equal Employment Opportunity
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11988 – Floodplain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12549 – Debarment and Suspension
- f. Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- g. Executive Order 13166 – Improving Access to Services for Persons With Limited English Proficiency

General Federal Regulations

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards – 2 C.F.R. Parts 200, 1201
- b. Non-procurement Suspension and Debarment – 2 C.F.R. Parts 180, 1200
- c. Investigative and Enforcement Procedures – 14 C.F.R. Part 13
- d. Procedures for predetermination of wage rates – 29 C.F.R. Part 1
- e. Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States – 29 C.F.R. Part 3
- f. Labor standards provisions applicable to contracts governing federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act) - 29 C.F.R. Part 5

- g. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements) – 41 C.F.R. Parts 60, et seq.
- h. Contractor Qualifications – 48 C.F.R. Part 9
- i. New Restrictions on Lobbying – 49 C.F.R. Part 20
- j. Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 – 49 C.F.R. Part 21
- k. Uniform relocation assistance and real property acquisition for Federal and Federally assisted programs – 49 C.F.R. Part 24
- l. Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance – 49 C.F.R. Part 25
- m. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance – 49 C.F.R. Part 27
- n. DOT's oversight of DOJ's ADA regulations for non-transit programs, including the ADA Accessibility Guidelines, required by the DOJ regulations at 28 C.F.R. Part 35
- o. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation – 49 C.F.R. Part 28
- p. Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors – 49 C.F.R. Part 30
- q. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance) – 49 C.F.R. Part 32
- r. DOT's implementing ADA regulations for transit, including the ADA Accessibility Guidelines in Part 37, Appendix A – 49 C.F.R. Parts 37 and 38
- s. Procedures for Transportation Workplace Drug and Alcohol Testing Programs – 49 C.F.R. Part 40
- t. Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs – 49 C.F.R. Part 26

Highway Federal Legislation

- a. Highways – Title 23, U.S.C.
- b. Brooks Act (for FHWA projects, this incorporates Title IX of the Federal Property and Administrative Services Act of 1949 (formerly 40 U.S.C. 541, et seq.)) – 40 U.S.C. §§ 1101-1104; 23 U.S.C. § 112(b)(2)

- c. Highway Design and Construction Standards, 23 U.S.C. 109
- d. Prevailing Rate of Wage, 23 U.S.C. 113
- e. Planning, 23 U.S.C. § 134 and 135 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- f. Tolls, 23 U.S.C. 301 (to the extent the subrecipient wishes to toll an existing free facility that has received Title 23 funds in the past); except as authorized by 23 U.S.C. §§ 129 and 166.
- g. Size, Weight, and Length Limitations - 23 U.S.C. 127, 49 U.S.C. § 31101 et seq.
- h. Buy America Act – 23 U.S.C. 313
(see https://www.fhwa.dot.gov/construction/contracts/buyam_qa.cfm)
- i. Nondiscrimination – 23 U.S.C. 140
- j. Efficient Environmental Reviews – 23 U.S.C. § 139

Federal Highway Regulations

- a. Planning 23 C.F.R. Part 450 (except for projects that are not regionally significant that do not receive funding under Title 23 or Chapter 53 of Title 49)
- b. National Highway System Design Standards – 23 C.F.R. Part 625
- c. Manual on Uniform Traffic Control Devices – 23 C.F.R. Part 655
- d. Environmental Impact and Related Procedures – 23 C.F.R. Part 771
- e. Procedures for Abatement of Highway Traffic and Construction Noise – 23 C.F.R. Part 772
- f. Procedures Implementing Section 4(f) of the Department of Transportation Act – 23 C.F.R. Part 774
- g. Permitting Requirements under the National Pollutant Discharge Elimination System – 40 C.F.R. Part 122
- h. Required Contract Provisions – 23 C.F.R. Part 633 (Form 1273)
- i. External Programs – 23 C.F.R. Part 230.

Specific assurances required to be included in the FY 2016 TIGER Discretionary Grant agreement by any of the above laws, regulations, or circulars are hereby incorporated by reference into the agreement.

EXHIBIT 3

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION (NJDOT'S FEDERAL AID ATTACHMENT 1)

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION

- A. Utilization of Disadvantaged Business Enterprises as Subcontractors, Transaction Expeditors, Regular Dealers, Manufacturers and Truckers.** The Department advises the Contractor and subcontractors that failure to carry out the requirements in this attachment constitutes a material breach of Contract and, after the notification of the applicable Federal agency, may result in termination of the agreement or Contract by the Department or such remedy as the Department deems appropriate. Requirements set forth in this section shall also be physically included in all subcontracts in accordance with USDOT requirements.
- B. Policy.** It is the policy of the Department that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26; Titles I & V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA); MAP-21, Moving Ahead for Progress in the 21st Century Act (P.L. 112-141); FAST-ACT, Fixing America's Surface Transportation Act (P.L. 114-94, December 4, 2015); and Section III below, shall have an equal opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. The Disadvantaged Business Enterprise requirements of 49 CFR, Part 26 et seq. apply to this agreement.
- C. Definitions**
- 1. Disadvantaged Business Enterprise (DBE).** A for-profit small business concern:
 - a. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
 - b. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it, and who do not exceed the personal net worth criteria established in 49 CFR Part 26.
 - 2. Socially and economically disadvantaged individual.** Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.
 - a. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group;
 - b. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (1) Black Americans," which includes persons having origins in any of the Black racial groups of Africa
 - (2) Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race
 - (3) Native Americans," which includes persons who are enrolled members of a Federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians
 - (4) Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong

- (5) Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka
 - (6) Women
 - (7) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
 - (8) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.
3. **Commercially Useful Function (CUF).** A DBE performs a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibility by actually performing, managing and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for preparing the estimate, negotiating price, determining quality and quantity, ordering the material, arranging delivery, installing (where applicable), and paying for the material and supplies itself for the project.
 4. **Transaction expeditor (broker).** A DBE who arranges or expedites transactions and who arranges for material drop shipments.
 5. **DBE regular dealers.** A firm that must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. In addition, a regular dealer must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment required under this Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
 6. **DBE manufacturer.** A firm that operates or maintains a factory or establishment that produces on the premises, the materials, supplies, articles, or equipment required for the Contract.
 7. **Good faith effort (GFE).** Efforts to achieve a DBE goal or other requirement of 49 CFR Part 26, which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Efforts to include firms not certified as DBEs in the state where the contract is being let are consequently not good faith efforts to meet a DBE contract goal.
 8. **Affirmative Action Plan.** An outline of the steps a contractor or subcontractor will implement to achieve equal employment opportunity and affirmative action and/or to correct its equal employment and affirmative action program deficiencies.
- D. **Compliance.** The Contractor is responsible for compliance as specified in Section 105.
- E. **Contractor's DBE Obligations.** Ensure that DBEs have an equal opportunity to receive and participate in contracts and subcontracts financed in whole or in part with Federal funds in performing work with the Department. Take all necessary and reasonable steps in accordance with 49 CFR, Part 26 and the Contract to ensure that DBEs are given equal opportunity to compete for and to perform on the Department's Federal aid projects. Do not discriminate in the award and performance of any Contract obligation including, but not limited to, performance of obligations on USDOT assisted contracts, as specified in Section 107.
1. **Post Award Obligations**
 - a. Give DBEs equal consideration with non-minority firms in negotiation for any subcontracts, purchase orders or leases.
 - b. Attempt to obtain qualified DBEs to perform the work. A directory of certified Disadvantaged Small Businesses Enterprise firms can be found in the New Jersey BizNet UCP Directory, online at: <http://www.njucp.net/>
 2. **Affirmative Action After Award of the Contract**
 - a. **Subletting.** If at any time following the award of the Contract, the Contractor intends to sublet any portion(s) of the work under said Contract, or intends to purchase material or lease equipment not contemplated during preparation of bids, take affirmative action:
 - (1) Notify the RE, in writing, of the type and approximate value of the work which the Contractor intends to accomplish by such subcontract, purchase order or lease.
 - (2) Submit the Post-Award Minority Certification (Part IV of the DC-18A Request for Approval to Sublet on Projects Utilizing the 2007 Specifications Form) to the Regional Supervising Engineer with the application to sublet, or prior to purchasing material or leasing equipment. Obtain Post Award Minority Certifications from the RE.

- (3) Efforts made to identify and retain a DBE as a replacement subcontractor, lower tier subcontractor, transaction expeditor, regular dealer, supplier, manufacturer or trucker when the arrangements with the original DBE prove unsuccessful, shall be as specified in Section 108. Work in the category concerned shall not begin until such approval is granted in writing by the Department.
 - (4) Notification of a DBE firm's termination will be as specified in Section 108. Send notice in writing to the Department through the RE. Said termination notice will include the firm's ethnic classification, whether the firm is a DBE and the detailed reason(s) for termination.
- b. **Selection and Retention of Subcontractors.** Do not discriminate in the selection and retention of subcontractors, including procurement of materials and leases of equipment as specified in 108.01. Provide the RE with a listing of firms, organizations or enterprises solicited and those utilized as subcontractors on the proposed project. Such listing shall clearly delineate which firms are classified as DBEs. Provide the RE with subcontract agreements for all subcontractors performing work on the Contract as specified in Section 108.
- (1) Efforts made to identify and retain a DBE as a replacement subcontractor, lower tier subcontractor, transaction expeditor, regular dealer, supplier, manufacturer or trucker when the arrangements with the original DBE prove unsuccessful, shall be submitted as specified in Section 108. Work in the category concerned shall not begin until such approval is granted in writing by the Department.
 - (2) Notification of a DBE firm's termination will be as specified in Subsection 108.01. Send notice in writing to the Department through the RE. Said termination notice will include the firm's ethnic classification, whether the subcontractor is a DBE and the detailed reason(s) for termination.
- c. **Meeting Contract DBE Goal.** Demonstrate attainment toward meeting the Contract DBE goal by reporting monthly, all DBE participation, to the Department's RE and DCR/AA Contract Compliance Unit using the CR-267 – Monthly DBE Utilization Form. The form is due by the 5th of the month, and must list all DBEs used on the Contract, the specific Contract work items each DBE is performing, whether the DBE is performing full or partial work on the items, and the amount paid to each DBE each month. Failure to report the information, and accurately report it may result in payment being delayed or withheld as specified in Section 105, assessing sanctions, or termination of the Contract as specified in Section 108.
- d. **Termination, Substitution or Replacement of DBEs.** Make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on the Contract with another certified DBE, to the extent needed to meet the Contract DBE goal. Notify the DCR/AA immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. Prior to termination, substitution or replacement of a DBE subcontractor, lower tier subcontractor, transaction expeditor, regular dealer, supplier, manufacturer or trucker, submit a Revised Form CR-266 to the Department naming the replacement DBE firm(s), type of work performed, specific Contract work items, whether the DBE is performing full or partial work on the items, dollar value and percent of total Contract for each DBE firm. Submit detailed written explanation of why each change is being made, including documented evidence of good faith effort(s) with the submission of the revised Form CR-266. Submit along with the revised CR-266: 1) a completed Confirmation of DBE Firm (Form CR-273) to demonstrate direct written confirmation from each DBE firm participating on the Contract, confirming the kind and amount of work that was provided on the Contractor's CR-266, and if applicable; 2) a completed DBE Regular Dealer/Supplier Verification (Form CR-272) for all DBE Regular Dealers/Suppliers listed on the revised CR-266; and if applicable, 3) a completed DBE Trucking Verification (Form CR-274) for all DBE truckers listed on the revised CR-266. Termination, substitution or replacement of DBEs shall be made as specified in Section 108. Termination or replacement of DBEs cannot be made without prior written approval of the Department as per 108.01.
- e. **Submission of Good Faith Effort Documentation.** If the Contractor is unable to meet the Contract goal for DBE participation, submit to the DCR/AA for review and approval, documented evidence of good faith efforts along with the monthly CR-267 form. This submission must include written details addressing each of the good faith efforts outlined in the Contract. Submittal of such information does not imply DCR/AA approval. The Department's DCR/AA has sole authority to determine whether the Contractor is meeting the Contract DBE goal or made adequate good faith efforts to do so.

- F. DBE Goals for the Contract.** This Contract includes a goal of awarding _____ percentage of the Total Contract Price to subcontractors, transaction expeditors, regular dealers, manufacturers and truckers qualifying as DBEs.

The Department's DCR/AA has sole authority to determine whether the Contractor met the goal or made adequate good faith efforts to do so. If the DCR/AA determines that the Contractor has failed to meet the Contract DBE goal or made adequate good faith efforts to do so, the Department will follow Section 105.

G. Counting DBE Participation.

1. Each DBE is subject to a certification procedure to ensure its DBE eligibility status prior to the award of the Contract. All DBEs working on the Contract must be certified DBEs. To receive DBE credit toward meeting a contract goal in the context of the contract award process, a DBE firm must be certified before the due date for bids or offers on the Contract, as stated in 49 CFR Part 26.81(c). There may be situations after the award of the Contract, however, in which it is appropriate to count DBE credit for the use of a DBE subcontractor certified after the contract is executed. To be eligible to obtain DBE credit, a DBE subcontractor must be certified before the subcontract on which it is working is executed.
2. The Department determines the percentage of DBE participation that will be counted toward the Contract DBE goal in accordance with 49 C.F.R. Part 26.55 et seq.
3. The Contractor will count DBE participation toward the Contract DBE goal only the value of the work actually performed by a certified DBE and only if the DBE performs a commercially useful function in the work of a contract as per 49 CFR, Subpart C, Part 26.55(c) and the Contract.
4. The Department will count DBE participation for DBE trucking firms in accordance with 49 C.F.R. Part 26.55 et seq. The DBE can count the entire value of services performed by DBE trucks. The DBE can count the value of non-DBE trucking services up to the value of services performed by DBE trucks used on the Contract. DBE participation can be counted for the value of services of non-DBE trucks that exceed the value of the services performed by DBE trucks only in the amount of the fee or commission a DBE receives as a result of the lease arrangement.
5. The Department will count DBE participation for DBE regular dealers, manufacturers and transaction expeditors in accordance with 49 C.F.R. Part 26.55 et seq. Transaction expeditors/brokers will not receive DBE credit for any portion of the cost of the materials and supplies themselves toward the Contract DBE goal. For brokers, only the DBE's fee or commission, and no part of the cost of the goods, count towards DBE goals. The Department will determine if the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. If a certified firm acts as a "regular dealer" in a given transaction, it is awarded DBE credit equivalent to 60 percent of the value of the items it supplies on that contract. This credit is awarded in recognition of the value the DBE adds to transaction and the risks that it takes.
6. If the Contractor is a certified DBE, payments made to the Contractor for work performed by the Contractor will be applied toward the Contract DBE goal. Payments made to the Contractor for work performed by non-DBEs will not be applied toward the Contract DBE goal.
7. When a DBE subcontractor sublets part of the work of its contract to another firm, the value of the subcontract work may be counted towards the Contract DBE goal only if the subcontractor itself is a certified DBE. Work that a DBE subcontractor subcontracts to a non-DBE firm, cannot be counted towards the Contract DBE goal.

H. Commercially Useful Function

1. **Performance of Work.** The DBE must perform the work with their own permanent employees, or employees recruited through traditional recruitment and/or employment centers. DBEs must employ and control their own workforce, and cannot share employees with the Contractor, other subcontractors on the present project, or the renter-lessor of equipment being used on the present project. The DBE firm must be responsible for all payroll and labor compliance requirements for all of their employees performing work on the Contract. Direct or indirect payments by any other contractor are not allowed.
2. **Managing Work.** The DBE must manage the work themselves including the scheduling of work operations, ordering of equipment and materials, hiring/firing of employees, including supervisory employees, and preparing and submitting certified payrolls. The DBE must supervise their portion of daily work operations of the project. With respect to materials and supplies used on the Contract, the DBE must be responsible for

- preparing the estimate, negotiating price, determining quantity and quality, ordering the material, arranging delivery; installing, (where applicable), and paying for the material and supplies itself, for the project.
3. **Responsibility of Work.** A DBE must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce. The DBE must not subcontract a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved.
 4. **Equipment of DBE.** The DBE must perform the work stated in the subcontract with their own equipment, whether owned or leased and operated on a long term agreement, not an ad hoc or contract by contract agreement. The equipment must be owned by the DBE firm, or leased/rented from traditional equipment lease/rental sources. The equipment will not belong to the Contractor, any other subcontractor or lower tier subcontractors on the current project, or supplier of materials being installed by the DBE firm.
 5. **Lease of Equipment.** A DBE firm may lease specialized equipment from a contractor, but not from the Contractor, if it is consistent with normal industry practices and at rates competitive for the area. Rental agreements must be for short periods of time, specify the terms of the agreement and involve specialty equipment to be used at the job site. The lease may allow the operator to remain on the lessor's payroll, if it is the generally accepted industry practice but the operation of the equipment must be subject to full control by the DBE. The DBE is expected to provide the operator for non-specialized equipment, and is responsible for all payroll and labor compliance requirements. A separate lease agreement is required.
 6. **DBE Trucking.** DBE trucking companies must perform a commercially useful function in accordance with 49 CFR Part 26.55 et seq. Contrived arrangements for the purpose of meeting DBE goals will not be allowed. The DBE must be responsible for the management and supervision of the entire trucking operation on a contract-by-contract basis, and must own and operate at least one fully, licensed, insured and operational truck used on the Contract.

The DBE trucking firm is not permitted to obtain trucks from the Contractor to perform work on the project. The DBE may lease trucks from a subcontractor working on the project, provided the trucks are obtained from the subcontractor prior to the project letting. The DBE may lease trucks from another DBE, including an owner-operator that is certified as a DBE. The DBE may also lease trucks from non-DBEs and owner-operators. Bona fide lease agreements must be for the length of time needed by the DBE on the Contract and signed by both the DBE and the firm(s), either certified DBE or non-DBE, from which the trucks will be leased. Leases must indicate that the DBE has exclusive use and control over the truck. As per 49 CFR Part 26.55(d)(7), all leased trucks, including non-DBE trucks, must display the name and USDOT identification number issued for interstate commerce, of the DBE firm on the outside of the truck. DBE firms are expected to use the same trucks for DBE credit on all projects so use of leased vehicles on a project-by-project basis is not permitted.

The Contractor shall have signed Hiring Agreements. Submit copies of these signed Hiring Agreements, and copies of all signed lease agreements to the RE prior to the trucking firm's commencing work on the project. Prior to the DBE trucking firm beginning work on the Contract, DBE Trucking firms will be required to complete the DBE Trucking Verification (Form CR-274). The DBE and Contractor must sign the form and the Contractor submit the original CR-274 form directly to the Department's RE, with a copy submitted to the DCR/AA. The Contractor must prepare, sign and submit with the CR-267, a Monthly Trucking Verification form (CR-271), identifying each truck owner, DBE Certification number, company name and address, truck number, and commission or amount paid for all DBE and non-DBE truckers performing work on the project. Also, submit the form to the Department as per Section E of this Special Provision for DCR/AA review, approval and determination of credit toward the Contract goal. Failure to submit the forms may result in denial or limit of credit toward the Contract DBE goal, payment being delayed or withheld as specified in Section 105, assessing sanctions or termination of the Contract as specified in Section 108.

7. **DBE Regular Dealers.** DBE regular dealers must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. In addition, a regular dealer must own, operate or maintain a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under this Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

When the Contractor seeks credit toward the Contract DBE goal using DBE regular dealers, the DBE Regular Dealer/Supplier Verification (Form CR-272) must be completed and signed by the DBE regular dealer and

then signed by the Contractor. Submit the form to the Department as per Section E of this Special Provision for the DCR/AA's review, approval and determination of credit toward the Contract DBE goal.

8. **DBE Manufacturers.** DBE manufacturers must be a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required for this Contract.
9. The Contractor shall not use a DBE solely for the purpose of acting as an extra participant in a transaction, a contract or the Contract through which funds are passed in order to obtain the appearance of DBE participation.
- I. **Good Faith Effort.** To demonstrate good faith efforts to meet the Contract DBE goal, a Contractor shall, on an ongoing basis, document the steps it takes to obtain DBE participation in accordance with 49 CFR Part 26.53 and Appendix A, including but not limited to the following:

1. Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the Contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

Should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. Determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the Contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.
3. Providing interested DBEs with detailed information about the plans, specifications, and requirements of the Contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract. Attempt to contact all potential subcontractors on the same day and use similar methods to contact them;
4. Negotiating in good faith with interested DBEs. Make a portion of the work available to DBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

Consider a number of factors in negotiating with subcontractors, including DBE subcontractors. Take a firm's price and capabilities as well as Contract goals into consideration. The fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for failure to meet the contract DBE goal, as long as such costs are reasonable. The ability or desire of a Contractor to perform the work of a Contract with its own organization does not relieve the responsibility to make good faith efforts. Contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

5. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the Contract DBE goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Contractor to accept unreasonable quotes in order to satisfy the Contract DBE goal.

Inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the Contractor has the ability and/or

desire to perform the contract work with its own forces does not relieve the Contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

Attempt, wherever possible, to negotiate prices with potential subcontractors which submitted higher than acceptable price quotes.

Keep a record of efforts, including the names of businesses contacted and the means and results of such contacts.

6. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
7. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
8. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

If the Contractor fails to meet the Contract DBE goal, they must submit documented evidence of good faith effort(s) with the CR-268 final DBE Report to the DCR/AA for review and approval. Submittal of such information does not imply DCR/AA approval. The Department's DCR/AA has sole authority to determine whether the Contractor met the Contract DBE goal or made adequate good faith efforts to do so. If the DCR/AA determines that the Contractor has failed to meet the Contract DBE goal or made adequate good faith effort to do so, the Department will follow Section 105.

J. Submission of Affirmative Action Program

Contractors, subcontractors and professional service firms performing work for the Department are required to submit their company's Affirmative Action Program annually to the DCR/AA. Contractors must have an **approved** Affirmative Action Program on file in the DCR/AA no later than seven (7) State business days after the date of bid opening. No recommendations to award will be made without an approved Affirmative Action Program on file in the DCR/AA.

The Annual Affirmative Action Program will include, but is not limited to the following:

1. Copy of company's comprehensive EEO/Affirmative Action Plan.
2. Copy of document designating the company's corporate EEO Officer, including the name, address and contact telephone number for the officer.
3. Copy of the company's EEO Policy Statement.
4. Copy of the company's Sexual Harassment Policy.
5. The name of the company's DBE Liaison Officer to administer the firm's Disadvantaged Business Program.
6. DBE Affirmative Action Plan which is an explanation of affirmative action methods intended to be used to seek out and consider DBEs as subcontractors, material suppliers or equipment lessors. This refers to the Contractor's ongoing responsibility, i.e., Disadvantaged Business Enterprise/Affirmative Action activities after the award of the Contract and for the duration of the Contract.

K. DBE Liaison Officer. Designate a DBE Liaison Officer who shall be responsible for the administration of your DBE program in accordance with the Contract, and ensuring that the Contractor complies with all provisions of 49 CFR Part 26.

L. Consent by Department to Subletting. The Department will not approve any subcontract proposed by the Contractor unless and until said Contractor has complied with the terms of the Contract.

M. Conciliation. Allegations of breach of any obligation contained in these DBE provisions and guidelines, will be investigated by the DCR/AA, the Federal Highway Administration and/or the USDOT.

N. Documentation

1. **Requiring of Information.** The Department or the Federal funding agencies may at any time require information as specified in Section 107 and deemed necessary in the judgment of the Department to ascertain the compliance of any Bidder, Contractor or subcontractor with the terms of the Contract.

2. **Records and Reports.** The Contractor, subcontractors and other sub-recipients will keep such records as are necessary to determine compliance with its Disadvantaged Business Enterprise Utilization obligations. These records kept will be designed to indicate:
 - a. The names of DBE contractors, subcontractors, transaction expeditors and material suppliers contacted for work on the Contract, including when and how contacted, and the specific Contract work items and other information provided to each.
 - b. Work, services and materials which are not performed or supplied by the Contractor.
 - c. The actual dollar value of work subcontracted and awarded to DBEs, including specific Contract work items and cost of each work item.
 - d. The progress being made and efforts taken in seeking out and utilizing DBEs to include: solicitations, specific Contract work items and the quotes and bids regarding those specific Contract work items, supplies, leases, or other contract items, etc.
 - e. Detailed written documentation of all correspondence, contacts, telephone calls, etc., including names and dates/times, to obtain the services of DBEs on the Contract.
 - f. Records of all DBEs and non-DBEs who have submitted quotes/bids to the Contractor on the Contract.
 - g. Monthly reports required for submission to the Department, hiring agreements, subcontracts, lease agreements, supply tickets and other records documenting DBE utilization on the Contract.
 - h. Documentation outlining EEO workforce information for the Contract.
 - i. Documentation outlining EEO and Affirmative Action efforts made in the administration and performance of the Contract.
3. **Submission of Reports, Forms and Documentation.** Submit reports, forms and documentation, as required by the Department, on those contracts and other business transactions executed with DBEs in such form and manner as may be prescribed by the Department. Failure to submit the required forms, reports or other documentation as required may result in payment being delayed or withheld as specified in Section 105, assessing sanctions, or termination of the contract as specified in Section 108. Submission of falsified forms, reports or other required documentation may result in termination of the Contract as specified in Section 108, investigation by the Department's Inspector General, and prosecution by the State Attorney General's Office.
4. **Maintaining Records.** All records must be maintained for a period of three (3) years following acceptance of final payment and will be available for inspection by the Department, or the Federal funding agencies.
- O. **Prompt Payment to Subcontractors.** On Federal aid projects, payment to subcontractors, equipment lessors, suppliers and manufacturers is made in accordance with Section 109.
- P. **Non-Compliance.** Failure by the Contractor to comply with the DBE program, rules and regulations of 49 CFR Part 26 in the administration of the Contract may result in denial or limit of credit toward the Contract DBE goal, payment being delayed or withheld as specified in Section 105, assessing sanctions, liquidated damages as specified in Section 108, default as specified in Section 108, debarment, or termination of the Contract as specified in Section 108. The Contractor may further be declared ineligible for future Department contracts.

EXHIBIT 4

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Subrecipient or the State, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the subrecipient (State of New Jersey or the "State") will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

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

Exhibit 5

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

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with

disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 et seq).

EXHIBIT 6

(NJDOT FEDERAL AID ATTACHMENT 6)

FEDERAL MANDATORY EQUAL OPPORTUNITY LANGUAGE ON FEDERAL AID PROJECTS (AUTHORITY SUBJECT TO 41 CFR 60-1.4 IN COMPLIANCE WITH 2 CFR PART 200 AND 2 CFR PART 200 APPENDIX II)

The CONTRACTOR hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with

these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(2) [Reserved]

(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.

(e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

EXHIBIT 7 (NJDOT FEDERAL AID PROJECT ATTACHMENT 8)

FHWA-1273

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier

subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have

the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the

discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials

and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often

than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and

so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the

classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. **Apprentices and Trainees** (programs of the U.S. DOT).

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor

with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the

contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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

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

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

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

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded

Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous

certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to

other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:
 - a. To the extent that qualified persons regularly residing in the area are not available.
 - b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
 - c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.
2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.
3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.
4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.
5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.
6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT 8

STATE MANDATORY ADDENDUM TO FHWA 1273 REQUIRED CONTRACT PROVISIONS, FEDERAL AID CONSTRUCTION CONTRACTS AS AMENDED OR SUPPLEMENTED

**ALL CONTRACTORS MUST PROVIDE THIS LANGUAGE IN ANY CONTRACT WITH THEIR
SUBCONTRACTORS AS REQUIRED BY 2 CFR PART 200 AND 2 CFR PART 200 APPENDIX II AND IS
CURRENTLY NOT INCLUDED IN FHWA FORM 1273, BUT IS REFLECTED IN PROPOSED
AMENDMENTS NOT YET FINALIZED.**

FHWA Form 1273 shall be read to include:

1. All references to "race, religion, sex, color , national origin, age or disability" shall be read to include "sexual orientation and gender identity".
2. SECTION IV, DAVIS-BACON ACT AND RELATED ACT PROVISIONS shall apply if the project is defined to be on a Federal-aid highway, regardless of the location of the project in compliance with 23 U.S.C. 133(i).
3. SECTION IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT shall require in conformance with 2 CFR Part 200 and 2 CFR Part 200 Appendix II that contractors on all Federal-aid construction contracts in excess of \$150,000 and all related subcontracts, supply contracts and vendor contracts " comply with all related standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) as required by 2 CFR 200.326.
4. SECTION X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION shall be read to comply with 2 CFR Part 200 and 2 CFR Part 200 Appendix II to replace the Excluded Parties List System with the System For Award Management (SAM) as required by 2 CFR Part 180.
5. If the work requires that cargo be shipped by oceanic transport or across the Great Lakes, in compliance with Section 3511 of the Duncan Hunter National Defense Authorization Act of 2009 amending the Cargo Preference Act, each contract shall require that cargoes financed "in any way with Federal funds for the account of any persons unless otherwise exempted" requires the use of US-flag vessels to transport the materials or equipment acquired for a specific Federal-aid construction project.

EXHIBIT 9

(NJDOT FEDERAL AID ATTACHMENT 11)

BYRD ANTI-LOBBYING CERTIFICATION pursuant to 31 U.S.C. 1352 and 49 CFR part 21

Contractor and all subcontractor are required to comply with this attachment. Contractor and any subcontractor shall be responsible to fill out Disclosure of Lobbying Activities Standard Form – LLL and report it to the NJDOT Contract Compliance Unit for appropriate disclosure to the Federal Government.

Contractor and all subcontracts on bids or awards over \$100,000 shall require as mandatory language in every contract:

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriate funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL (Federal Aid Attachment Form 11) “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when the transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not that \$10,000 and not more than \$100,000 for each such failure.

EXHIBIT 10

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Utility certifies that it will, or will continue, to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Utility's workplace, and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an ongoing drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The Utility's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and,
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph 1.
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment supported by the grant award, the employee will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
5. Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Department. Notice shall include the order number of the grant award.
6. Taking one of the following actions, within 30 days of receiving notice under paragraph 4(b), with respect to any employee who is so convicted:
 - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
8. The Utility *may*, but is not required to, provide the site for the performance of work done in connection with the specific grant. For the provision of services pursuant to the agreement, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award. If the Utility does so, please insert in article 11 of the agreement the following information from subsection (a) below:

(a) Identify the Places of Performance by listing the street address, city, county, state, zip code. Also identify if there are workplaces on file that are not identified in this section of the agreement.

Work done by State's Contractor

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
*Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.*

Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

UPC Code: 148040

Contract ID No.: 20-16035

THIS AGREEMENT made this _____ day of _____, between the COMMISSIONER OF TRANSPORTATION, acting for and in the name of the STATE OF NEW JERSEY, hereinafter called the "State", and the **Borough of Mountain Lakes**, hereinafter called the "Utility".

WHEREAS, State is about to undertake the design and construction of **Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS** located in *Rockaway Boro, Denville Twp., Mountain Lakes Boro & Parsippany-Troy Hills Twp. Morris County*, hereinafter called the "Project"; and

WHEREAS, the Project may require the construction of new, and/or the protection, relocation and/or adjustment of facilities of the existing **Water & Sewer** system which is owned and operated by the Utility; and

WHEREAS, Utility's legal right to occupy public right-of-way, subject to the conditions imposed by the State, is in no way mitigated by this Agreement; and

WHEREAS, Utility is not obligated by State law or agreement to relocate its own facilities at its own expense for this type of Project; and

WHEREAS, the provisions of the State's Accommodation of Utilities within Highway Right-of-Way N.J.A.C. 16:25 and Code of Federal Regulations, 23 C.F.R. 645, Subpart B are applicable.

NOW THEREFORE, State and Utility, for the mutual benefits to be obtained, agree as follows:

- (1) The State and Utility shall cooperate in developing plans and cost estimates for their respective work necessitated by the Project.
- (2) The Utility shall designate a responsible representative to coordinate its effort with those of the State.
- (3) The State will, at its sole cost and expense, contract for and cause to be constructed, all items indicated in the State's contract plans and specifications for the Project, related to existing and proposed facilities owned and operated by the Utility.
- (4) The State will authorize and reimburse the Utility for its actual costs for design, review, approval and inspection, for the protection, relocation or adjustment of its existing facilities necessary to accomplish the Project.
- (5) The Utility's preliminary engineering design costs for correspondence, meetings and exchanges of engineering information are eligible for reimbursement and the State will

Work done by State's Contractor

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accept billing of these costs after this Agreement is fully executed and issued.

- (6) The Utility shall disclose and verify its existing facilities at no cost to State within the Project limits identifying the facility type, size and operating potentials.
- (7) The State will indicate the existing and proposed utility facilities, owned and operated by the Utility, and to be constructed by the State, in State's contract documents for the Project.
- (8) When the State proceeds to develop the Project plans, the State and Utility shall jointly identify potential conflicts between the Utility's facilities and the Project, and shall jointly develop a scheme for the protection, relocation, rearrangement and/or betterment of facilities in accordance with N.J.A.C. 16:25 Utility Accommodation to accomplish the Project.
- (9) Subsequent to the development of the above scheme with the approval of the State and concurrence of the Utility, the State will issue a "Utility Owner Design Authorization (Check List)" describing the utility work and authorizing the State's designer to finalize design plans, estimates, and schedules necessary to construct new, and/or protect, relocate, and/or rearrange facilities in concert with the Project, and incorporate them into the State's Project contract documents.
- (10) The State will develop a "Utility Agreement Modification" which may include a Utility Agreement Plan outlining work "To be performed by State's contractor at State Expense", estimated cost for field engineering, inspection and/or valve turning operations to be performed by Utility's personnel. This will be issued in the person of the Executive Regional Manager Team (**D**) (NJDOT).
- (11) The purpose of this Agreement is to cover all the required utility facility construction, protection, relocation, and rearrangement work necessitated by the Project; however, it is agreed that the State, in the person of the Executive Regional Manager Team (**D**) (NJDOT), will issue modifications to this Agreement to cover unanticipated work, resulting from Project activities and/or field conditions.
- (12) State will supply the Utility with a copy of the contract plans and specifications when the Project is advertised.
- (13) The State will request, by certified mail, the Utility to submit final invoices for costs incurred by the Utility upon; (a) completion of design; (b) completion of the utility work; or (c) cancellation of the Project. All such invoices shall be submitted to the State within sixty (60) days of this request. The State may not accept invoices for payment submitted after the sixty (60) day period.

Work done by State's Contractor

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- (14) All matters pertaining to subcontracted work, billing, estimates, survey control, extra work items and inspection responsibility shall be in accordance with the Memorandum Of Record dated January 10, 2013, entitled: "Procedures Governing Estimation of Costs, Requirements During Construction and Billing the New Jersey Department of Transportation for Public Utility Work", and in accordance with the Federal Regulations 23 CFR 645, Subpart A and with it being understood that where the State's Regulations are in conflict with the Federal Regulations, the Federal Regulations shall govern. Billing shall be based on accounting methods used by the Utility in conformity with the system of accounts adopted and prescribed by the Division of Local Government Services of the State of New Jersey. The matter of "Credit for Expired Service Life" has been considered for all items and where allowances apply, same are hereinafter specified in description of items and the cost summary.
- (15) The Utility will comply with the Buy America Federal Regulation requirements U.S.C. 313 and 23 CFR 635.410, for all steel and iron materials furnished by the Utility and its Subcontractors for permanent incorporation in this Project. Under this requirement, all manufacturing processes for steel and iron products shall occur in the United States including all melting, rolling, extruding, machining, bending, grinding, drilling and coating. The Utility Company shall submit a Buy America Commitment letter at the time of execution of this Agreement affirmatively stating that the Utility is committed to complying with all the requirements of the Buy America Federal Regulations, and that the Utility will comply with its approved Buy America Assurance Plan. The Utility's Buy America Assurance Plan shall indicate how the Utility will ensure that only materials that comply with the Federal Buy America requirements will be used for permanent incorporation into this Project. This will include how the Utility will maintain the records of certification from suppliers, fabricators and manufacturers verifying compliance with Buy America Federal Regulations. The State reserves the right to audit such records at the completion of the Project. The lack of these documents will be justification for rejection of the steel and/or iron product thus resulting in nonpayment for all work performed by the Utility.
- With the Final Construction Invoice submission, the Utility shall submit a "Buy America Certification of Compliance" certifying that:
- All steel and iron products provided for permanent incorporation in the Project, were made from steel and iron that was melted and manufactured in the United States including the application of coatings which protect or enhance the value of the material.**
- Or if any material does not comply with these requirements, the Utility will indicate what material does not comply. The State may require the Utility to remove and replace material that does not comply with the Buy America requirements, at no expense to the Department and may deny the Utility reimbursement for all the relocation costs incurred by the Utility.

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- (16) The Utility shall perform the work, specified herein, with its own forces wherever possible and only have that portion of the work performed by a consultant or contractor that the Utility is not adequately staffed or equipped to perform with its own forces.
- (17) The intention of this Agreement is that facilities which are removed, relocated, or disrupted will be replaced in such a manner that shall result in services being restored to the status and degree of use as existed prior to said changes. The Utility and the State agree to jointly use their best efforts to relocate, adjust and/or abandon the existing facilities and construct any new facilities without detrimentally affecting or interrupting services to the Utility's customers. In the event during construction of the Project it is necessary to detrimentally affect or interrupt services, the Utility shall be notified at least 48 hours in advance, unless the particular circumstances dictate less notice.
- (18) The design of utility facilities intended to be constructed by the State for the Utility shall be approved by the Utility before the State includes such facilities in the State's contract documents before the Project is advertised.
- (19) In no case will the State pay for betterment of facilities nor will the State pay any costs for work performed for the sole benefit or convenience of the Utility, the State's contractor, or the Utility's contractor.
- (20) Utility facilities constructed under the terms of this Agreement shall become the sole property of the Utility and the Utility shall be solely responsible for their operation, repair, and maintenance.
- (21) The State will obtain and bear the cost of all permits, environmental or otherwise, relating to the construction of new, and/or the protection, relocation and/or rearrangement of existing facilities, as necessitated by the Project, whether the necessary utility work is within or outside of the highway right-of-way. However, should the Utility choose to install facilities that constitute betterment, then it is the sole responsibility of the Utility to obtain the permits necessary for said betterment. It is further understood that should the Utility desire to install additional facilities, at a future date within the highway right-of-way, the Utility shall obtain the appropriate Utility Permit from the authority having jurisdiction over the highway. This Agreement is the Utility Permit for the work authorized herein.
- (22) Subject to provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-et seq., the State will be responsible for personal injuries and property damage caused by the actions of the State, its employees or agents which arises out of this Agreement. Any claim for such personal injury or property damage must be filed in accordance with N.J.S.A. 59:8-1 et seq.

Work done by State's Contractor

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- (23) Subject to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et. Seq., the Utility will be responsible for personal injuries and property damage caused by the actions of the Utility, its employees or agents which arises out of this Agreement. Any claim for such personal injury or property damage must be filed in accordance with N.J.S.A. 59:8-1 et seq.
- (24) The State has estimated the Utility's engineering costs for the Project and will adjust these costs to reflect the actual costs incurred by the Utility by issuing the appropriate Utility Agreement Modification.
- (25) The Utility's engineering costs incurred for the Project are eligible for reimbursement as of **2/5/2020** and are estimated to be **\$5,000.00**.

Work done by State's Contractor

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed the date and year first written above.

ATTEST:

BOROUGH OF MOUNTAIN LAKES

Name:

Title:

By: _____

Name:

Title:

ATTEST:

**STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION**

Anika James, Secretary
Department of Transportation

By: _____

Paul F. Schneider, Director
Capital Program Support

Date: _____

This aforementioned Agreement has been
reviewed and approved as to form.

**GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY**

Recommended:

Date:

By: _____

Nonee Lee Wagner
Deputy Attorney General

Bhavesh Shah,
Project Management Specialist 2,
Team - D

Date: _____

UECA MUNICIPAL AMENDMENT W/ or W/O STATE CONTRACTOR(NEW 2017)

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
Rockaway Boro, Denville Twp., Mountain Lakes Boro &
Parsippany-Troy Hills Twp.
Morris County

Borough of Mountain Lakes

UECA-11-Rt. 46, Main St to Rt. 287-148040

Contract Billing No. _____

UPC Code: 148040

Contract ID No.: 20-16035

DUNS No. 08-061-0322

THIS AMENDMENT AGREEMENT made this _____ day
of _____, _____, between
COMMISSIONER of TRANSPORTATION, acting for and in the name of
the **STATE OF NEW JERSEY**, hereinafter called the "State", and the
BOROUGH OF MOUNTAIN LAKES hereinafter called the "Utility".

WHEREAS, the State and Utility have already "agreed upon but not
fully executed a Utility Agreement before July 1, 2017"; and

WHEREAS, the State has determined that federal financial
assistance or grants have been or will be expended in the design
and construction of this Project, and;

WHEREAS, as of July 1, 2017, 2 C.F.R. 200 and 2 C.F.R. 200,
Appendix II are mandated to be part of any procurement based on
federal financial assistance; and

WHEREAS, 2 C.F.R. 200 requires other federal regulations to be
followed and adhered to in construction projects using federal
financial assistance; and

WHEREAS, before entering into additional phases of the Utility's
work, an amendment to the original agreement must be executed;

WHEREAS, the Utility is owned by **Borough of Mountain Lakes** and
as such must follow the **Borough of Mountain Lakes's** procurement
laws and policies;

NOW THEREFORE, State and Utility, for the mutual benefits to be
obtained agree as follows:

GENERAL CONDITIONS

- (1) The agreed upon but unexecuted agreement before July 1,
2017 is being executed simultaneous with this Amendment.

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- (2) The previous Agreement is superceded to the extent that it conflicts with the Amendment, all non-conflicting provisions shall remain in full force and effect.

AMENDMENTS

- (3) This paragraph amends UECA MUNS paragraph 10.

After receipt of the Utility's plans, estimates, and schedules, the State will develop a "Utility Agreement Modification". The Utility Agreement Modification, may include a Utility Agreement Plan, but it will set forth in detail the proposed Scope of Work to be performed by the Utility, the anticipated schedules, estimates, project duration and benchmarks, and funding ceilings to accomplish the utility work in the Project by the Utility and/or its contractor to be reimbursed by the State. Separate Utility Agreement Modifications can be performed for the design work and the construction work if a Utility is contracting with firms outside of the Utility to consult with the State in the Preliminary Design process. If the construction is to be performed by the State's Contractor, the Utility Modification will

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indicate within the Scope of Work any duties of inspection or verification being retained by the Utility.

- (4) This paragraph amends UECA MUNS paragraph 13.

State will request, by certified mail, the Utility to submit final invoices for costs incurred by the Utility upon: (a) completion of design; (b) completion of the utility work; or (c) cancellation of the Project. Final construction invoice shall be submitted along with the Certificate of Compliance (DC17U). (Exhibit 1). All such invoices shall be submitted to the State monthly and the State shall not accept invoices for payment submitted after a sixty (60) day period. In no event will the State reimburse the Utility for costs not included in invoices submitted to the State after the sixty (60) days period following notice. In compliance with 2 C.F.R. 200.309, the Utility shall not charge to this Agreement costs incurred after the period of performance of the project.

- (5) This paragraph amends UECA MUNS paragraph 14. All matters pertaining to subcontracted work, billing, estimates,

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survey control, extra work items, and inspection responsibility shall be in accordance with the Memorandum of Record dates January 10, 2013, entitled "Procedures Governing Estimation of Costs, Requirements During Construction and Billing the New Jersey Department of Transportation for Public Utility Work", and in accordance with the federal regulations at 23 C.F.R. Subpart A and 2 C.F.R. 200 Subpart E and with it being understood that where the State's Regulations are in conflict with the Federal Regulations, the Federal Regulations shall govern. Disallowed costs are those charges determined to not be allowed in accordance with the applicable Federal cost principles or other conditions contained in this agreement. The matter of "Credit for Expired Service Life" has been considered for all items and where allowances apply, same are hereinafter specified in description of items and the cost summary.

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- (6) This paragraph also amends UECA MUNS paragraph 14.

The State, FHWA, or their agents, shall be entitled to perform an audit at the following times: during the performance of the work or during a period of up to three years after project close out. All accounts and records shall be kept in accordance with accounting system that meets the requirements of 2 C.F.R. 200.301-200.303 and 2 C.F.R. 200 Subpart F and will facilitate and effective audit in accordance with the Single Audit Act of 1984, as amended (31 U.S.C. §§ 7501-7507). All State audit procedures shall be in conformance with State Treasury Circular Letter 04-04-OMB Single Audit Policy for Receipts of Federal Grants, State Grants and State Aid; State Grant Compliance Supplement; and Treasury Circular 07-07-OMB; and New Jersey Treasury Circular OMB-15-08-OMB "Single Audit Policy for Subrecipients of Federal Grants, State Grants, and State Aid."

UECA MUNICIPAL AMENDMENT W/ or W/O STATE CONTRACTOR (NEW 2017)

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(7) This paragraph also amends UECA MUNS paragraph 14.

The Utility acknowledges that changes in payment due to the Utility resulting from audits performed by the State shall be made as follows:

A. In the event of overpayment by the State, the Utility shall refund the amount of such overpayment within thirty days of the request by the State. In the event the Utility fails to comply with said request, the State is hereby authorized to deduct such overpayment from other monies due the Utility under the terms of this Agreement or any other agreement between the State and the Utility. Furthermore, the Utility expressly understands and agrees that the provisions of this section shall in no way be construed to relieve the Utility from any liability, or preclude the State from taking any other actions as are available to it under any other provisions of this Agreement or otherwise at law. The terms of this section shall survive the expiration or termination of the Agreement.

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B. In the event of underpayment by the State, the State shall pay sufficient funds to the Utility to correct the underpayment as soon as is practicable.

C. The Utility shall include in the Final Invoice the following release clause:

"In consideration of the requested payment of this Final Invoice, the **Borough of Mountain Lakes** (Utility) hereby releases the State of New Jersey and the New Jersey Department of Transportation, their agents, officers and employees, from all claims and liabilities arising from work done or services performed under this Agreement."

- (8) This paragraph amends UECA MUNS paragraph 14. Payment to the Utility for a Final Invoice does not waive either the right of the State to establish adjustments and to collect overpayments that are disclosed by audits performed subsequent to payment of the Final Invoice, or the right of the Utility to underpayments based upon adjustments disclosed by said audits.

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- (9) This paragraph amends UECA MUNS paragraph 14. Closeout Reports. The Utility shall submit a Project Closeout report no later than 90 days after the period of performance end date. The report will be in a form satisfactory to the State and shall, at a minimum, comply with the requirements of 2 C.F.R. 200.343 and allow the State to comply as well.
- (10) NEW PARAGRAPH. The State may, in its sole discretion terminate this agreement for cause or for convenience pursuant to the Standard Specification or if the State, USDOT or FHWA determined that termination of this Agreement is in the public interest.

PROCUREMENT REQUIREMENTS FOR UTILITY AND ITS SUBCONTRACTS

- (11) As the Utility is wholly owned and operated by **Borough of Mountain Lakes** all procurements shall abide by the expressed Federal, State, and local requirements dealing with conflicts of interest in procurement. Utility, if using Municipal personnel to perform in whole or in part this Agreement, shall follow all Federal, State, and

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local laws relating to discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

- (12) If the Utility will be publicly bidding for contractors to perform the work contained in this Agreement and its Amendments and any Utility Agreement Modification, Utility shall exchange for review and approval all bid documents prior to advertisement for review and conformance with the Procurement requirements expressed herein. Bidding procedures shall conform to the 2007 Standard Specification for Bridge and Road Construction and any Baseline Document Changes ("BDC") and Special Provisions as designated by the State, incorporated herein by reference. The State or FHWA shall have the authority to accept or reject the proposed documents for bidding on the basis of this Agreement and Amendment and the procedures of the Standard Specifications, Baseline Document Changes, and Special Provisions.

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- (13) In order to be a recipient of federal financial assistance, the State must comply with all of the federal requirements, as applicable, to the type of work performed by the State, and in turn the Utility performing work on behalf of the State. This list is attached at Exhibit 2.
- (14) If the Utility is assisting in the preparation of plans and specifications during the engineering phases of the Project, the Utility is subject to these provisions in obtaining a subconsultant to perform the work.
- (15) If the Utility will only provide inspections, and will not subcontract for that work, the Utility is responsible for the compliance with all applicable federal, state and local laws.
- (16) If the Utility is obtaining engineering or design services as a consultant, Utility will abide by the Brooks Act (40 U.S.C. §§ 1101-1104) as implemented in 23 U.S.C. 112(b)(2) or equivalent qualifications based requirements as approved by State or FHWA.

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(17) If the Utility is not performing the construction work under this Agreement, the State is obligated to comply with all applicable federal procurement procedures in obtaining its contract to perform the work contained in this Agreement.

(18) If the Utility is performing engineering or construction work with the aid of subcontractors or subconsultants under this Agreement with estimates and reimbursements under the appropriate Utility Agreement Modification, Utility shall include in any solicitation for bids, Requests for Proposals of work, or materials as negotiated:

"The Recipient (State), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be

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discriminated against on the grounds of race, color, or
national origin in consideration for an award."

(19) Utility will comply with the parameters of 49 C.F.R. Part
26, Disadvantaged Business Enterprises Program, in its
procurement of subcontractors and subconsultants to make
all applicable good faith efforts. Requirements are set
forth at Exhibit 3.

(20) If after the scope of work is determined and a
Disadvantaged Business Enterprises goal ("DBE goal") is
established by the State's DBE unit, the individual DBE
goal shall be listed in the Utility Agreement
Modification relating to the engineering or construction
work for which the goal is being established. If it is
determined that the DBE goal is 0%, the DBE goal shall
still be listed in the Utility Agreement Modification.

(21) State, as a requirement of receiving federal financial
assistance, is obligated to require Utility to abide by
and include in any contracts by the Utility with its
subcontractors and subconsultants the attached Exhibit 4
and Exhibit 5.

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(22) Bonding and insurance requirements shall be set forth in the Utility Modification Agreement based on the type of Project, estimated costs, whether work is to be constructed by the Utility, and whether or not the Utility is self-insured.

(23) After July 1, 2017, State became responsible to include every engineering and construction contract and its grants the requirements of 2 C.F.R. 200 and 2 C.F.R. 200, Appendix II. Utility shall be responsible for the compliance with these federal regulatory provisions and comply by following:

A. Federal Mandatory Equal Opportunity Language on Federal Aid Project, Authority Subject to 41 C.F.R. Part 200 and 2 C.F.R. Part 200 Appendix II. (Exhibit 6).

B. Federal Form 1273, Prevailing Wage (Exhibit 7) and Supplementary State Provisions at Exhibit 8.

C. If any federal funds subject to 37 C.F.R. §401.2 are used to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement" the Utility must comply with the requirements of 37 C.F.R. part 401 "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements," and any implementing regulations issued by the federal agency or State.

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D. In addition to the Debarment and Suspension requirements of the System for Award Management and the New Jersey List of Debarred Contractors as explained in Form 1273, Utility shall follow Exhibit 8.

E. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and requirements of submission of documents to State at Exhibit 9.

F. If materials used in performance of this contract are listed on the Procurement of Recovered Materials at 2 C.F.R. 200.322, Utility shall comply with all requirements therein.

(24) Utility shall also comply with the requirements of the State's receipt of federal financial assistances concerning:

A. Drug Free Workplace (Exhibit 10)

B. State of New Jersey Treasury Circular 07-05-OMB, Grant Agreements and Agency Contracts incorporated by reference herein. Any federal statutes or regulations that conflict with this circular shall control.

C. Department of Transportation Code of Vendor Ethics

(25) The Utility shall recognize and agree that both the initial provision of funding and the continuation of such funding under the Agreement is expressly dependent upon the availability to the Department of funds appropriated by the State Legislature from State and/or Federal revenue or such other funding sources as may be applicable. A failure of the Department to make any

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payment under this Agreement or to observe and perform any condition on its part to be performed under the Agreement as a result of the failure of the Legislature to appropriate funds shall not in any manner constitute a breach of the Agreement by the Department or in event of default under the Agreement and the Department shall not be held liable for any breach of the Agreement because of the absence of available funding appropriations. In addition, future funding shall not be anticipated from the Department beyond the duration of the award period set forth in the Agreement/ Utility Modification Agreement in no event be construed as a commitment by the Department to expend funds beyond the termination date/Project completion date set in the Agreement/Utility Modification Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
duly executed the day and year first written above.

CERTIFICATION

I hereby certify that I am an authorized representative of the Utility and have all
necessary authority to execute this Agreement and to bind the Utility to all
obligations arising from this Agreement. I fully understand that the Department of
Transportation will rely upon this certification in accepting my execution of this
Agreement for the Utility.

ATTEST:

BOROUGH OF MOUNTAIN LAKES

BY: _____
Name: _____
Title: _____

BY: _____
Name: _____
Title: _____

ATTEST:

STATE OF NEW JERSEY
DEPARTMENT OF
TRANSPORTATION

By: _____
Anika James
Department of Transportation
DATE: _____

BY: _____
Paul F. Schneider, Director
Capital Program Support

This aforementioned Agreement has
been reviewed and APPROVED AS TO FORM:

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

Recommended:

Bhavesh Shah,
Project Management Specialist 2, Team D

DATE: _____

By: _____
Nonee Lee Wagner
Deputy Attorney General

DATE: _____

9/19/12 (VENDORID)

Re:

Rt. 46, Main St/Woodstone Rd (CR 644) to Rt. 287, ITS
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Morris County
UECA-11- Rt. 46, Main St to Rt. 287-148040
UPC # 148040

VENDOR IDENTIFICATION VERIFICATION

New Jersey Vendor Identification Number: _____
(Including Location Code, if appropriate)

Federal Vendor Identification Number: _____

**Corporate Name and Address Associated with the Vendor Identification Number on file
with the New Jersey Department of Treasury:**

Form Completed by: _____
(Signature)

(Name) (Date)

(Phone No.) (Fax No.)

Note: 1. To verify your Vendor ID name or number, write or phone "OMB Vendor
Control", PO Box 221, Trenton NJ 08625 (Office) (609) 292-7184 or (609) 633-8183
and FAX at (609) 984-5210

Note: 2. Modify the first Paragraph of the Agreement to exactly match the name above.

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 122-21

“RESOLUTION RENEWING LIQUOR LICENSES FOR 2021-2022 LICENSING TERM”

BE IT RESOLVED, that the Borough Council of the Borough of Mountain Lakes, in the County of Morris, State of New Jersey, does hereby approve the renewal of the liquor licenses named below for the licensing term of July 1, 2021 (as per Alcoholic Beverage Control Director’s Order) through June 30, 2022:

PLENARY RETAIL CONSUMPTION LICENSES

<u>License #</u>	<u>Licensee & Location</u>	<u>Trading As</u>
1425-33-003-006	The Mansion at Mountain Lakes	Mansion at ML, LLC
1425-33-005-002	Zeris Brothers Inc.	Zeris Inn
1425-33-004-008	Shkembi Restaurant, Inc.	Barka

PLENARY RETAIL DISTRIBUTION LICENSES

1425-44-001-015	Mountain Lakes Wine & Liquor LLC	None on File
1425-44-002-002	Gilchrist Corp. Inc.	El Dorado Winehouse

CLUB LICENSES

1425-31-006-001	Mountain Lakes Club	Mountain Lakes Club
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XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on June 28, 2021.

Mitchell Stern, Acting Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Happer						
Korman						
Lane						
Richter						
Sheikh						
Barnett						
Menard						

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 123-21

“RESOLUTION AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES”

WHEREAS, the Tax Collector certifies that the following property has an overpayment of taxes for the year 2021, and the Collector has authorized the issuance of a refund.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, County of Morris, State of New Jersey, that a warrant be drawn to Mark and Kathryn Watrous representing a refund of taxes due to an overpayment.

<u>Block</u>	<u>Lot</u>	<u>Name & Address</u>	<u>Amount</u>
59	6	Mark and Kathryn Watrous	\$5,650.87

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on June 28, 2021.

Mitchell Stern, Acting Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Happer						
Korman						
Lane						
Richter						
Sheikh						
Barnett						
Menard						

**BOROUGH OF MOUNTAIN LAKES
COUNTY OF MORRIS, NJ**

RESOLUTION 124-21

“RESOLUTION AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES”

WHEREAS, the Tax Collector certifies that the following property has an overpayment of taxes for the year 2021, and the Collector has authorized the issuance of a refund.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Mountain Lakes, County of Morris, State of New Jersey, that a warrant be drawn to Guardian Title Services, LLC 345 Centre St. Suite 2 Nutley, NJ 07110 representing a refund of taxes due to an overpayment.

Block	Lot	Name & Address	Amount
116	3.12	Siddhartha Mahapatra 4 Bridle Court Mountain Lakes, NJ 07046	\$4,011.06

XX

CERTIFICATION: I hereby certify the foregoing to be a true and correct copy of a resolution duly adopted by the Borough Council of Mountain Lakes, New Jersey, at a meeting held on June 28, 2021.

Mitchell Stern, Acting Borough Clerk

Name	Motion	Second	Aye	Nay	Absent	Abstain
Happer						
Korman						
Lane						
Richter						
Sheikh						
Barnett						
Menard						



BOROUGH OF MOUNTAIN LAKES

LISTED IN NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

CONSTRUCTION OFFICE

MONTHLY ACTIVITY REPORT

MAY 2021

ADMINISTRATIVE SUMMARY

Even with escalating material costs and difficulties in obtaining required supplies, construction activity has rebounded to a level consistent with the same period two years ago. The uncertainty of the supply chain continues with both homeowners and contractors hesitant to proceed with projects due to budget limitation. Material costs rise exponentially between the planning of a project and the start of construction.

Finally, the weather is not a negative factor in the amount and type of construction activity seen. Property owners have been getting maintenance work completed on mechanical equipment impacted by the winter weather and preparing for the upcoming summer season.

Construction is now underway on all final units for the Enclave at Mountain Lakes development (Pulte). With commitments in place for all of the project units, completion and closeout of this project is expected before the end of the year.



BOROUGH OF MOUNTAIN LAKES

LISTED IN NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

CONSTRUCTION OFFICE SUMMARY OF FEES COLLECTED

PERIOD	2019 COLLECTED	YEAR TO DATE	COMMENTS	AMOUNT
JANUARY	12,338.00	12,338.00		
FEBRUARY	4,042.00	16,380.00		
MARCH	23,677.00	40,057.00		
APRIL	8,056.00	48,113.00		
MAY	23,363.00	71,476.00		
JUNE	26,134.00	97,610.00		
JULY	16,904.00	114,514.00	Enclave fees	10,592.00
AUGUST	7,245.00	121,759.00		
SEPTEMBER	8,425.00	130,184.00		
OCTOBER	7,403.00	137,587.00		
NOVEMBER	14,035.00	151,622.00		
DECEMBER	7,618.00	159,240.00		

PERIOD	2020 COLLECTED	YEAR TO DATE	COMMENTS	AMOUNT
JANUARY	106,301.00	106,301.00	Enclave and Sunrise fees	98,243.00
FEBRUARY	5,520.00	111,821.00		
MARCH	13,491.00	125,312.00		
APRIL	2,171.00	127,483.00		
MAY	2,476.00	129,959.00		
JUNE	13,410.00	143,369.00		
JULY	3,900.00	147,269.00		
AUGUST	21,791.00	169,060.00		
SEPTEMBER	14,343.00	183,403.00		
OCTOBER	61,757.00	245,160.00	Enclave fees	36,825.00
NOVEMBER	18,634.00	263,794.00		
DECEMBER	6,934.00	270,728.00		

PERIOD	2021 COLLECTED	YEAR TO DATE	COMMENTS	AMOUNT
JANUARY	11,663.00	11,663.00		
FEBRUARY	40,193.00	51,856.00	Enclave fees	27,748.00
MARCH	37,128.00	88,984.00	Enclave fees	28,144.00
APRIL	10,024.00	99,008.00		
MAY	26,651.00	125,659.00		
JUNE				
JULY				
AUGUST				
SEPTEMBER				
OCTOBER				
NOVEMBER				
DECEMBER				



Mountain Lakes Borough
400 BOULEVARD
MOUNTAIN LAKES, NJ 07046

Construction Permit Activity Report

5/1/2021 -> 5/31/2021

Summary

	Cost:	Count:				
New:	\$946,500.00	6	Cubic Footage:	220,247 Cu.ft	Permits Issued:	53
Addition:	\$200,800.00	1	Square Footage:	24,031 Sq.ft	Updates Issued:	15
Alteration:	\$1,351,124.00	57				
Demolition:	\$5,050.00	4				
Total:	\$2,503,474.00	68				

Permits	Count	Permit Fees	Admin Fees	Total	Inspections	Passed	Failed	Other
Building:	19	\$22,547.00	\$0.00	\$22,547.00	B 58	36 %62.1	5 %8.6	17 %29.3
Plumbing:	18	\$7,212.00	\$0.00	\$7,212.00	P 40	25 %62.5	3 %7.5	12 %30
Electrical:	38	\$10,643.00	\$0.00	\$10,643.00	E 68	58 %85.3	8 %11.8	2 %2.9
Fire:	21	\$3,696.00	\$0.00	\$3,696.00	F 26	24 %92.3	1 %3.8	1 %3.8
Elevator:	0	\$0.00	\$0.00	\$0.00	V 0	0 %	0 %	0 %
Mechanical:	32	\$3,480.00	\$0.00	\$3,480.00	M 32	29 %90.6	1 %3.1	2 %6.2
	128	\$47,578.00	\$0.00	\$47,578.00		224	172	18 34
DCA Training:	7		816		(Note: Does not include result of none)			
DCA State:	57		2399	\$2,400.00				
DCA Minimum:	2		2					
	66		\$3,217					

Variations	Total	Paid	Certificates	Issued Total	Paid Total
Building 0	0	0	CA 51	\$0.00	\$0.00
Plumbing 0	0	0	CCO 0	\$0.00	\$0.00
Electrical 0	0	0	CO 6	\$1,050.00	\$1,500.00
Fire 0	0	0	CC 0	\$0.00	\$0.00
Mechanical 0	0	0	TCO 1	\$0.00	\$0.00
Elevator 0	0	0	TCC 0	\$0.00	\$0.00
Total:	\$0.00	\$0.00	Total: 58	\$1,050.00	\$1,500.00

NOTE:

Information gathered is based on the Issue date for that item, ie permit issue date, certificate issue date.

This will cause discrepancies between the payments section which uses Payment date. Example you took in money for a CO but the CO has not been issued yet.

Permit Subcode Exempted (State) Fees			Permit Subcode Waived (Local) Fees		
	Record Count	Total Exempted		Record Count	Total Waived
Building	0	\$0	Building	0	\$0
Plumbing	0	\$0	Plumbing	0	\$0
Electrical	2	\$200	Electrical	0	\$0
Fire	0	\$0	Fire	0	\$0
Mechanical	0	\$0	Mechanical	0	\$0
Elevator	0	\$0	Elevator	0	\$0
Total:		\$200	Total:		\$0
	Record Count	Total Exempted		Record Count	Total Exempted
DCA Fees 2		\$338		Record Count	Total Exempted

Violations	Fines	Paid
Issued 0	\$0.00	\$0.00

Payments (Based on Payment Date)	
Permit (106)	\$26,651.00
NON-UCC (0)	\$0.00
Variation Payments	\$0.00
Penalty (0)	\$0.00
Inspection Payments	\$0.00
Ongoing Invoice	\$0.00
Test Payments	\$0.00
Other Payments	\$0.00
Grand Total	\$26,651.00



Mountain Lakes Borough

Deposit Payment Totals 5/1/2021 to 5/31/2021

Starting Receipt
PMT-21-00369

Ending Receipt
PMT-21-00490

Cash Total
\$0.00

Check Total
\$27,451.00

Charge Total
\$0.00

Grand Total
\$27,451.00

Bag #

Deposit Account
DCA 01-290-55-000-001
ENG 01-192-08-105-015
UCC 01-192-08-160-000
ZON 01-192-08-105-017

YTD Payments	Payments
\$7,546.00	\$2,487.00
\$4,500.00	\$300.00
\$113,013.00	\$23,864.00
\$3,250.00	\$800.00
\$128,309.00	\$27,451.00

BOROUGH OF MOUNTAIN LAKES
DEPARTMENT OF PUBLIC WORKS
Department Activity
May 2021

IN HOUSE

All regular work details including building maintenance, vehicle repairs and maintenance, trash and recycling collection, trash bag deliveries, street sweeping, lawn maintenance, leaf and brush disposal, daily maintenance

Additionally:

Streets & Roads Department:

- DPW
 - Tree maintenance
 - Tree removal – Laurel Hill
 - Branch cleanup around traffic signs
 - Emergency removal – Woodland
 - Shade Trees – mulched, gater bags installed and watered
 - DPW Yard
 - Pole barn cleaned out
 - Metal storage room erected and painted
 - DPW yard cleaned up
 - Employee parking striped
 - Styrofoam deliveries
 - Excavator trailer refurbished
 - Mulching
 - Train station/ Woodland stairs
 - Birchwood rain garden mulch delivery
 - Memorial Day Parade
 - Bleachers/ flags set up
 - Assisted with parade events
 - Post parade removals/ cleanup
 - Garden Club
 - Spring mulching
 - Tent and table set up for Plant Sale at Island Beach
 - Island Beach
 - Beach sand delivered and spread
 - Earth berm installed between sand and grass
 - Beach prepped for insurance inspection
 - Signs installed
 - Water turned on for building
 - Gravel installed under boat racks
 - Grass areas topsoiled and seeded
 - Rocks placed by boat racks
 - Hinges installed on windows
 - Birchwood Beach
 - Aerators turned on
 - Debris from Solitude cleaning removed
 - Memorial and native garden mulched
 - Bathrooms cleaned and water turned on
 - Trout derby set up

Dock ladder repaired
Beach prepped for inspection
Rescue boat installed
Damaged dock boards evaluated

- Midvale Boat Dock Vegetation removed from slipway and boat racks
- Fanny Field Handrail repaired
New sprinkler box installed
- Water Department Borough-wide leak detection completed
Leak investigation at ML tennis courts
Spigot installed on hydrant for Garden Club
Flow test at Sunrise Senior Living

Vacation/Sick Time:

- 76 Vacation Hours; 40 Sick Hours



BOROUGH OF MOUNTAIN LAKES

LISTED IN NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

Joe Mullaney
Fire Chief
info@mlvfd.com

400 Boulevard
Mountain Lakes, NJ 07046
P -973-394-1094

TO: Borough Manager Mitchell Stern
DATE: 6/18/21
SUBJECT: May 2021 Report

The following lists the activity for the Mountain Lakes Volunteer Fire Department during the month of May 2021:

FIRE CALLS (8)

LOCATION	DATE	TIME	DESCRIPTION
7 Sherwood Drive	5/11	8:46 PM	Natural Gas Odor-
120 Ball Road	5/18	7:25 AM	Fire Alarm- Unattended cooking
1 Warwick Rd	5/23	12:21 AM	Fire Alarm- Malfunction
15 Spilt Rock Rd	5/25	10:55 AM	Assist Boonton Twp FD
130 Old Denville	5/25	10:55 AM	Assist Boonton Twp FD
31 Condit Road	5/26	4:20 PM	Fire Alarm- Malfunction
Rt 46 East	5/30	1:40 PM	Transformer Fire
Wildwood School	5/30	5:08 PM	Fire Alarm-False

DRILLS (4)

LOCATION	DATE	TIME	DESCRIPTION
Esplanade	5/11	8 PM	Senior Drill
High School	5/18	1 PM	JFD Training
Briarcliff School	5/23	1 PM	JFD Training
Firehouse	5/23	7:30 PM	JFD Training

MEETINGS (2)

LOCATION	DATE	TIME	DESCRIPTION
Fire House	5/4	8:00 PM	Officers Meeting
Virtual	5/25	8 :00 PM	Business Meeting

Truck and Equipment Checks/Work Details (1)

LOCATION	DATE	TIME	DESCRIPTION
Firehouse	5/23	8:00 PM	Truck checks E1. E2 and R1

Announcements:

1. I am pleased to announce the following recipients of the Bott Family Memorial Award, Thomas Taylor Memorial Award, Matthew Riccardi Memorial Community Service Award and Earl "Pete" Pedersen Award

Bott Award

1st Place- Eric Shertzer- \$2000

2nd Place- Thomas Barkauskas- \$1500

3rd Place- Dylan Pigden- \$1000

Taylor Award-
Ryan DeNooyer

Riccardi Award
Caleb Henry- \$3000

Pedersen Award-
Caleb Henry- \$500

2. I am pleased to announce that the following members of the JFD will serve as officers for the 2021-22 school year
 1. Nate Horowitz- Chief
 2. Adam Lalani Deputy Chief
 3. Ryan DeNooyer Asst Chief
 4. Thomas Rankin- Captain
 5. Lalia Dages- Captain
 6. Alicia Rosato- Captain

Manhours: 275

Borough of Mountain Lakes

BOARD OF HEALTH

400 BOULEVARD • MOUNTAIN LAKES, NEW JERSEY 07046

Telephone: (973) 334-3131 • Fax: (973) 402-5595



May 2021

Health Department Report

This report provides information regarding the activities of the Health Officer, Health Department and staff during the past month. Additional supplemental reports from Environmental, Nursing, Health Education and are provided.

This past month we have found significant change in the level of COVID-19, due to New Jersey's decreasing cases. With the various Executive Orders and State Department of Health modifications to previous requirements, several variations of masking and distancing have been relaxed.

While these activities are useful in helping individuals understand what residents need to do moving forward they also have presented a challenge to explaining the nuances and precise meaning especially as it relates to schools. Specifically indoor and outdoor activities and activities within a classroom during instructional time. Additionally there has been new guidance that has been provided related to swimming pools and camps that we have been involved with.

Vaccine requests have been reduced and therefore the larger clinics are now being either closed or modified to a limited schedule.

We have implemented a homebound program which was successful and we believe that we have provided nearly 100 of requests through the end of May. Any additional requests will be accommodated.

At the very end of May we were approved for the shipment of the Johnson & Johnson vaccine for our communities. We have reached out to Municipal leadership in order to develop pop up clinics and programs that will help any residents who are still in need of the vaccine.

We have been in constant contact with the Superintendents of schools and nurses as needed in order to assure proper guidance and transitions are occurring. Input in regard to Graduations and other types of year end activities have also been addressed. There are still cases of COVID that are being investigated but they have been significantly reduced since last month's report.

We address COVID issues As they arise and provide guidance.

We are in receipt of a vaccination Grant that is effective July 1st and will begin to implement as we receive information from each community leaders. Our staff has sent out communication requests to determine any groups that might be in need and/or leaders in the community that may be able to direct us towards those individuals in need.

General guidance provided to businesses, schools and municipal government agencies; including opening schools and related quarantines.

E.O. 242 has lifted masking and social distancing requirements for INDOOR activities and goes into effect 5/28/21.

E.O. 241 has lifted mask mandates for most OUTDOOR activities. The outdoor gathering limit has also been lifted via E.O. 238.

ED 21-001 (revised) & corresponding memo update the visitation guidelines for Long Term Care Facilities in New Jersey.

Following the gathering limits lifted via [E.O. 238](#), updated guidance (effective 5/7/21) was issued for [Indoor Dining](#), [Outdoor Dining](#), [Sports](#), [Amusement & Recreation Activities](#), [Pools](#), and [Health Clubs/Gyms/Fitness Centers](#). As per E.O. 238's lifting of capacity restrictions to begin 5/19/21, additional guidance revisions are expected. We will provide updated guidance as it becomes available.

All individuals 12+ have become eligible to receive vaccine. Vaccine scheduling and walk-ins is easy to accomplish. Pfizer has been approved for those 12 and up.

Please see the link below for the current out of state guidance for quarantine timelines.

<https://covid19.nj.gov/faqs/nj-information/travel-and-transportation/are-there-travel-restrictions-to-or-from-new-jersey>

We continue to participate in weekly Zoom and Teams meetings with State Department of Health, County Agencies, LINC and Health Officers in order to best implement state guidance. Activities decreased compared to the previous months.

The Nursing Department continues to investigate COVID cases on COMM CARE and in CDRSS. Decreasing cases are occurring this month. Our nurses and local and state funded staff are continuing to contact trace outbreaks, as they occur.

Currently Mt. Lakes has 0 cases with a 7 day look back.

Activities

- Review ongoing guidance from NJDOH/CDC regarding best practices for quarantine and vaccine programs.
- Continue to provide guidance to School Superintendents and school nurses as needed on an ongoing basis for specific circumstances.
- Continued to deliver a report 3 days a week for part of the month with information regarding case numbers in the municipality, county and state and expired cases, providing guidance documents and timely information. (Effective May 13, 2021 a new format with a weekly Thursday report).
- Provided weekly report with a new format (see attached May 27 , 2021)
- Continue to inform and discuss with residents, business owners and agencies various quarantine employment issues for returning to work.
- Continue to monitor staff activities regarding public health inspections and complaints. (see environmental, health education and nursing reports)

Testing Site:

Counties continue to operate Testing Sites. Visit the county COVID website for up to date information.

Stay Well.

Respectfully Submitted,
F. Michael Fitzpatrick, Health Officer

MOUNTAIN LAKES BORO POLICE DEPARTMENT

Agency Activity Report

By CFS Classification

From Date: 1/1/2021 To Date: 1/31/2021

Report Date: 6/21/2021 8:51:12 AM

Classification code	Description	Total Events	0000-0800	0801-1600	1601-2359
0600	Theft	6	1	5	0
0700	MV Theft	2	1	1	0
1100	Fraud	2	0	0	2
2000	Family Offense	1	0	0	1
2400	Disorderly Conduct	1	0	0	1
2600	All Other Offenses	2	0	2	0
4000	Non Criminal Investigations	20	7	8	5
4100	Fire Related	6	0	4	2
5000	Lost Found Property	2	0	2	0
5500	Animal Complaints	4	1	1	2
6000	Traffic Accidents	5	0	4	1
6300	Traffic Enforcement	48	1	29	18
6500	Parking Enforcement	1	0	1	0
6600	Traffic Services	8	1	7	0
7000	Public Services	231	87	36	108
7500	Assist other Agency	62	9	47	6
8000	Warrants	1	0	0	1
9000	Administrative	319	55	149	115
	Total:	721	163	296	262

MOUNTAIN LAKES BORO POLICE DEPARTMENT

Agency Activity Report

By CFS Classification

From Date: 2/1/2021 To Date: 2/28/2021

Report Date: 6/21/2021 8:52:55 AM

Classification code	Description	Total Events	0000-0800	0801-1600	1601-2359
0600	Theft	2	0	2	0
1100	Fraud	1	0	0	1
1400	Malicious Mischief	1	0	0	1
2000	Family Offense	3	0	1	2
2400	Disorderly Conduct	4	0	3	1
2600	All Other Offenses	1	0	1	0
4000	Non Criminal Investigations	13	2	7	4
4100	Fire Related	8	0	4	4
5000	Lost Found Property	1	0	1	0
5500	Animal Complaints	7	0	4	3
6000	Traffic Accidents	5	1	3	1
6300	Traffic Enforcement	57	4	43	10
6500	Parking Enforcement	1	0	1	0
6600	Traffic Services	2	0	2	0
7000	Public Services	214	67	34	113
7500	Assist other Agency	50	4	44	2
9000	Administrative	221	33	96	92
	Total:	591	111	246	234

MOUNTAIN LAKES BORO POLICE DEPARTMENT

Agency Activity Report

By CFS Classification

From Date: 3/1/2021 To Date: 3/31/2021

Report Date: 6/21/2021 8:53:59 AM

Classification code	Description	Total Events	0000-0800	0801-1600	1601-2359
0600	Theft	1	0	1	0
1100	Fraud	1	0	1	0
2000	Family Offense	2	0	0	2
2400	Disorderly Conduct	6	1	1	4
4000	Non Criminal Investigations	21	5	8	8
4100	Fire Related	13	1	8	4
4500	Deaths / Suicides	1	0	0	1
5000	Lost Found Property	3	0	2	1
5010	Missing Persons	1	0	1	0
5500	Animal Complaints	3	1	2	0
6000	Traffic Accidents	3	0	3	0
6300	Traffic Enforcement	84	3	57	24
6600	Traffic Services	4	0	4	0
7000	Public Services	214	108	18	88
7500	Assist other Agency	65	7	47	11
9000	Administrative	257	54	111	92
	Total:	679	180	264	235

MOUNTAIN LAKES BORO POLICE DEPARTMENT

Agency Activity Report

By CFS Classification

From Date: 4/1/2021 To Date: 4/30/2021

Report Date: 6/21/2021 8:54:52 AM

Classification code	Description	Total Events	0000-0800	0801-1600	1601-2359
1100	Fraud	2	0	2	0
1400	Malicious Mischief	1	0	1	0
2100	Liquor Laws Drunk Driving	1	1	0	0
2400	Disorderly Conduct	5	3	0	2
2600	All Other Offenses	1	0	1	0
4000	Non Criminal Investigations	17	3	8	6
4100	Fire Related	8	1	4	3
5000	Lost Found Property	1	0	1	0
5010	Missing Persons	1	0	0	1
5500	Animal Complaints	1	0	1	0
6000	Traffic Accidents	4	1	2	1
6300	Traffic Enforcement	102	6	70	26
6600	Traffic Services	7	2	4	1
7000	Public Services	313	164	70	79
7500	Assist other Agency	46	3	39	4
8000	Warrants	1	1	0	0
9000	Administrative	349	108	114	127
	Total:	860	293	317	250

MOUNTAIN LAKES BORO POLICE DEPARTMENT

Agency Activity Report

By CFS Classification

From Date: 5/1/2021 To Date: 5/31/2021

Report Date: 6/21/2021 8:55:36 AM

Classification code	Description	Total Events	0000-0800	0801-1600	1601-2359
0600	Theft	1	1	0	0
1100	Fraud	2	0	2	0
2000	Family Offense	1	1	0	0
2100	Liquor Laws Drunk Driving	1	0	0	1
2400	Disorderly Conduct	6	2	0	4
2600	All Other Offenses	2	0	1	1
4000	Non Criminal Investigations	18	4	5	9
4100	Fire Related	6	2	0	4
5000	Lost Found Property	6	0	5	1
5500	Animal Complaints	9	0	6	3
6000	Traffic Accidents	8	1	4	3
6300	Traffic Enforcement	150	22	68	60
6500	Parking Enforcement	5	1	4	0
6600	Traffic Services	4	0	4	0
7000	Public Services	344	107	78	159
7500	Assist other Agency	45	7	33	5
9000	Administrative	371	98	158	115
	Total:	979	246	368	365



MOUNTAIN LAKES BORO POLICE DEPARTMENT

Calls for Service

Year 2021

Code	Call for Service	Totals
0536	BURGLARY ATTEMPT FORCE NON RES UNK	3
0619	THEFT \$200 + ALL OTHERS	14
0629	THEFT \$50-200 ALL OTHER	1
1130	FRAUD ALL OTHERS	12
1321	STOLEN PROP-RECV. MV	1
1322	STOLEN PROPERTY RECEIVING OTHER	4
1440	CRIMINAL MISCHIEF ALL	4
1445	PROPERTY DAMAGE REPORT	1
2040	FAMILY OFFENSES-ALL OTHER	9
2111	DWI-ALCOHOL/UNDER INFL	2
2415	DISPUTE	1
2420	DISORDERLY CONDUCT / HARASSMENT	27
2450	NOISE COMPLAINT	1
2626	FALSE ALARMS -FIRE OTHER OFFENSES	1
2640	MUNICIPAL ORD VIOLATIONS / OTHER OFFENSES	3
2656	THREATS	1
2660	TRESPASSING	4
2665	FIREWORKS	1
4019	SUSPICIOUS ACTIVITY CDS RELATED	1
4020	SUSPICIOUS AUTO GENERAL POLICE	1
4021	SUSPICIOUS ACTIVITY	5



MOUNTAIN LAKES BORO POLICE DEPARTMENT

Calls for Service

Year 2021

Code	Call for Service	Totals
4022	SUSPICIOUS PERSON GENERAL POLICE	28
4026	DOWN-WIRES/POLES/TREES/LIMBS	6
4028	OTHER NON-CRIMINAL INV GENERAL POLICE	2
4052	ALARM BURGLARY OR HOLDUP NON RESIDENCE	59
4100	ALARMS (FIRE ALARMS)	1
4101	FIRES (ALL WORKING FIRES)	45
4504	ATTEMPTED SUICIDES	1
5004	FOUND ARTICLES	5
5008	LOST ARTICLES	7
5014	MISSING PERSON ADULT FEMALE	1
5016	MISSING PERSON ADULT MALE	1
5504	ANIMAL BITES	1
5510	ANIMAL COMPLAINTS ALL	31
6006	MV ACCIDENT W/INJURY	6
6008	MV ACCIDENT NO INJURIES	26
6303	TRAFFIC OFFENSE ALL OTHER	47
6305	SELECTIVE ENFORCEMENT TRAFFIC	8
6306	RADAR	119
6308	TRAFFIC MV COMPLAINT	2
6310	TRAFFIC ENFORCE / STOP	358
6335	TRAFFIC HAZARD	8
6510	PARKING ENFORCEMENT	8



MOUNTAIN LAKES BORO POLICE DEPARTMENT

Calls for Service

Year 2021

Code	Call for Service	Totals
6512	PERMIT PARKING	1
6608	ESCORTS	20
6612	SIGNALS SIGNS OUT	1
6614	TRAFFIC POST	3
6615	TRAFFIC COUNTER DEPLOYMENT / RADAR SIGN	7
7002	BUILDING / PROPERTY CHECK	780
7003	PROPERTY CHECK / AREA CHECK	416
7008	MEDICAL ASSISTANCE	66
7010	NOTIFICATIONS	23
7012	BANK ESCORTS,ETC	41
7014	OTH PUB SERV/WELFARE CHK	2
7015	ASSIST CITIZEN	84
7025	EMOTIONALLY DISTURBED PERSON (EDP)	2
7050	PROPERTY CHECK SCHOOL FACILITIES	109
7504	ASSISTING-OTHER POLICE DP	61
7506	ASSISTING-OTHER AGENCIES	13
7507	CIVIL DEFENSE/STORMS	2
7510	UTILITIES PROBLEM	4
7587	SCHOOL RESOURCE OFFICER ACTIVITY	218
8010	WARRANTS-LOCAL	1
8110	WARRANTS-OTHER AGENCIES	1
9001	THIRD PARTY DETAIL / OVERTIME	191



MOUNTAIN LAKES BORO POLICE DEPARTMENT

Calls for Service

Year 2021

Code	Call for Service	Totals
9002	ADMINISTRATIVE DUTIES	645
9003	COMMUNITY POLICING	20
9004	INTERNAL AFFAIRS COMPLAINT	3
9006	SICK DAY	24
9007	CHECK SCHOOL GUARD / COVER SCHOOL POST	113
9008	COURT	16
9010	IN SERVICE TRAINING	132
9012	OTHER MAINTENANCE	1
9027	FIREARMS APPLICATION	43
9028	FINGERPRINT	3
9029	CIVIL MATTER	5
9030	SPECIAL DETAIL ASSIGNMENT	3
9050	BACKGROUND CHECK	13
9052	TRO / FRO INFORMATION & SERVICE	1
9075	E-TRO REVIEW / CHECK	348
9085	SURRENDER OF PROPERTY (NOT RECOVERY)	1
911	911 HANG UP / CHK WELFARE	15
9110	PRO-ACTIVE PATROL	63
9115	FOLLOW UP	20
9118	CHILDSEAT INSPECTIION	4
9137	EVIDENCE DUTIES	1
9192	VEHICLE MAINTENANCE	95



MOUNTAIN LAKES BORO POLICE DEPARTMENT

Calls for Service

Year 2021

Code	Call for Service	Totals
9193	DAMAGE TO PATROL CAR	2
9999	NON-CAT DATA	39
Grand Total		4523

MOUNTAIN LAKES BORO POLICE DEPARTMENT

Officer Citation Report

From Date : 5/1/2021 To Date : 5/31/2021

Report Date : 6/21/2021 10:32 AM

Officers Name	Badge Number	Traffic Stops	Equipment	Moving	Radar	Parking	Ordinance	Warnings	Total
XXX	XX	1	0	0	0	0	0	0	0
XXX	XX	0	0	0	0	0	0	0	0
XXX	XX	16	2	2	0	0	0	0	4
XXX	XX	16	3	5	0	0	0	0	8
XXX	XX	0	0	0	0	0	0	0	0
XXX	XX	12	3	2	0	0	0	0	5
XXX	XX	0	0	0	0	0	0	0	0
XXX	XX	1	0	0	0	0	0	0	0
XXX	XX	55	5	15	0	0	0	0	20
XXX	XX	0	0	0	0	0	0	0	0
XXX	XX	0	0	0	0	0	0	0	0
Total:		101	13	24	0	0	0	0	37

Time Used/Overtime by Month

	Sick Time Hours					Vacation/Comp Hours/Pers Day/Bereave								Court Overtime					Department Overtime				
	2015	2016	2017	2018	2019	2020	2021	2015	2016	2017	2018	2019	2020	2021	2015	2016	2017	2018	2019	2020	2021		
Jan	106	58	236	216	79	588	324	64	127.5	22	15	14	0	42	\$0	\$0	\$0	\$158	\$0	\$154	\$0		
Feb	104	142	226	252	86	444	266	34	11	84	104	220	111	189.5	\$0	\$0	\$0	\$0	\$210	\$258	\$0		
March	82	82	238	310	110	332	180	96	139	198	148.5	168	74.5	81	\$0	\$0	\$151	\$0	\$0	\$0	\$0		
April	72	46	209.5	0	106	456	240	218	138	154	250	265.5	0	226	\$271	\$0	\$0	\$0	\$422	\$0	\$263		
May	188	69	128	204	96	564	204	322	192	254	178	169	36	681	\$0	\$0	\$0	\$0	\$993	\$0	\$0		
June	144	85	140	130	106	540		152	299	268	208	254	194		\$0	\$0	\$0	\$193	\$0	\$0	\$0		
July	128	140	318	152	47	442		428	592	518	524	84.5	551		\$0	\$0	\$0	\$158	\$0	\$0	\$0		
August	114	182	272	94	246	312		585	528	606	682	748	708		\$0	\$0	\$140	\$193	\$0	\$0	\$0		
Sept	71.5	92	276	94	180	256		228	364.5	294	375.5	222.5	389		\$0	\$354	\$0	\$0	\$0	\$0	\$0		
Oct	82	94	332	106	154	314		302	414	125	208	216	292		\$0	\$0	\$0	\$0	\$0	\$0	\$0		
Nov	96.5	188	346	148	426	302		145	164	274.5	235.5	176	287		\$0	\$0	\$0	\$246	\$0	\$0	\$0		
Dec	121	392	392	254	600	424		157.5	217.5	171	346.5	144.5	376		\$0	\$0	\$302	\$0	\$0	\$0	\$0		
Total	1309	1570	3114	1960	2236	4974	1214	2731.5	3186.5	2968.5	3275	2682	3018.5	1219.5	\$271	\$354	\$593	\$947	\$1,625	\$412	\$263		
															\$155,753	\$157,266	\$181,548	\$206,506	\$241,128	\$171,046	\$67,709		

May

<u>Total Overtime</u>
<u>Hours Paid</u>
217.5

<u>Total</u>	<u>Total</u>	<u>Vaca/Comp/Perso</u>
<u>Vaca/Comp Hrs</u>	<u>nal/Bereave Hrs</u>	<u>OT</u>
681	Creating OT	% of Hrs Equating to
	168.5	OT
		24.75%

<u>Total Sick Time</u>	<u>Total Sick Time</u>	<u>% of Hrs Equating to</u>
<u>Hrs</u>	<u>Hrs Creating OT</u>	<u>OT</u>
204	12	5.88%

One Officer out injury/disability, creating 192 of the 204 sick hours for the month.
 Three Officers out on terminal leave prior to retirement creating 492 of 681 hours of vacation/comp time.
 Throughout the month operating with 8 to 10 Officers.

- 12 hours related to arrests/investigations
- 3 hours for mandatory drug testing
- 6 hours misc.
- 6 hours for Memorial Day
- 6 hours mandatory training for CPR/AED and Internal Affairs
- 4 hours for vehicle maintenance

BOROUGH OF MOUNTAIN LAKES

Recreation Department

Department Activity May 2021

The Recreation Commission met on May 18th at 7:30pm via Zoom. Discussions included the change back to an in-person Trout Derby, the ongoing Covid 19 changes, ongoing Island Beach construction, approval of a new Basketball Camp at Wilson Court and the many requests from the School District for Borough Facilities. Other topics included an overview of the beach renovation progress, the boat rack sale process, field use priority and a summer program and hiring overview.

- Interviewed new seasonal employee candidates for: Sailing, Recreation Summer Camp counselors and CITs.
- Continued to work with Athletic Director Pat Brunner to assist HUB lakes requests and youth Spring sports including track, girl's lacrosse, boy's lacrosse and Tri-town little league with field and turf requests and schedule changes.
- Continued planning, promoting and staffing summer camps and summer programs.
- Updated website and virtual backpack with all current summer programs and events.
- Assisted residents, school groups and scout troops with various facilities requests.
- Began planning summer concerts (5) and movie night.
- Attended HUB Lakes meeting and organized HUB team coaches and equipment.
- Created all employments packets and began processing all necessary paperwork for more than 70 summer employees.
- Began reviewing summer facilities preparations with DPW.
- Worked with Beach Manager and Lifeguard Supervisor on summer preparations.
- Began planning 4th of July festivities. – Fireworks on July 2nd, raindate July 3rd.
- Attended 3 NJ Camp Zoom meetings regarding protocol.
- Assisted residents with 5K requests.
- Assisted Beach Director with the Beach Inspections.
- Opened Beaches on Memorial Day
- Met with Tennis Court Contractor for estimate
- Band on the Beach planned for Memorial Day Weekend – postponed
- Trout Derby successful – Net cost of \$478.30 to the Borough. This does include approximately \$600 of tshirts and hats that were replenished this year and will be sold at future derbys.
- New Swim Coach – Mike Tucker
- Dive will have a small team



BOROUGH OF MOUNTAIN LAKES

LISTED IN NATIONAL AND STATE REGISTERS OF HISTORIC PLACES

Joe Mullaney
Code Enforcement Officer
jmullaney@mtnlakes.org

400 Boulevard
Mountain Lakes, NJ 07046
P -973-334-3131 ext.2014
F -973-402-3466

TO: Borough Manager Mitchell Stern
DATE: 6/18/21
SUBJECT: Monthly Report May 2021

The following lists code enforcement/property maintenance issues for the month of May 2021:

5/14: Route 46 Resident notified about property maintenance violations
5/14 Follow up on complaint about garbage dumpster obstructing a portion of Baldwin Lane. Vendor notified to put the dumpster on private property
5/14: 41 Melrose Road. Property Maintenance
5/20: Spoke with owner of 41 Melrose Road. Property is in the process of being sold.
5/28: Follow up on zoning violation complaint on Briarcliff Road. Resident advised to follow up with zoning officer

Date:	Location	Pass/Fail
5/3	122 Pollard Rd	Pass
5/6	16 Littlewood Ct	Pass
5/12	70 Boulevard	Pass
5/14	125 Midvale Road	Pass
5/18	15 New Castle Court	Pass
5/21	46 Dartmouth Rd	Pass
5/24	95 Ball Road	Pass
5/24	144 Intervale Road	Pass
5/26	51 Pocono Rd	Pass
5/26	13 Rock Lane	Pass
5/26	351 Morris Ave	Pass

SIGN ENFORCEMENT -Monitor placement of signs/date for compliance. Numerous signs removed from Rt 46 Median and Intervale and 46.

Parking Enforcement: Monitor parking of landscaping trucks on Blvd and around town to ensure compliance.