

STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
DESIGN DEVELOPMENT & MAINTENANCE

TEMPORARY BEACH BERMS
HAMPTON BEACH STATE PARK HAMPTON, NH

SPECIFICATIONS

PROJECT # OPS-2405





**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
DESIGN DEVELOPMENT & MAINTENANCE
172 Pembroke Road
Concord, NH 03301
Tel. (603) 271-2606 Fax (603) 271-2629**

SPECIFICATIONS

**TEMPOARY BEACH BERMS
HAMPTON BEACH STATE PARK HAMPTON, NH**

PROJECT # OPS-2405

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172 Pembroke Road
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TEL. 603-271-2606 FAX 603-271-2629

NOTICE TO BIDDERS

Project: OPS-2405

TEMPOARY BEACH BERMS
HAMPTON BEACH STATE PARK, HAMPTON, NH

Description: This project involves creating temporary beach berms along the seawall above the high tide line in the area between Haverhill Ave. and just north of the Hampton Beach Meter Patrol Office. Contractors will use the existing beach sand. The start date for the Project will be October 2, 2023 and the completion date will be no later than 7:00 pm on October 15, 2022.

Proposals for the above project will be accepted until 2:00 P.M., prevailing time, on Tuesday September 12, 2023. Proposals should be mailed to: Attn: Edward Mussey Public Works Project Manager I. Department of Natural and Cultural Resources 172 Pembroke Road, Concord, NH. 03301. Bid proposals may be submitted electronically by e-mail to: Edward.V.Mussey@dncr.nh.gov

Specifications will be available to interested contractors at the Operations and Project Management Office on September 5, 2023. They may also be viewed at the following locations:

- 1.) Construction Summary of New Hampshire Inc. 734 Chestnut Street, Manchester, NH 03104 Tel. (603) 627-8856.
- 2.) Alpha Graphics 933 Islington Street, Portsmouth, NH 03801 Tel. 1-800-581-2712
- 3.) McGraw-Hill Construction Plan Room 34 Crosby Drive Suite 201 Bedford, MA, 03170 Tel. (781) 430-2006
- 4.) Signature Digital Imaging, 45 Londonderry Turnpike, Hooksett, NH 03106 Tel. (603) 624-4025
- 5.) Works in Progress, 20 Farrell Street, Suite 103, South Burlington, VT 05403 Tel. 1-800-669-7048
- 6.) New Hampshire Department of Administrative Services Bureau of Purchase and Property Website <https://das.nh.gov/purchasing/vendor.asp>
- 7.) New Hampshire State Parks Website <http://www.nhstateparks.org/news-and-events/projects/rfps-and-projects.aspx>.

All companies, corporations, and tradenames bidding must be registered and have a certificate of existence from the Secretary of State, Corporate Division (telephone 603-271-3244) in order to do business with the State of New Hampshire.

Edward V Mussey
Public Works Project Manager I

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
DESIGN DEVELOPMENT & MAINTENANCE
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Concord, N.H. 03301
TEL. 603-271-2606 FAX 603-271-2629**

BID PROPOSAL FORM

PROJECT: OPS-2405

TEMPORARY BEACH BERMS
HAMPTON BEACH STATE PARK HAMPTON, NH

PROPOSAL DEADLINE:

September 12, 2023 at 2:00 p.m.

START DATE:

October 2, 2023

COMPLETION DATE:

No later than October 15, 2023

Proposals for the will be accepted until 2:00 p.m., prevailing time, on September 12, 2023. Bids should be mailed to: Attn: Edward Mussey Public Works Project Manager Department of Natural and Cultural Resources, 172 Pembroke Road, Concord, N.H 03301. Bid proposals may be submitted electronically by e-mail to: Edward.V.Mussey@dncr.nh.gov.

DATE: _____

PROPOSAL OF: _____
(Company name and address)

GRAND TOTAL / LUMP SUM BASE BID: _____

STATE OF NEW HAMPSHIRE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
DIVISION OF PARKS AND RECREATION
DESIGN DEVELOPMENT & MAINTENANCE

PROPOSAL

Proposal of...

(contractors name)

(contractors address)

To furnish and deliver all materials except as noted and to perform all work in accordance with the Contract of the State of New Hampshire, Department of Natural and Cultural Resources for the construction of...

Project #OPS-2405 Temporary Beach Berms at Hampton Beach State Park, Hampton, NH.

Commissioner
Department of Natural and Cultural Resources
172 Pembroke Road
Concord, N.H. 03301

Commissioner:

In accordance with the advertisement of the Department of Natural and Cultural Resources inviting proposals for the project herein before named and in conformity with the Plans and Specifications on file in the office of the Department of Natural and Cultural Resources, _____ (firm name) hereby certifies that _____ is/are the only person, or persons, interested in this proposal as principals; that this proposal is made without collusion with any person, firm, or corporation; that an examination has been made of the Plans, of the Standard Specifications, and Special Attentions, Supplemental Specifications, and Special Provisions, all of which are attached hereto, and also of the site of the work; and I, or we, propose to furnish all necessary machinery, equipment, tools, labor, and other means of construction, and to furnish all materials specified in the manner and at the time prescribed; and understand that the quantities of work as shown herein are approximate only and are subject to increase or decrease, and further understand that all quantities of work are to be performed at the quoted prices.

To execute the form of contract and begin work within 15 (fifteen) days after the notice to proceed has been received or otherwise delivered to the contractor and to prosecute said work until its completion.

It is further proposed:

To furnish a contract bond in the amount of one hundred percent (100%) of the contract award, if the contract award is seventy-five thousand dollars (\$75,000) or more, as security for the completion of the contract in accordance with the plans and specifications and contract documents. The form of bond shall be that provided for by the surety shall be acceptable to the Commissioner. No contract bond shall be required on contract awards of less than seventy-five thousand dollars (\$75,000).

To guarantee all of the work performed under this contract to be done in accordance with the plans and specifications and contract documents.

The undersigned acknowledges receipt of the following addenda, if any, issued during the bidding time, and states that these have been incorporated in the proposal:

Addendum #1 dated _____

Addendum #2 dated _____

Addendum #3 dated _____

Dated _____

SCHEDULE OF VALUES PROJECT # OPS-2405 TEMPORARY BEACH BERMS HAMPTON BEACH
 INDICATE WHOLD DOLLAR AMOUNT OF CONTRACT SUM ALLOCATED TO EACH CATEGORY OF
 WORK AS DESIGNATED BELOW:

Category	Quantity	Hourly Price	# of Hours	Sub Total = (Quantity X Hourly Rate X Hours)
Hampton Beach Temporary Beach Berms Equipment (list the make, model, year and capacity of the equipment below)				
General Conditions	1	N/A	N/A	
	Total Lump Sum >			

Total Lump Sum of Contract

NOTE: The Schedule of values must be completely filled out in order for the bid proposal to be considered as responsive.

SIGNATURE PAGE

Company Name _____

Address _____

Phone _____

Fax _____

E-mail Address _____

Signature of Authorized Bidder _____

Print _____

Title _____

Address of Bidder _____

(if different than company)

Names and Addresses of Members of the Firm/Corporation

Name _____ address _____

Name _____ address _____

Name _____ address _____

INTENTIONALLY LEFT BLANK

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Department of Natural and Cultural Resources		1.2 State Agency Address 172 Pembroke Rd. Concord, NH 03301	
1.3 Contractor Name		1.4 Contractor Address	
1.5 Contractor Phone Number	1.6 Account Unit and Class	1.7 Completion Date	1.8 Price Limitation
1.9 Contracting Officer for State Agency Edward Mussey, Public Works Project manager I		1.10 State Agency Telephone Number 603-271-3973	
1.11 Contractor Signature <div style="text-align: right;">Date:</div>		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature <div style="text-align: right;">Date:</div>		1.14 Name and Title of State Agency Signatory	
1.15 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> By: _____ On: _____			
1.17 Approval by the Governor and Executive Council <i>(if applicable)</i> G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

GENERAL CONDITIONS

GENERAL

This contract is to be governed by all the applicable provisions of these specifications.

This project consists of creating Temporary Beach Berms at Hampton Beach State Park in Hampton, NH as indicated in these specifications and Plans.

BIDDING REQUIREMENTS

Bids shall only be accepted on the official Bid Proposal Forms, attached to these specifications. **Any bids submitted that are not on the official bid proposal forms will not be accepted.**

CONDITIONS AT SITE OR BUILDING

Bidders shall visit the site and be responsible for having ascertained pertinent local conditions such as: location, accessibility, general character of the site or building, the character and extent of existing work within or adjacent to the site, and any other work being performed thereon at the time of the submission of this bid.

PERFORMANCE AND PAYMENT BOND

In the event the bid is \$75,000 or more, the contractor shall furnish security by bond or otherwise in an amount equal to 100% of the contract guaranteeing performance and payment. The payment security shall meet the requirements of RSA 447:16.

The performance and payment bond must be returned with the signed contract within 15 days after the contract has been mailed or otherwise delivered to the bidder.

PROPOSAL GUARANTEE

None Required

RIGHT TO WORK IN N.H.

All bidders must be registered and have a certificate of existence from the New Hampshire Secretary of State, Corporate Division (telephone 603-271-3246) in order to do business with the State of New Hampshire.

Contractors may register Online at: <https://quickstart.sos.nh.gov/online/Account>

VENDOR REGISTRATION

All Bidders must be registered with the Department of Administrative Services Bureau of Purchase and Property. Bidders may complete the online registration at: <https://das.nh.gov/purchasing/vendorregistration>

PROPOSAL SELECTION

In most cases the proposal submitted by the qualified bidder with the lowest base bid price shall be selected. However, the Department of Natural and Cultural Resources reserves the right to reject any or all proposals, or advertise for new proposals as it judges to be in the best interest of the state.

CONTRACTORS QUALIFICATIONS

The successful bidder shall provide evidence upon request that they have been in the Site work and Excavation business successfully performing this type, scale, and quality of work for a minimum of five years. A comprehensive list of all projects worked on involving Site work in the past two years by the contractor shall be submitted with references upon request.

EXECUTION OF CONTRACT

The Contractor's attention is called to the following:

EXECUTION AND APPROVAL OF CONTRACT. The contract shall be signed by the successful Bidder and returned, together with the contract bond, if applicable, within 15 days after the contract has been mailed or otherwise delivered to the Bidder. No contract shall be considered as in effect until it has been fully executed by all the parties thereto and, when the contract amount is more than \$25,000, the award has been concurred in by the Governor and Council.

FAILURE TO EXECUTE CONTRACT. Failure to execute the contract within 15 days after the contract has been mailed or otherwise delivered to the successful Bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty which shall become the property of the Department, not as a penalty, but in liquidation of damages sustained. Award may then be made to the next lowest Bidder, or the work may be re-advertised as the Commissioner may decide.

STARTING DATE

The Contractor shall start work after notice to proceed is received. The notice to proceed shall be issued immediately upon contract approval by the Governor and Council, and shall establish the actual construction start date. Failure to start work within 15 calendar days after the start date shall be considered a default of the contract. If the actual start date is later than the advertised start date, the completion date shall be extended by an equivalent number of working days.

WORKSITE ACCOUNTABILITY

Per RSA 21-I:81-b At the onset of work on any state construction project, the general contractor or designated project construction manager, if any, shall provide to the Department Project Manager a current list of all subcontractors and independent contractors that the general contractor has agreed to use on the job site, with a record of the entity to whom that subcontractor is insured for worker's compensation purposes. This list shall be posted on the jobsite and updated as needed to reflect any new subcontractors or independent contractors.

If it is determined that a subcontractor or independent contractor is present on a state construction site without the contractor's name and direct contracting relationship being posted in a visible location at the worksite, the general contractor or designated project manager shall require the subcontractor or independent contractor to provide the information within 36 hours and to post the information in a visible location at the worksite. If the information is not provided within 36 hours of its request, the general contractor shall suspend the contractor until the information is provided and posted.

PROTECTION OF EXISTING PROPERTY

It shall be the responsibility of the contractor to protect existing property from damage. Any damage caused by the contractor in the performance of the work shall be repaired or replaced at his expense to the satisfaction of the Department Project Manager.

CODES

All work performed shall meet the provisions, if applicable, of the 2000 IBC, and any local codes that may apply.

WORKMANSHIP

All work shall be performed in a neat workmanlike manner by skilled workmen who have been actively engaged in performing the type of work specified under this contract for the last two years.

CLEAN-UP

All debris from the project shall be cleaned up daily and removed from the site at least on a daily basis.

DEFAULT AND TERMINATION OF CONTRACT

If the Contractor...

- (a) Fails to begin the work under the contract within the time specified in the contract, or
- (b) Fails to perform the work with sufficient workmen and equipment or with sufficient materials to assure the prompt completion of said work, or
- (c) Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- (d) Discontinues the prosecution of work, or
- (e) Fails to resume work which has been discontinued, within reasonable time after notice to do so, or
- (f) Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- (g) Makes an assignment for the benefit of creditors, or
- (h) For any other cause whatsoever, fails to carry on the work in an acceptable manner...

The Commissioner will give notice in writing to the Contractor of such delay, neglect, or default.

If the Contractor or Surety does not proceed in accordance with the Notice, then the Commissioner will, upon written notification from the Project Manager of the fact of such delay, neglect or default, and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the prosecution of the work out of the hands of the Contractor. The Commissioner may enter into an agreement for the completion of said contract according to the terms and conditions thereof, or use such other methods as in his opinion will be required for the completion of said contract in an acceptable manner.

All extra costs and charges incurred by the Department as a result of such delay, neglect or default, together with the cost of completion of the work under the contract will be deducted from any monies due or which may become due said Contractor. If such expenses exceed the sum which would have been payable under the contract, then the Contractor and the Surety shall be liable and shall pay to the Department, the amount of such excess.

FAILURE TO COMPLETE THE WORK ON TIME

If the Contractor fails to complete all of the work or sections of the Project, within the time specified in the Contract, the sum given in the schedule that follows will be deducted from any money due the Contractor. This deduction will be made, not as a penalty, but as fixed, agreed liquidation damages for inconvenience to the State and for reimbursing the Department the cost of the Administration of the Contract, including engineering and inspection. Should the amount of money otherwise due the Contractor be less than the amount of such liquidated damages, the Contractor and his Surety shall be liable to the State for such deficiency.

Permitting the Contractor to continue and finish the work after the time fixed for its completion, shall in no way obligate the State to waive any of its rights under the Contract.

When the final acceptance has been duly made by the Project Manager, any liquidated damage charges shall end.

The fixed, agreed, liquidated damages shall be assessed in accordance with the following schedule.

<u>ORIGINAL CONTRACT AMOUNT</u>	<u>AMOUNT OF LIQUIDATED DAMAGES</u>	<u>PER WORKING DAY</u>
From more than:	to and including:	
0.	25,000.	\$ 200.00
25,000.	50,000.	\$ 300.00
50,000.	100,000.	\$ 400.00
100,000.	500,000.	\$ 500.00

SUBSTANTIAL COMPLETION & FINAL INSPECTION

When the work is substantially complete, the Contractor shall submit to the Project Manager, a list of items of work; to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. On the basis of an inspection by the Project Manager which determines that the work is substantially complete, a Certificate of Substantial Completion shall establish the date of substantial completion and state the responsibilities for any damage to the work and insurance, and fix the time limit within which the Contractor shall complete the items listed herein. Warranties required by the Contract documents shall commence on the date of Substantial Completion unless otherwise provided in the Certificate of Substantial Completion.

If the Contractor fails to proceed to complete the items on the "punch list", then in addition to the corrective measures listed in the Certificate of Substantial Completion, the Commissioner may use the monies still due the Contractor to have such items completed and the Contractor shall lose any claim to the monies used.

Upon written notice that the Work is ready for final inspection and acceptance, the Project manager shall promptly make such inspection, and when he finds the Work acceptable under the Contract documents and the Contract fully performed, a Certificate of Final Payment will be issued.

Final inspection will be made by the DNCR Project Manager on or before October 15, at 2:00 pm. Incomplete items necessary to complete the project shall be done prior to final payment. The completion time and data for this project is no later than 2:00 pm. October 15, 2023.

PROSECUTION OF WORK

Upon starting the work within the start date set forth by this contract, the Contractor shall prosecute the work a minimum of 8 hours daily per working day until completion, excluding breakdowns or inclement weather. No request for an extension of time will be allowed on this project.

CHANGES IN THE WORK

The Project Manager may at any time, by a written order, and without notice to the Sureties, make changes in the Drawings and Specifications and completion date of this contract and within the general scope thereof.

In making any change, the additional cost or credit for the change shall be determined as follows:

- The order shall stipulate the mutually agreed upon lump sum price which shall be added to or deducted from the contract price. The contractor shall furnish an itemized breakdown of the prices used in computing the value of any change that might be ordered.
- If the price change is an addition to the contract price and the work is performed by the general contractor and not a subcontractor, it shall include the contractor's indirect costs as follows: Workmen's Compensation and Employee Liability, Unemployment and Social Security Taxes.
- In addition to the above indirect costs, the general contractor shall be allowed a markup not to exceed ten percent (10%). Said ten percent (10%) shall be all inclusive for overhead, supervision, and profit. In addition to this, an allowance shall be made for performance and payment bond additional premium.
- If the price change is an addition to the contract price and involves the work of the general contractor and subcontractor, the general contractor would be allowed ten percent (10%) on that part of the work performed by him and five percent (5%) on that part of the work performed by the subcontractor. The same percentages shall apply to subcontractors.
- On any change which involves a net credit to the Owner, no allowance for overhead and profit shall be figured.

INSURANCE REQUIREMENTS

No operations under this contract shall commence unless and until certification of insurance attesting to the below listed requirements have been filed with the Commissioner, approved by the Attorney General, and the Contract approved by the Governor and Council and a Notice to Proceed is issued.

Insurance requirements by paragraphs 1-4 below shall be the responsibility of the Prime Contractor. The Prime Contractor, at his discretion, may make similar requests of any subcontractor.

Following is the summary of minimum insurance requirements:

1. Workmen's Compensation Insurance (In accordance with RSA 281-A.)
 - a. Employers' Liability
 - 1.) \$100,000 each accident
 - 2.) \$500,000 Disease-policy limit
 - 3.) \$100,000 Disease-each employee

2. Commercial General Liability Insurance: Occurrence Form Policy: Include full Contractual Liability (see Indemnification Clause 9), Explosion, Collapse, and Underground coverage's:
 - a. Limits of Liability:
 - 1.) \$1,000,000 Each Occurrence Bodily injury & Property Damage.
 - 2.) \$2,000,000 General Aggregate-Include per Project Aggregate Endorsement.
 - 3.) \$2,000,000 Products/Completed Operations Aggregate.
 - 4.) State shall be named as an additional named insured.

3. If blasting and/or demolition is required by the Contract, the Contractor or subcontractor shall obtain the respective coverage for those activities, and shall furnish to the Commissioner a certificate of Insurance evidencing the required coverage's prior to commencement of any operations involving blasting and/or demolition.

4. Owner's Protective Liability coverage for the benefit of the State of New Hampshire Department of Natural and Cultural Resources.
 - a. Limits of Liability:
 - 1.) \$2,000,000 Each Occurrence
 - 2.) \$3,000,000 Aggregate

5. Commercial Automobile Liability covering all motor vehicles including owned, hired, borrowed, and non-owned vehicles.
 - a. Limits of Liability:
 - 1.) \$1,000,000 Combined Single Limit for Bodily injury & Property Damage

6. Commercial Umbrella Liability
 - a. Limits of Liability:
 - 1.) \$1,000,000 Each Occurrence
 - 2.) 1,000,000 Aggregate

7. Builder's Risk Insurance (Fire and Extended Coverage): NOT APPLICABLE FOR THIS PROJECT

The Contractor shall insure the work included in the Contract, including extras and change orders, on an "All Risk" basis, on a one hundred percent (100%) completed value basis of the Contract, as modified. Builder's Risk coverage shall include materials located at the Contractor's premises, on-site, in-transit, and at any temporary site. The policy by its own terms or by endorsement shall specifically permit partial or beneficiary occupancy prior to completion or acceptance of the entire work. The policies shall be in the names of the State of New Hampshire Department of Natural and Cultural Resources and the Contractor. The policies shall provide for the inclusion of the names of all other Contractors, Subcontractors, and others employed on the premises as insureds. The policies shall stipulate that the insurance companies shall have no right of subrogation against any Contractors, Subcontractors or other parties employed on the premises.

8. General Insurance Conditions

- a. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than thirty (30) days or ten (10) in cases of non-payment of premium after written notice thereof has been received by the State.

9. Indemnification:

- a. The Contractor shall indemnify, defend, and hold harmless the State of New Hampshire, its Agencies, and its agents and employees from and against any and all claims, liabilities, suits or penalties arising out of (or which may be claimed to arise out of) acts of omissions of the Contractor or subcontractors in the performance of work covered by the Contract. This covenant shall survive the termination of the Contract. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved by the State.

NOTE:

In articles 1 - 14 of the General Conditions references to "the Project Manager" shall be understood to mean the Department Project Manager designated by the Operations, Planning and Project Management office of the New Hampshire Department of Natural and Cultural Resources.

HAMPTON BEACH TEMPOARY BERMS SOPE OF WORK:

1. **Mobilization:** Contractor shall be fully mobilized to the site on or before October 2, 2023. The work shall commence no earlier than October 2, 2023 and be completed no later than 2:00 pm on October 15, 2023.
2. **Hours of Operation:** The contractor shall perform the work **Per Hampton Town Ordinance Equipment may not be operated prior to 7:00 am and no later than 7:00 pm. Monday thru Friday and 9:00 am to 5:00 pm Saturday to Sunday.**
3. **Buried items:** Carefully locate and mark out the locations of the existing electrical grounding system north of the meter patrol office. Mark out the locations of existing wood landing platforms at the end of the concrete ramps. Avoid damaging these items during operations. The cost of repair or replacement of these items will be the contractor's sole responsibility if damaged during this project..
4. Construct 17 Temporary Beach Berms from the existing sand on the beach as shown in the plan set, and as specified in these specifications. Beach berms shall be constructed along the beach above the high tide line between Haverhill Ave and "C" street. with the existing beach sand. The berms shall be spaced 40 feet away from the wall and parallel to each other, and approximately 40° angle from the wall. Each berm shall be approximately; 100 feet in length, 16 feet wide and 6 feet in height The berms shall be spaced Approximately 125 feet apart. Berms shall be laid out so that a clear line of sight and pathway from the stairwell access points and ramps to the ocean are maintained.
5. **Debris Removal:** If debris is encountered during the course of the work the contractor is to move the debris adjacent to the Marine Memorial beach access ramp for collection and disposal by State Park Staff.

SPECIAL SITE CONDITIONS:

1. Construction equipment access to Hampton Beach is made only by way of the beach access ramp adjacent to the Marine Memorial which is north of the Hampton Beach Seashell. Equipment may stage out of the Hampton State Beach RV Park only with the approval of the New Hampshire State Parks Seacoast Manager, Meredith Collins Cell phone No. 603-573-6657. Construction grading equipment may be parked overnight on the beach adjacent to the seawall.
2. Bidders shall visit the site and be responsible for having ascertained pertinent local conditions such as: location, accessibility, general character of the site, the character and extent of existing work within or adjacent to the site, and any other work being performed thereon at the time of the submission of this bid.
6. **Public Access to the Beach.** The Beach will be open to the public during the course of the grading operations. The Contractor shall post warning signs or beach closed signs in the area in which work will occur each day to encourage the public to stay out of those areas while grading operations are occurring.

HEAVY CONSTRUCTION EQUIPMENT REQUIRED: The Contractor is expected to be engaged in active beach work for a minimum of 8 hours a day until the work is completed. The Contractor shall provide at a minimum the following equipment and equipment operators for each piece of equipment. Substitutions to this equipment must be submitted in writing 5 days before the bid opening.

1. One (1) Caterpillar D6 or Equivalent.
2. One (1) Dump Truck 10 Wheel Minimum. for Transporting Construction Equipment to and from the Site.
3. One (1) Equipment Trailer (s) for Transporting Construction Equipment to and from the Site.
4. Any other Construction equipment that is necessary to successfully complete the scope of work.

EQUIPMENT BREAKDOWNS: In the event of an equipment breakdown, that is anticipated to render the equipment as out of service for 8 hours or more, the contractor shall notify the Project Manager immediately. In the event the equipment will be out of service for more than 1 day. The contractor shall obtain replacement equipment to complete the work on schedule without any additional cost to the State.

HYDRAULIC FLUID LEAKS OR SPILLS: In the event that hydraulic fluid leaks from any piece of the contractor's equipment (owned or rented) onto the beach, the contractor shall immediately cease operation of that equipment and contain the spill. The Contractor shall be responsible for cleanup of any contaminated beach Sand and all expenses associated with such cleanup effort.

EQUIPMENT RATES: The bid will be awarded on the basis of the lowest lump sum bid price.

SUCCESSFUL BIDDER:

The Successful bidder will receive a P-37 "Standard Contract Form". The Contract forms must be filled out, signed and returned to the Operations, Planning and Project Management office within 10 Business days along with the Performance and Payment Bond, if required and the Contractors Certificate of Insurance.

NOTIFICATION TO DES and FISH & GAME: The Department will notify the Department of Environmental Services and the Department of NH Fish and Game the intended schedule of this project.

WETLANDS PERMIT NOT REQUIRED:

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Enc-Wt 600 COASTAL LANDS AND TIDAL WATERS/WETLANDS

PART Env-Wt 608 TIDAL BEACH MAINTENANCE AND STABILIZATION

Env-Wt 608.01 Maintenance and Stabilization Activities on Public Tidal Beaches.

(a) Removal of seaweed, algae, or other debris (beach debris) from public tidal beaches shall not require a permit under RSA 482-A:3, provided:

(1) All work is done:

- a. By the state or local agency responsible for maintaining the public beach, or its authorized agent, not by private land owners;
- b. Between April 15 and October 15; and
- c. Using the technique most appropriate for the work that will have the least environmental impact;

(2) No work is done in standing or flowing water;

(3) No work is done within 10 feet of sand dunes or salt marshes, unless work is in a legally existing developed area;

(4) Disturbance and removal of sand or other beach substrate is minimized to the maximum extent practicable;

(5) Front-end bucket loaders are only used:

- a. To collect beach debris if no other practicable means exist; and
- b. To transport beach debris collected by other means;

(6) The state or local agency responsible for maintaining the beach consults with NHF&G to avoid and minimize potential impacts to piping plovers and their habitat; and

(7) If the agency responsible for maintaining the beach intends to use equipment to remove sand or other beach substrate, the agency provides written notification to the department, which may be via email, in advance of the work by providing the following information:

- a. The date(s) and location of the work;
- b. The estimated volume of material to be removed;
- c. The method by which the material will be removed; and
- d. The location where the material will be disposed.

(b) The use of motorized equipment and machinery to regrade and recontour public tidal beaches as necessary to maintain the integrity of seawalls by the NH DNCR, NHDOT, or the authorized agent(s) of either agency, shall not require a permit under RSA 482-A:3 provided:

(1) No work is done in standing or flowing water;

(2) Wash-outs of materials to adjacent tidal wetlands, waters, or to adjacent properties is prevented;

(3) No work is done within 10 feet of dunes or salt marshes, unless work is in a legally-existing developed area;

(4) The removal of sand or other beach substrate from the beach is minimized to the maximum extent practicable; and

(5) Prior to commencing the work, the agency responsible for the work provides written notice to the department, which may be via email, by providing the following information:

a. The date(s) and location of the work; and

b. The methods and equipment to be used to perform the work.