

MUSCONETCONG SEWERAGE AUTHORITY

110 Continental Drive • Budd Lake, N.J. 07828

Phone: (973) 347-1525

Fax: (973) 347-8356

NOTICE TO BIDDERS

INFORMATION FOR BIDDERS

PROPOSAL

TECHNICAL SPECIFICATIONS

GENERAL CONDITIONS

ZETAG 8818 CATIONIC EMULSION POLYMER OR EQUIVALENT Contract – P-19

MUSCONETCONG SEWERAGE AUTHORITY
110 CONTINENTAL DRIVE
BUDD LAKE, NJ 07828

COMMISSIONERS:

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Andrew Cangiano
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Melanie Michetti
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NOTICE TO BIDDERS

Sealed proposals for Contract P-19, 50 drums of approximately 440 net pounds each of ZETAG 8818 CATIONIC EMULSION POLYMER OR EQUIVALENT for a term of one or two years beginning January 1, 2019 will be received by the Musconetcong Sewerage Authority at 10:00 a.m. on Thursday, November 15, 2018 at the office of the Authority's Water Pollution Control Facility, located on 110 Continental Drive, Budd Lake, New Jersey. At that time and place, the sealed bids will be opened publicly and read aloud for consideration by the Authority.

Bids may be Mailed or Hand Delivered to:

Musconetcong Sewerage Authority
110 Continental Drive
Budd Lake, NJ 07828

UPS or Federal Express to:

Musconetcong Sewerage Authority
110 Continental Drive
Budd Lake, NJ 07828

Copies of the contract specifications are on file at the office of the Authority at the Water Pollution Control Facility located in Budd Lake, New Jersey. The contract specifications will be posted on the MSA's official website at msa-nj.org or may be obtained by contacting the MSA office at (973) 347-1525 ext. 201.

BIDDERS ARE REQUIRED TO COMPLY WITH:

1. P.L. 1975, c 127 (N.J.A.C. 17:27) Affirmative Action Requirements.
2. Business Registration Act
3. Non-Collusion – Anti-kickback requirements.
4. P.L. 1977, c33, Ownership Disclosure requirements
5. Public Law 2005, Chapter 51 – Contractor Certification and Disclosure of Political Contributions

This proposal is being solicited through a fair and open process in accordance the N.J.S.A. 19:44A-20.4 et seq.

The Authority reserves the right to reject any or all bids for each contract when, in its judgment, it best serves the interest of the Authority.

James Schilling, Director
Musconetcong Sewerage Authority

MUSCONETCONG SEWERAGE AUTHORITY

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PROPOSAL AND CONTRACT FORM

FROM: _____

The undersigned hereby certifies that he has read and understands the specifications entitled:

ZETAG 8818 CATIONIC EMULSION POLYMER OR EQUIVALENT Contract – P-19

The specifications are hereby made a part of this Proposal and Contract Form. The undersigned certifies that he will fully comply with these Specifications unless specified exceptions are noted on this Proposal Form.

The undersigned hereby agrees that the acceptance of this Proposal by the Musconetcong Sewerage Authority shall constitute a legal and binding contract between the Authority and the undersigned.

The undersigned hereby agrees to furnish all labor, materials, supplies, supervision, equipment and other means as necessary to perform all the work and furnish all the materials in accordance with the Technical Specifications at the following prices: P-19, 50 drums of approximately 440 net pounds each of ZETAG 8818 CATIONIC EMULSION POLYMER OR EQUIVALENT

For the periods:

Jan. 1, 2019 to Dec. 31, 2019 \$ _____ per _____

Jan. 1, 2020 to Dec. 31, 2020 \$ _____ per _____

BIDDER'S NAME (print): _____ Date _____

BIDDER'S SIGNATURE: _____ Date _____

TECHNICAL SPECIFICATIONS

ZETAG 8818 CATIONIC EMULSION POLYMER OR EQUIVALENT Contract – P-19

- a. **INTENTION:** It is the intent of the Musconetcong Sewerage Authority to solicit bids for the supply and delivery of Zetag 8818 cationic emulsion polymer or approved equivalent for the purpose of flocculating plant sludge solids. Based upon information provided by all parties, an award will be made upon all factors stated herein and in the best interest of the Musconetcong Sewerage Authority. Failure to submit all of the requested information in the terms stated herein will result in the rejection of that bid.
- b. The Zetag 8818 cationic emulsion polymer or approved equivalent must be available year-round on demand.

CHARACTERISTICS AND PROPERTIES

2. General

- a. The Cationic emulsion polymer bid must have the capability to perform under wide variations in water and sludge characteristics.
- b. The Cationic emulsion polymer bid must be non-reactive to chlorine. It must also be effective over a wide temperature and pH range.
- c. The use of the bid cationic emulsion polymer being offered when applied under bidders' recommended dosages must not have a negative effect on other treatment processes such as blinding of the rotary thickener filter cloth.
- d. It is the scope of this bid to accept only high charge, high molecular weight cationic emulsion coagulants. Any product bid that is other than this will not be considered and the bid will be rejected.

3. Specifications

- a. The Cationic emulsion polymer must be Zetag 8818 or approved equivalent. Equivalency will be based upon its ability to meet the detailed specifications below.
- b. The Cationic emulsion polymer must be easily applied via chemical metering pump after mixing, and aging in the feed system on site.
- c. The Cationic emulsion polymer must be supplied by an organization certified for ISO9002 quality standards and from the specific plant or site holding this certification. A copy of the valid certificate must be included with this bid. ISO 9002 Certification guarantees the buyer consistent conformance to stated product quality standards. A separate and distinct ISO 9002 certificate must be submitted or the bidder will be declared non-responsive, and the bid rejected.
- d. Cationic emulsion polymer must be available in a minimum 440 net pound, poly drums, but not over 550 total pounds. Drums must be able to be returned to the bidder at time of delivery. All costs to be borne by bidder.
- e. Cationic emulsion polymer must be safe to handle by operating personnel and a Material Safety Data Sheet (MSDS) must accompany the bid.

Typical Properties

Product Name	Zetag 8818	Proposed Alternate
Appearance	cloudy, near colorless liquid	
Solids Content	40 percent	
Particle Size	10% > 1.1 um, 50% > 0.9 um 90% > 0.7 um	
Specific Gravity	1.03	
Solution pH	3.5 – 5.5	
Flash Point	>200°F (93°C) Product not combustible	
Viscosity of Supplied Product	915cP (I, VT, spindle #2 @ 12rpm)	
Stability	Product as Supplied 6 Months	

4. Basis for Equality

- a. Should a bidder wish to offer a product other than the one specified herein, certain criteria must be established substantiating as to whether or not the intended substitute meets the Musconetcong Sewerage Authority needs and expectations.
- b. The proposed substitute product must conform to all the requirements set forth in Sections 2 and 3. Also, the bidders offering a substitute must be able to provide all aspects of service as outlined in Section 4.
- c. The bidder offering a substitute must provide with the bid a study, which contains the dosage rate for the substitute product necessary to meet all the treatment needs and expectations of the Musconetcong Sewerage Authority.
- d. Prior to the bid opening Bidders must also conduct an in-plant trial which meets all criteria. All criteria for the trial will be set forth by the Musconetcong Sewerage Authority at its sole discretion.
- e. Based on the timely submission of the required information and the results from all bench and in-plant trials, the Musconetcong Sewerage Authority will be the sole decision maker as to product equivalency.

DELIVERY

Deliveries will be accepted within three (3) days of receipt by the vendor of the MSA order. Delivery shall be accomplished Monday through Friday , excluding Holidays, between the hours of 7:00 a.m. and 2:00 p.m.

QUANTITY

The vendor shall supply and deliver during the term of the contract, for the unit price of the bid. The MSA reserves the right to increase or decrease the quantity set forth above. The unit price as bid and specified herein shall also apply to any increase or decreased quantity if that option is exercised.

If at any time the product supplied by the successful bidder is inferior to the product specifications, the Authority reserves the option to return the inferior material at no cost to the MSA and to seek out another supplier, as determined by the MSA Purchasing Agent.

PRICING

Prices shall be on a per unit delivered basis. Prices will be provided for each 12-month period as listed on the bid proposal form. Prices will remain in effect for the 12-month periods cited on the form.

BILLING

For each delivery, the Authority will issue a purchase order to the contractor. The contractor will submit an invoice detailing the exact total delivered and calculated total cost. The contractor will include a signed Voucher and attach copies or carbons of delivery tickets. The Authority may alter this procedure as determined expedient.

AWARD OF CONTRACT

The Authority reserves the right to award or reject the contract based on the most advantageous price and other factors considered.

OWNERSHIP STATEMENT COMPLIANCE FORM
PUBLIC LAW 1977, CHAPTER 33

New Jersey Public Law 1977, Chapter 33, requires that each corporation or partnership submitting a bid to any governmental agency to accompany that bid with a statement of ownership, listing the name and address and percentage of ownership of each individual owning ten percent (10%) or more of the corporation or partnership. This form, or an appropriate listing on the bidder's letterhead containing similar information, must be in the bidder's proposal when the bid is originally submitted.

(Name of Corporation or Partnership)

(Address of record)

I hereby certify that the names and addresses of all stockholders owning ten percent (10%) or more of said corporation are as follows:

<i>Name</i>	<i>Address</i>	<i>Percent Owned</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I certify that the above information is correct to the best of my knowledge:

Name _____ Address _____

Title _____ Date _____

Notary Public

Subscribed and sworn to before me this _____ day of _____, 20____

Notary _____ My Commission Expires _____

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NON-COLLUSION AFFIDAVIT

Date: _____

Identification of Bid Item or Service: _____

To the Chairman and Commissioners of the Musconetcong Sewerage Authority

This is to certify that the undersigned bidder _____
has not, either directly or indirectly entered into any agreement, participated in any
collusion, or otherwise taken any action in restraint of free competitive bidding in
connection with proposal submitted to the Musconetcong Sewerage Authority on
the _____ day of _____, 20_____

Signature of Bidder: _____

Corporate Seal:

By: _____

Attest: _____
Secretary

Notary Public

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary _____ My Commission Expires _____

**This statement must be completed and signed
in order for the bid to be considered.**

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**AFFIRMATIVE ACTION QUESTIONNAIRE
ON PROCUREMENT AND SERVICE CONTRACTS**

Kindly complete this questionnaire. In the event that you/your firm is awarded this contract, the necessary forms will be sent to you. This form must be submitted with the Bid Proposal.

1. Our company has a federal affirmative action plan approval.

Yes _____ No _____

2. Our company has a state certificate of Employee Information Report Approval.

Yes _____ No _____

3. If you do not have one of the above approvals, indicate whether you have:

_____ More than 50 employees

_____ Less than 50 employees

4. I have more than 50 employees; please send us an affirmative action form for our completion. (AA 302 - Affirmative Action Employee Information Report)

_____ (Check here if applicable)

5. I have fewer than 50 employees; please send an affidavit for my completion.

_____ (Check here if applicable)

I HEREBY CERTIFY that the above information is correct to the best of my knowledge. The vendor below will comply with all applicable affirmative action requests.

NAME: _____

TITLE: _____

SIGNATURE: _____ DATE: _____

CONTRACTOR WITH LESS THAN 50 EMPLOYEES

1. If your firm has less than 50 employees, you will be required to submit an Affidavit to that effect to the Public Agency. The Affidavit shall comply with the format promulgated by the State.
 - a. Any subcontractor located outside the State of New Jersey and subcontractors with 4 or fewer employees are exempt from this requirement.

- 1.05 Submission Schedule: Contractor has seven (7) calendar days after receipt of notification of selection for the award of the contract or receipt of the contract for his execution, whichever is sooner, to submit the required documentation. All documentation required by the Public Agency shall be submitted to the Authority. All documentation required to be submitted to the State Affirmative Action Office shall be submitted directly to them.
- 1.06 The purpose of this questionnaire and information form is to provide general guidance to the Contractor. All responsibility for complying with the Affirmative Action Regulations (PL 1975, C 127) rests solely with the Contractor.

I certify that the above information is correct to the best of my knowledge:

Name _____

Address _____

Title _____ Date _____

Notary Public

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary _____ My Commission Expires _____

P.L. 1975, C. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE
(See Additional Information in the General Conditions)

PROCUREMENT, PROFESSIONAL AND SERVICE CONTRACTS

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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 by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable 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 age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation;

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17: 27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17: 27-5.2

promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended as supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing confirms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17: 27).

I certify that the above information is correct to the best of my knowledge:

Name _____ Address _____

Title _____ Date _____

Notary Public

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary _____ My Commission Expires _____

Contractor Certification and Disclosure of Political Contributions

Public Law 2005, Chapter 51 (Formerly: Executive Order 134)

Solicitation No.: _____ Bidders: _____

The Bidder (Vendor) should complete the required Certification and Disclosure forms and submit them, together with a completed Ownership Disclosure form, to the using agency, department or the Purchase Bureau. Instructions for completing this form are at <http://www.state.nj.us/treasury/purchase/forms.htm#eol34>.

Part 1: Certification

I hereby certify as follows:

1. On or after October 15, 2004, the below-named person or entity has not solicited or made any Contribution of money, pledge of Contribution, including in-kind Contributions, company or organization Contributions, as set forth below that would bar the award of a contract to the Bidder, pursuant to the terms of Public Law 2005, Chapter 51 (N.J.S.A. 19:44A-20.13-20.25, superseding Executive Order 134 (2004)).
 - a. Within the 18 months immediately preceding the Solicitation (exclusive of any contributions made prior to October 15, 2004), the below-named person or organization has not made a Contribution to
 1. Any candidate committee and/or election fund of any candidate for or holder of the public office of Governor; or
 2. Any State or county political party committee.
 - b. During the term of office of the current Governor (exclusive of any Contributions made prior to October 15, 2004), the below-named person or organization has not made a Contribution to
 1. Any candidate committee and/or election fund of the governor; or
 2. Any State or county political party committee nominating such Governor in the election preceding the commencement of said Governors term.
 - c. Within the 18 months immediately prior to the first day of the term of office of the Governor (exclusive of any Contributions made prior to October 15, 2004), the below-named person or organization has not made a Contribution to
 1. Any candidate committee and/or election fund of the Governor; or
 2. Any State or County political party committee of the political party nominating the successful gubernatorial candidate in the last gubernatorial election.
2. If the Bidder is awarded a contract pursuant to the solicitation for this bid proposal, the below-named person or organization will, on a continuing basis, continue to report any Contributions it makes during the term of the contract, and any extension(s) thereof.

Part II Disclosure

Following is the required disclosure of all Contributions made from October 15, 2004, through the date of signing of this Certification and Disclosure to: (i) any entity designated and organized as a "political organization" under 26 U.S.C.A. §527 that is also defined as "continuing political committee" under N.J.S.A. 19:44A

and/or election fund of any candidate for or current holder of the public office of Governor; and any State or county as a "Committee."

Name and Address of Committee	Date of Contribution	Amount of Contribution	Type of Contribution i.e., Currency, Check, Loan, In Kind	Donor
Indicate " <u>none</u> " if no Contributions were made. Attach additional pages if necessary.				

Certification on behalf of a COMPANY or organization:

I certify as an officer or authorized representative of the Company or Organization identified below that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Name of Company or Organization: _____

(Check one)

(A) The Company or Organization is the Bidder, or (B) The Company or Organization is a Principal (more than 10% ownership or control) of the Bidder, a Subsidiary controlled by the Bidder, or a Political Organization (e.g., PAC) controlled by the Bidder.

1. **Certification by an individual** - for use by the individual Bidder, or as a Principal (having more than 10% ownership or control) of the Bidder, or as the spouse or child of the Bidder:

2. I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Signed: _____ Date: _____

Print Name: _____

Note: A Person may certify as BOTH an officer or authorized representative of the Bidder, AND in his or her individual capacity, as a Principal of the Bidder.

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Project Name: _____

Bidder Name: _____

PART 1: CERTIFICATION **BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX**

FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL **NON-RESPONSIVE**

Pursuant to Public Law 2012, c.25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a Contract must complete the certification below to attest, under penalty of perjury, that NEITHER the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at <http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Bidders **must** review this list prior to completing the below certification. **Failure to complete the certification will render a Bidder's proposal non-responsive.** If the New Jersey Director of the Division of Purchase and Property finds a person or entity to be in violation of law, he/she shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking suspension of the party.

PLEASE CHECK THE APPROPRIATE BOX:

☐ **I certify, pursuant to Public Law 2012, c.25, that neither the Bidder listed above nor any of the Bidder's parents, subsidiaries, or affiliates listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c.25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. **I will skip Part 2 and sign and complete the Certification below: OR****

☐ **I am unable to certify as above because the Bidder and/or one of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 List. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.**

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN.

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED ADDITIONAL ROOM, ADD ADDITIONAL PAGES.

Name _____ Relationship to Bidder/Owner _____

Description of Activities _____

Duration of Engagement _____ Anticipated Cessation Date _____

Bidder/Offeror Contact Name _____

Certification: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that the State of New Jersey and the Owner of the project are relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State of New Jersey and the Owner to notify the State of New Jersey and the Owner in writing of any changes to the answers of information contained herein. I acknowledge that I am aware of that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and/or the Owner and that the State and/or the Owner at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): _____ **Signature:** _____

Title: _____ **Date:** _____

BID SPECIFICATIONS and GENERAL CONDITIONS

I. SUBMISSION OF BIDS

A. The Musconetcong Sewerage Authority, Budd Lake, New Jersey (hereinafter referred to as "Authority") invites sealed bids pursuant to the Notice to Bidders. Said Notice to Bidders is to be attached to and is considered as a part of these General Conditions.

B. Sealed bids will be received by the designated representative of the Authority at the time and place stated in the Notice to Bidders, and at such time and place will publicly open and read aloud all bids received.

C. The bid proposal form shall be submitted on the prescribed form with appropriate spaces properly filled in and with all required supporting documentation, in a sealed envelope:

1. Addressed to the Musconetcong Sewerage Authority
2. Bearing the name and address of the bidder written on the face of the envelope.
3. Clearly marked "BID" with the contract title and/or BID number being identified.

D. It is the bidder's responsibility to see that the bid is presented to the Authority on the hour and at the place designated. Bids may be hand delivered or mailed; however, the Authority disclaims any responsibility for bids forwarded by regular or overnight mail. If the bid is sent by overnight mail, the designation in Section C, above, must also appear on the outside of the delivery company envelope. Bids received after the designated time and date will be returned unopened.

E. Sealed bids forwarded to the Authority before the time of opening of bids may be withdrawn upon written application of the bidder who shall be required to produce evidence showing that the individual is, or represents, the principal or principals involved in the bid. Once bids have been opened, they must remain firm for a period of sixty (60) calendar days.

F. All prices and amounts must be written in ink or preferably typewritten. Bids containing any conditions, omissions, unexplained erasures or alternation, items not called for in the bid proposal form, attachment of additive information not required by the specifications, or irregularities of any kind, may be rejected by the Authority. Any changes, white-outs, strikeouts, etc. on the proposal page must be initialed in ink by the person responsible for signing the bid.

G. Each bid proposal form must give the full business address of the bidder and be signed by an authorized representative. Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing. Bids by corporations must be signed in the legal name of the corporation, followed by the name of the State in which incorporated and must contain the signature and designation of the president, secretary or other person authorized to bind the corporation in the matter.

H. Bidders must insert prices for furnishing of the specified equipment, materials or supplies, or for all of the materials and/or labor required by these specifications. Prices shall be net, including any charges for packing, crating, containers, etc. All transportation charges shall be fully prepaid by the contractor F.O.B. destination and placement at locations specified by the Authority. As specified, placement may require inside deliveries. No additional charges will be allowed for any transportation costs resulting from partial shipments made at the contractor's convenience.

I. The vendor shall guarantee any or all materials and services supplied under these specifications. Defective or inferior items shall be placed at the expense of the vendor. In case of rejected materials, the vendor will be responsible for return freight charges.

II. BID SECURITY / CONTRACT SECURITY

The following provisions if indicated by an (X) shall be applicable to this bid and be made a part of the bidding documents:

_____ A. BID GUARANTEE

Bidder shall submit with the bid a certified check, cashier's check or bid bond in the amount of ten percent (10%) of the total price bid, but not in excess of \$20,000, payable unconditionally to the Musconetcong Sewerage Authority. When submitting a Bid Bond, it shall contain Power of Attorney for the full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the Authority of Musconetcong Sewerage. The check or bond of the unsuccessful bidder(s) shall be returned as prescribed by law. The check or bond of the bidder to whom the contract is awarded shall be retained until a contract is executed and the required performance bond or other security is submitted. The check or bond of the successful bidder shall be forfeited if the bidder fails to enter into a contract pursuant to N.J.S.A. 40A: 11-21. Failure to submit shall be cause for rejection of the bid.

_____ B. CONSENT OF SURETY

Bidder shall submit with the bid a Certificate (Consent of Surety) with Power of Attorney for full amount of the bid price from a Surety Company authorized to do business in the State of New Jersey and acceptable to the Authority stating that it will provide said bidder with a Performance Bond in the full amount of the bid. This certificate shall be obtained in order to confirm that the bidder to whom the contract is awarded will furnish Performance and Payment Bonds from an acceptable surety company on behalf of said bidder, any or all subcontractors or by each respective subcontractor or by any combination thereof which results in performance security equal to the total amount of the contract, pursuant to N.J.S.A. 40A: 11 -22. Failure to submit shall be cause for rejection of the bid.

_____ C. PERFORMANCE BOND

The successful bidder shall execute and deliver to the Authority within ten (10) days after notification of award of the contract, a satisfactory surety bond or bonds in an amount equal to 100% of the contract prices. Surety companies shall be approved by the Authority, qualified, and authorized to do business under the laws of the State of New Jersey.

The proposal shall also be accompanied by a Consent of Surety wherein the surety consents and agrees that if the Contract for which the proposal is awarded, that it will become bound as surety and guarantor for its faithful performance. Failure to deliver with the executed contract shall be cause for declaring the contract null and void.

_____ D. LABOR AND MATERIAL PAYMENT BOND

The successful bidder shall, with the delivery of the performance bond, submit an executed payment bond to guarantee payment to laborers and suppliers for the labor and material used in the work performed under the contract. Failure to deliver with the performance bond shall be cause for declaring the contract null and void.

_____ E. MAINTENANCE BOND

The successful bidder shall, upon acceptance of the work by the Authority, submit a maintenance bond in the amount of 100% guaranteeing against defective quality of work or materials for the period of _____ 1 year or _____ 2 years. The performance bond provided shall not be released until final acceptance of the whole work and then only if any liens or claims have been satisfied and any maintenance bonds required have been executed and approved by the Authority. The surety on such bond or bonds shall be a duly authorized surety company authorized to do business in the State of New Jersey N.J.S.A. 17:31-5.

_____ F. RETENTION OF PROPOSAL GUARANTEE

As an alternate performance guarantee, the proposal guarantee of the successful bidder shall be retained by the Authority to assure the successful performance of the contract

_____ G. PAYMENT DEFERRAL

As an alternate performance guarantee, no payment shall be made for any part of this contract until the entire contract is completed to the satisfaction of the Authority.

_____ H. WORKMANSHIP GUARANTEE - CONTRACT RETENTION

The Contractor shall guarantee all labor and materials for a period of _____ months from the date of acceptance of the work by the Authority, and shall make all needed repairs on the work as it progresses and during this guarantee period, except those due to ordinary wear and tear. The Contractor agrees that, during the said guarantee the Authority may retain, out of monies payable to him under this agreement the sum of _____ percent of the amount of the contract; and that should he fail to make the necessary repair at once after due notice from the Authority or Engineer, the Authority may expend the same or so much thereof as may be required to make the needed repairs; provided, however, that in case of emergency, where in the opinion of the Authority or the Engineer it would cause serious loss or damage, the Authority may make repairs without previous notice and at the expense of the Contractor.

III. INTERPRETATION AND ADDENDA / BIDDERS RESPONSIBILITIES

A. The Bidder understands and agrees that its bid is submitted on the basis of the specifications prepared by the Authority. The Bidder accepts the obligation to become familiar with these specifications.

B. Bidders are expected to examine the specifications and related documents with care and observe all their requirements. Ambiguities, errors or omissions noted by Bidders should be promptly reported in writing to the appropriate Authority official. In the event the Bidder fails to notify the Authority of such ambiguities, errors or omissions, the Bidder shall be bound by the bid.

C. No oral interpretation of the meaning of the specifications will be made to any Bidder. Every request for an interpretation shall be in writing, addressed to the Authority's representative stipulated in the bid. In order to be given consideration, written requests for interpretation must be received at least five (5) days prior to the date fixed for the opening of the bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications, and will be distributed to all prospective Bidders, in accordance with N.J.S.A. 40A: 11-23. All addenda so issued shall become part of the contract documents, and shall be acknowledged by the Bidder in the bid. The Authority's interpretations or corrections thereof shall be final.

D. DISCREPANCIES IN BIDS

1. If the amount shown in words and its equivalent in figures do not agree, the written words shall be binding. Ditto marks are not considered writing or printing and shall not be used.
2. In the event that there is a discrepancy between the unit prices and the extended totals, the unit prices shall prevail. In the event there is an error of the summation of the extended totals, the computation by the Authority of the extended totals shall govern.

E. SITE INVESTIGATION AND REPRESENTATION

The Bidder acknowledges that he has satisfied himself as to the nature and location of the work, the general and local conditions, particularly those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, physical conditions at the site, the conformation and condition of the ground, the character, quality and quantity of surface and sub-surface materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work and all other matters which can in any way affect the work or the cost thereof under this contract. Any failure by the Bidder to acquaint himself with all the available information concerning these conditions shall not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work

F. DEVIATIONS

All Bidders shall clearly identify any deviations from the specifications at the time the bids are opened and examined. After the contract has been entered into, no consideration shall be given for any misunderstanding as to work, materials set forth therein specified and indicated on drawings, it being mutually understood that tender of a proposal carries with it an agreement to this and other obligations set forth in the contract and further implies full understanding of the contract document.

IV. COMMERCIAL INSURANCE

The Vendor and each and every permitted subcontractor of any tier, if any, shall not commence any work under the Contract until they have obtained, at their sole cost and expense, all insurance required pursuant to the Contract as evidenced by signed Certificates of Insurance, Insurance Binders, and Policy Copies and same have been provided to MSA. Such evidence of insurance must be in a form satisfactory to MSA.

A) As a condition precedent to MSA's obligation to execute this Contract, the Vendor is required to submit evidence consisting of Certificates of Insurance, Insurance Binders, certified policy copies and such other information and/or documentation that may be requested by MSA satisfactory to MSA showing that the Vendor has obtained all insurance coverages required herein with carriers with an AM Best "A" rating or better who are lawfully authorized to do business (on an admitted basis when commercially available) in the jurisdiction in which the Project is located. Such insurance will protect MSA and other Additional Insureds and Vendor from claims which may arise out of or result from the Vendors operations and products/ completed operations under the Contract and for which the Vendor may be legally liable, whether such operations, products/completed operations be performed by the Vendor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

B) Vendors' compliance with this provision shall not constitute a limitation of liability or in any way limit or affect Vendors' indemnification obligations under this Contract

C) By requiring the insurance as set out in this Article MSA does not represent that coverage and limits will necessarily be adequate to protect the Vendor and such coverage and limits shall not be deemed as a limitation on the Vendors' liability under the indemnifications provided to the Additional Insureds in this Contract. The proposed limits are minimal limits and where greater limits are issued to the Vendor those greater limits shall supersede the minimum limits indicated here.

D) The insurance requirements set out in this Article are independent from all other obligations of the Vendor under this Contract and apply whether or not required by any other provision of this Contract.

E) Vendor Insurance- Vendor shall maintain insurance of the type and with the same modifications specified in this Article. Vendor shall furnish to MSA Certificates or other evidence of coverage as required by this Contract evidencing coverage for itself. The Vendors' insurance policies or approved self insurance must at all times and for all Additional Insured required by this Contract to be insured there under, provide Primary Coverage and Non-contributory coverage to that of the Additional Insureds and waive subrogation against the Additional Insureds. The policies shall where not automatic shall specifically schedule the Additional Insureds as the subject of the policies.

F) Special Insurance Provisions: Except as otherwise set forth in this Contract:

1. **Additional Insureds:** All insurance policies required by this Contract shall name Musconetcong Sewerage Authority any of its affiliates and each of their respective agencies, employees, public officials, officers, directors, members, Commissioners, employees, shareholders, nominees, consultants, successors and assigns, (collectively the "Additional Insureds") as Additional Insured parties under the Vendor's policies of insurance for claims caused in whole or in part by the Vendor or anyone acting on their behalf negligent acts or omissions during the Vendors' operations and for claims caused in whole or in part by the Vendor ' products/completed operations.

2. **Erosion of Policy Limits/Policy Cancellation-** All required limits of insurance for the policies required by this Contract shall be maintained by the Vendor: (i) the policies may not be cancelled or the limits be decreased; (ii) in the event of erosion of the policy limits due to claims in an amount in excess of \$100,000 or a change in the scope of coverage under the Vendors' respective policies Vendor shall provide 30 day notice of such change to MSA(iii) in the event of policy cancellation Vendor shall provide 30 days written notice to MSA (10 days for non-payment of premium) (iv) the Additional Insureds in this Contract shall not be liable for any premiums or assessments.

3. **Other Insurance Clause/Primary Non-contributory Provisions:** All insurance policies required by this Contract shall be primary and non-contributory with any insurance or self insurance that may be issued to the Additional Insureds in this Contract. Policy shall, where not automatic, specifically schedule the Additional Insureds as the subject of the provision.

4. **Cross Liability-** All insurance policies required by this Contract shall contain a separation of insureds provision which states that the policy will respond to each insured as if it was the only insured.

5. Employers Liability Exclusion- All insurance policies required by this Contract where subject to an Employers Liability Exclusion shall contain an exception to such exclusion for third party over suits where such requirement is contained in an insured contract.

6. Waiver of Subrogation-To the extent permitted by law, all policies of insurance issued pursuant to these specifications or otherwise applicable, it is agreed that Vendors' insurers waive all rights against the Additional Insureds in this Contract for damages caused by negligence, intentional acts, fire or other perils to the extent covered by liability or property insurance pursuant to this Contract or other liability and/or property insurance obtained by Vendor applicable to the Work. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged. The endorsement shall apply to the Additional Insureds as the subject of the provision.

In the event the insurance carrier does not permit any of the above provisions with respect to the various policies issued to the Vendor the Vendor will notify Vendor immediately in writing as to which (if any) policies do not permit any of the above. Additionally, any notice provisions shall be sent to MSA at the address set forth in this Contract by certified mail, return receipt requested.

7. Indemnification- Insurance as potential partial funding source: The Contractual Liability coverage required herein must specifically insure each and any contractual indemnifications made pursuant to this Contract.

G) Evidence of Coverage: Prior to commencing the Work, and thereafter upon renewal or replacement of each required policy of insurance, Vendor shall furnish MSA with evidence consisting of signed Certificates of Insurance, Declaration page(s) from each policy showing the applicable coverage forms, Insurance Binders, and such other information and/or documentation that may be requested by and satisfactory to MSA representing insurance for the Vendor signed by a duly authorized representative of each insurer, setting out compliance with all of the insurance requirements set forth above. In the event any of the provisions in this subsection shall conflict with the provisions in a Site Access/Service Provider's Agreement required hereunder then MSA shall have the authority to determine which provisions shall govern.

1. When commercially available, as evidenced by policy endorsement, all certificates shall provide for 30 days (10 days for nonpayment of premium)

written notice to MSA from the respective insurance carrier prior to the cancellation of any insurance referred to therein.

2. Failure of MSA to demand such certificate or other evidence of full compliance with these insurance requirements or failure of MSA to identify a deficiency from evidence that is provided shall not be construed as a waiver of Vendors' obligation to provide or maintain such insurance.

3. MSA shall have the right, but not the obligation, to prohibit the Vendor from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with the requirements of this Contract is received and approved by MSA.

4. Failure to maintain the insurance required in this Article shall constitute an event of default and a material breach of this Contract and shall allow MSA to terminate the Contract at MSA's option. If the Vendor fails to maintain the insurance as set forth herein, MSA shall have the right, but not the obligation, to purchase said insurance at the Vendors' sole cost and expense.

5. With respect to insurance required to be maintained after final payment made by MSA to Vendor, additional certificate(s) evidencing continuation of liability coverage as required in the Article, including coverage for products/completed operations, shall be submitted with the final Application for Payment. Vendor shall provide certified copies of all insurance policies required herein within 30 days of MSA's written request for said copies.

H) Specific Coverage: The Vendor at its their sole cost and expense, obtain and maintain in force for the duration of this Contract the following types of insurance with limits not less than those set forth below or those required in this Contract or required by law, whichever is greater, while the obligations of the Vendor are performed. Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Work until the date of final payment or later as required by this Contract.

1. Commercial General Liability (CGL): Vendor shall maintain commercial general liability with a limit of not less than \$1,000,000 each occurrence. CGL insurance shall be written on ISO occurrence form CG 00 01 12 04 (or a substitute policy form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products/completed operations, and personal injury and advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). A provision for contractual liability at least as broad as ISO CG 00 01 12 04, including contractual obligations under this Contract, and a minimum limit of \$1,000,000 each occurrence and \$2,000,000 aggregate for products/completed operations liability. Such policy shall have, if any, a general policy aggregate of not less than \$2,000,000. In addition there can be no pollution exclusions beyond those contained in the CG 00 01 12 04 policy form and no exclusion for liabilities arising out of any claim made by any employee of any Vendor Resource

The preceding policy modifications under the General Liability policy must be accomplished using the following ISO endorsements or their equivalent:

a. ISO CG 20 26 07 04 Additional Insured-Designated Person or Organization- Schedule to include:

Musconetcong Sewerage Authority any of its affiliates and each of their respective agencies, employees, public officials, officers, directors, members, employees, participants, nominees, consultants, successors and assigns, (collectively the "Additional Insureds")

Additional Insureds to include:

Location and description of Operations to include:

Loading of liquid Ferric Chloride at 110 Continental Drive Budd Lake, NJ 07828

b. ISO CG 20 37 07 04 Additional Insured-Owner or any Additional Insureds/Lessees/Contractors-Completed Operations. Schedule to include:

Musconetcong Sewerage Authority any of its affiliates and each of their respective agencies, employees, public officials, officers, directors, members, employees, participants, nominees, consultants, successors and assigns, (collectively the "Additional Insureds")

Additional Insureds to include:

Location and description of Operations to include:

Loading of liquid Ferric Chloride at 110 Continental Drive Budd Lake, NJ 07828

c. ISO CG 20 01 04 13 Primary and noncontributory- Other Insurance Condition

d. ISO CG 24 04 05 09 Waiver of Transfer Rights of Recovery Against Others To Us- Schedule to include:

Musconetcong Sewerage Authority any of its affiliates and each of their respective agencies, employees, public officials, officers, directors, members, employees, participants, nominees, consultants, successors and assigns, (collectively the "Additional Insureds")

Including:

e. ISO CG 24 14 11 85 Waiver Of Governmental Immunity

f. No Total and/or Absolute Pollution Exclusion-Confirmation from the insurer that there are no Total or Absolute Pollution Exclusion endorsements in the policy and that there are no pollution exclusions beyond those contained in the ISO CG 00 01 12 04 policy form.

g. Cross Liability- All insurance policies required by this Contract shall contain a separation of insureds provision which states that the policy will respond to each insured as if it was the only insured.

2. Automobile Liability

a. Minimum Policy Limits- Vendor Resources shall maintain business auto liability insurance with a limit of not less than \$1,000,000 each accident.

b. Coverage Applicability- Policy of insurance shall minimally cover liability arising out of any auto (including owned, hired, and non owned autos).

c. Coverage Form- Business auto coverage shall be written on ISO form CA 00 01 03 06 or a substitute policy form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in ISO form CA 00 01.

d. Additional/Designated Insured- Policy shall be endorsed to include the Additional Insureds in this Contract under an ISO CA 20 48 02 99 Designated Insured Endorsement or equivalent. The endorsement shall specifically schedule the Additional Insureds as follows:

Musconetcong Sewerage Authority any of its affiliates and each of their respective agencies, employees, public officials, officers, directors, members, employees, participants, nominees, consultants, successors and assigns, (collectively the "Additional Insureds")

Additional Insureds to include:

e. Waiver of Subrogation- The Vendor waive all rights against the Additional Insureds in this Contract for recovery of damages to the extent these damages are covered by the business auto liability insurance obtained by the Vendor pursuant to this Contract being part or under any applicable auto physical damage coverage. The Vendor policies shall be endorsed using ISO form CA 04 44 Waiver of Transfer of Rights of Recovery Against Others To Us Subrogation or equivalent to include and schedule the Additional Insureds as follows:

Musconetcong Sewerage Authority any of its affiliates and each of their respective agencies, employees, public officials, officers, directors, members, employees, participants, nominees, consultants, successors and assigns, (collectively the "Additional Insureds")

f. Environmental Liability- The Vendor will have the following additional endorsements added to the commercial automobile/truckers policy:

- ISO CA 99 48 Broadened Pollution Coverage or equivalent
- MCS 90 Endorsement.

3. Commercial Excess or Umbrella Liability: The Vendor shall maintain occurrence based Combined Single Limit of at least \$5,000,000 per occurrence and aggregate. Self Insured Retention limit of no greater than \$10,000. Such policy (ies) must comply with **E) Special Insurance Provisions:** and minimally follow form over the commercial general liability and commercial automobile INCLUSIVE OF THE PRECEDING MODIFYING ENDORSEMENTS. Such endorsements shall specifically include the Additional Insureds as the subject of the provisions.

4. Workers Compensation: The Vendor Resources shall maintain workers compensation insurance to include Employees Liability Limits of 1,000,000/\$1,000,000/ \$1,000,000, Other States Endorsement, and where applicable Longshoreman's and Harbor Workers' Compensation Act Coverage Endorsement, and disability benefits in accordance with applicable statutory requirements and providing coverage for any Contractor Resources Employee entering onto any Additional Insured's site, even if not required by statute.

5. Legal Requirement: All other insurance required by law

6. All other insurance that MSA may reasonably request.

All conditions in Article IV) Commercial Insurance - including and not limited to Special Insurance Provisions - shall also apply to the Commercial Excess or Umbrella Liability policies.

V. PREPARATION OF BIDS

A. The Musconetcong Sewerage Authority is exempt from any local, state or federal sales, use or excise tax. Exemption certificates will be provided when required.

B. Estimated Quantities (Open-end Contracts) - The Musconetcong Sewerage Authority has attempted to identify the item(s) and the estimated amounts of each item bid to cover its requirements; however, past experience shows that the amount ordered may be different than that submitted for bidding. The right is reserved to decrease or increase the quantities specified in the specifications pursuant to N.J. A.C.5: 34-4.9. **NO MINIMUM PURCHASE IS IMPLIED OR GUARANTEED.**

C. Successful bidder shall be responsible for obtaining any applicable permits or licenses from any government entity that has jurisdiction to require the same. All bids submitted shall include this cost in the bid price agreement, unless stated specifically otherwise in the Technical Specifications.

VI. STATUTORY AND OTHER REQUIREMENTS

The Contractor shall familiarize himself and comply with all Federal, State and Local laws, ordinances and regulations, which in any manner affect those engaged or employed in the, work, the materials or equipment to be used, or the conduct of the work. No plea or misunderstanding will be considered because of ignorance of the law.

If the CONTRACTOR observes that the Specifications or Drawings are at variance therewith, he will give the Authority prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the CONTRACTOR performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Authority, he will bear all costs arising there from.

The following is a list of some Laws/Regulations, which MAY impact on this contract. This list is not intended to be inclusive and is in addition to other requirements, statutes, regulations cited in these General conditions:

A. Mandatory Affirmative Action Certification - No firm may be issued a contract unless it complies with the Affirmative action regulations of N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127).

- 1 Procurement, Professional and Service Contracts - All successful vendors must submit, within seven days after the receipt of the contract, one of the following:
 - i. A photocopy of a valid letter for an approved Federal Affirmative Action Plan (good for one year from the date of the letter), or
 - ii. A photocopy of an approved Certificate of Employee Information Report, or
 - iii. If the vendor has none of the above, the public agency is required to provide the vendor with an initial Affirmative Action Employee Information Report (AA-302).
- 2 Construction Contracts - All successful contractors must submit within three days of the signing of the contract, an Initial Project Manning Report (AA201 -available upon request from the State's Affirmative Action Office) for any contract award that meets or exceeds the bidding threshold.

B. Americans with Disabilities Act of 1990 - Discrimination on the basis of disability in contracting for the purchase of bids and services is prohibited. The successful bidder is required to read Americans with Disability language that is part of this specification and agrees that the provisions of Title II of the Act are made a part of the contract. The successful bidder is obligated to comply with the Act and to hold the Authority harmless.

C. Prevailing Wage Act (When Applicable)- Pursuant to N.J.S.A 34:11-56.25 et seq., successful bidders on projects for public work construction, repair or alteration which exceed the statutory minimum value shall adhere to all requirements of the New Jersey Prevailing Wage Act. All workmen employed by the contractor or his subcontractors shall be paid not less than the prevailing wage rate for that particular craft. If any workmen employed by the contractor or his subcontractors have been paid less than required, then the Authority may terminate the contractors or subcontractor's right to proceed with the work. The contractor or his subcontractors and their sureties would be liable to the Authority for any excess costs occasioned by this action.

Prevailing wage rates shall be posted by the contractor and subcontractors and the wage records for the contract shall be accessible to the Authority and State officials at reasonable hours. All such records shall be retained for a minimum of two years.

The contractor and his subcontractors shall be required to submit a certified payroll record to the Authority within ten (10) days of the payment of the wages. The contractor is also responsible for obtaining and submitting all subcontractors' certified payroll records within the aforementioned time period. The contractor shall submit said certified payrolls in the form set forth in N.J.A.C. 12:60-6.1(c). It will be the contractor's responsibility to obtain any additional copies of the certified payroll form to be submitted by contacting the Office of Administrative Law, CN 049, Trenton, New Jersey 08625 or the New Jersey Department of Labor, Division of Workplace Standards.

Contractor and his subcontractors are required to provide a certification as to the required wages then due to any and all workmen for the contract prior to receipt of final payment and final payment will not be made until these wages have been paid or the Authority is satisfied that the wages will be paid with the receipt of the final payment.

THE PREVAILING WAGE RATE AS DETERMINED BY THE NEW JERSEY DEPARTMENT OF LABOR AND INDUSTRY APPLICABLE TO THIS CONTRACT IS ON FILE IN THE OFFICE OF THE AUTHORITY OR ENGINEER AND IS AVAILABLE FOR INSPECTION AT ALL REASONABLE HOURS.

D. Stockholder Disclosure - Chapter 33 of the Public Laws of 1977 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any materials or supplies, unless, prior to the receipt of the bid or accompanying the bid of said corporation or partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent or more of its stock of any class, or of all individual partners in the partnership who own a ten percent or greater interest therein. Form of Statement shall be completed and attached to the bid proposal.

E. The New Jersey Worker and Community Right to Know Act - The manufacturer or supplier of a substance or mixture shall supply the Chemical Abstracts Service number of all the components of the mixture or substance and the chemical name. The manufacturer and supplier must properly label each container. Further, all applicable Material Safety Data Sheets (MSDS) - hazardous substance fact sheet- must be furnished.

F. Non-Collusion Affidavit - The Non-Collusion Affidavit, which is part of these specifications, shall be properly executed and submitted with the bid proposal.

G. Safety and Protection - The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. He will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the work and other persons who may be affected by the work and all public/private property at the site or adjacent to the work area. The Contractor will be solely responsible for compliance with all relevant State and Federal Laws and Regulation governing construction activities and practices.

H. Other related statutes are –

TITLE 40A, Chapter 11, Public Contract Law.

TITLE 34, Chapter 2, concerning employment of child labor, Chapter 5, concerning safety codes for workers in the construction industry together with the rules and regulations of the State Department of Labor and Industry, Chapter 10, concerning establishment of an eight hour working day for laborers, workmen and mechanics.

TITLE 52, Chapter 34, concerning the payment of commissions, percentage, brokerage or contingent fees to solicit or secure the contract.

I. Release of all liens - Prior to the final payment the contractor shall provide a certification that all liens relating to the contract have been satisfied or will be satisfied though the receipt of the final payment.

J. Public Works Contractor Registration Act - All contractors, subcontractors and sub-subcontractors must register with the Department of labor prior to bidding or engaging on certain public works contracts (construction, reconstruction, demolition, alteration repair or maintenance of a public building regularly open to and used by the general public or a public institution). A copy of this registration must be provided with any bid proposal.

K. Business Registration Certification - All contractors and businesses must submit with their bid proof that they are properly registered with the Department of Treasury of the State of New Jersey pursuant to Chapter 57 of the laws of 2004. This certificate must be provided with the proposal for their bid to be accepted. For any proposal involving subcontractors, the Business Registration Certificate must be provided for both the contractor and each subcontractor required to be listed in the bid document. See attached detailed information on this requirement.

The contractor shall provide written notice to its' subcontractors of the responsibility to submit proof of business registration to the contractor. Before final payment is made, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used. For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, N.J. Division of Taxation, the use tax pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into the State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

VII. INDEMNIFICATION AND HOLD HARMLESS

Vendor shall at all times collectively defend, indemnify, pay, save and hold harmless all Additional Insured parties hereunder, all of their affiliates and each of their respective agencies, employees, public officials, officers, directors, members, consultants, shareholders, agents, nominees, successors and assigns (collectively, the "Indemnified Parties") from each and any all liabilities, damages (including, without limitation, direct, special and consequential damages), costs, expenses, suits, civil or alternative dispute resolution proceeding, losses, claims, actions, violations, fines and penalties (including without limitation, court costs, reasonable attorneys' fees and costs, and any other reasonable costs of litigation) (hereinafter referred to as the "Claims") that any of the Indemnified Parties may suffer, sustain or incur by reason of (i) the Vendors' performance of or failure to furnish all labor, materials, supplies, supervision, equipment and other means as necessary to perform all the work and furnish all the materials, whether active or passive, actual or alleged, under this Contract, (ii) any breach by the Vendor of this Contract, (iii) any negligent acts, errors, omissions or intentional misconduct of the Vendor and their respective affiliates and each of their respective agencies, officers, directors, members, employees, consultants, shareholders, nominees, successors and assigns or agents, (iv) any negligent

acts, errors, omissions or intentional misconduct of the Vendor and their respective affiliates and each of their respective agencies, officers, directors, members, employees, consultants, shareholders, nominees, successors and assigns or agents, that cause any property loss or damage, personal injury or death, sustained by any of the Indemnified Parties, Vendor or their respective affiliates and each of their respective agencies, officers, directors, members, employees, consultants, shareholders, nominees, successors and assigns or agents (v) assertions under workers' compensation or similar employee benefit acts by Vendor or their respective affiliates and each of their respective agencies, officers, directors, members, employees, consultants, shareholders, nominees, successors and assigns or agents and/or any failure by the Vendor to pay any employment benefits and any taxes required of them of any nature whatsoever, (vi) Vendors' failure to comply with any Law, (vii) claims by Vendors employee including, without limitation, for wrongful discharge, and/or (ix) any infringement or alleged infringement of any patent, copyright, trade secret on any invention, design, process, product, or any part thereof, or other proprietary right of any third party relating to the Services performed. Materials delivered or equipment furnished or installed or used in the performance of the Work by said Vendor arising from or under this Contract. The foregoing indemnification shall apply irrespective of whether Claims are asserted by a party, by its employees, agents or by unrelated third parties. Nothing contained herein shall relieve the Vendor of any responsibility for Claims regardless of whether the Vendor is required to provide insurance covering such Claims or whether the matter giving rise to the Claims is the responsibility of the Vendor or their respective affiliates and each of their respective agencies, officers, directors, members, employees, consultants, shareholders, nominees, successors and assigns or agents.

These Indemnifications are intended to provide the broadest indemnification permitted by law and shall be construed consistent with all applicable laws, including but not limited to the laws pertaining to indemnification. These indemnification provisions shall survive the completion of the Contract and shall be effective until the statutes of limitation and repose have run.

VIII. BID OPENING / ANALYSIS & AWARD

A. ACCEPTANCE OF BIDS - The Musconetcong Sewerage Authority reserves the right to waive any immaterial defect or informality in any bid and reserves the right to accept that bid or portion thereof which, in its judgment is in the best interest of the Authority. The Musconetcong Sewerage Authority also reserves the right to reject any or all bids. Any bid received after the time and date specified shall not be considered.

B. BID OPENING / BID REVIEW / BID DOCUMENTS - All Bidders or their authorized agents are invited to be present when the bids are opened and read publicly. All bids may be inspected at this time. No bid may be withdrawn after the specified opening time and date. Once opened, all bids become the property of the Musconetcong Sewerage Authority, and will not be returned to the bidders.

C. All supply/ service contracts shall be for 12 consecutive months unless otherwise noted in technical or supplemental specifications.

D. The Musconetcong Sewerage Authority may award the work on the basis of the Base Bid, or the base bid combined with such Alternates as selected, until a net amount is reached which is within the funds available.

E. If the award is to be made on the basis of Base Bids only, it will be made to that responsible bidder whose Base Bid, therefore, is the lowest. If the award is to be made on the basis of a combination of a Base Bid with Options, it will be made to that responsible bidder whose net bid on such combination is the lowest.

F. The Musconetcong Sewerage Authority may also elect to award the work on the basis of line items or unit prices, whichever results in the lowest total amount.

G. CONTRACT AWARD - Should the Authority decide to award the contract, it shall notify the successful bidder in writing within sixty (60) days of receipt of bids. Should a successful bidder fail or refuse to execute and deliver such contract, certificates of insurance, required stated documentation and bonds within 10 days after receipt of Notice of Award, or within such other time period as specified in the technical specifications, the Authority may revoke the acceptance of his proposal and the bidder shall become liable for any difference in the proposal awarded and the amount of the contract which the Authority may be obliged to award to another because of the refusal or omission of a successful bidder to execute and deliver the contract and bonds aforementioned, together with any sum which the Authority may be obliged to spend by reason for the default of the bidder.

H. The successful bidder will not assign any interest in this bid and shall not transfer any interest in the same without the prior written consent of the Authority.

IX. REJECTION OF BIDS

The Musconetcong Sewerage Authority reserves the right to reject any and all bids for any one or more of the following reasons:

A. Qualifications of Bidders - The Musconetcong Sewerage Authority may make such investigation as it deems necessary to determine the ability of the bidder to perform the contract and the bidder shall furnish to the Authority all such information and data for this purpose as may be requested. The right is reserved to reject any bid if evidence submitted by, or investigation of, such bidder fails to satisfy the Authority that such bidder is properly qualified to carry out the obligations of the contract.

B. Availability of Funds. - Pursuant to statutory requirements, any contract resulting from this bid shall be subject to the availability and appropriation of sufficient funds annually.

C. Multiple Bids Not Allowed - More than one bid from an individual, a firm or partnership, a corporation or association under the same or different names shall not be considered.

D. Unbalanced Bids - In any bid which contains more than one item or unit price, the Authority shall reserve the right to reject a bid where the unit prices are not balanced so as to reflect the actual cost of the work to be performed or the materials supplied.

E. Unsatisfactory Past Performance - A Bid received from bidders who have previously failed to complete contracts within the time scheduled therefore, or who have performed prior work for the Authority in an unacceptable manner, may be rejected.

F. Failure to Enter Contract - Should the bidder, to whom the contract is awarded, fail to enter into a contract within 10 days, Sundays and holidays excepted, the Authority may then, at its option, accept the bid of the next lowest responsible bidder.

G. Conditional bids will not be accepted.

X. CONTRACT ADMINISTRATION

A. **CONTRACT DOCUMENTS** - The Contract documents shall consist of the Contract, the drawings, the Specifications, and all modifications and addenda incorporated prior to execution of the Contract. All the documents are intended to supplement each other and together constitute a complete set of specifications. The specifications are intended to require and include all work, equipment, and materials necessary for proper completion of the work contemplated. If in any case the specifications do not show, note or otherwise require some work, equipment or material necessary for that purpose, the Contractor shall, nevertheless, provide same to fulfill the true intent and purpose of the specifications.

B. **INSPECTION** - The Authority and the Engineer shall have the right to inspect all materials and work done during any phase of construction, fabrication, or manufacture. The Contractor shall furnish all reasonable facilities and aid to the Engineer and a safe and convenient means for the examination and inspection of any part of the work.

C. **AUTHORITY TO WITHHOLD PAYMENT** - The Authority or the Engineer, because of subsequently discovered evidence, may cause to be withheld or cause to be nullified, the whole or a part of any payment to such extent as may be necessary to protect the Authority from loss because of

1. Defective work, materials or equipment not corrected; improper work performed; disapproved substitution of material or equipment specified.
2. Claims filed or reasonable evidence indicating the probability of claims being filed.
3. Failure of the Contractor to make payments properly to subcontractors or for material or labor.
4. A reasonable doubt that the contract can be completed for the balance then unpaid.
5. Damage to another contract agency, governing body, corporation or person.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

D. FINANCIAL PROCEDURES - Payment in full shall be made upon the completion of the contract requirements of the specifications. Partial payments shall be made if the required work or equipment can be completed in stages and if previously agreed to by the Authority. All payments shall be approved by the Authority at their monthly meeting. Vouchers shall be submitted at least 5 days prior to this meeting for inclusion upon the agenda. Only properly executed Authority vouchers may be used for payments. Partial payment shall be made on the basis of a certified and approved estimate of work completed. Ten percent (10%) of the amount of each invoice shall be retained by the Authority as security for faithful performance and completion of work.

E. TIMELINESS

1. Commencement of Work - The Contractor shall commence work on the project within 10 working days from the date of execution of the contract by the Authority. (Working days excludes Saturdays, Sundays and Designated Authority Holidays)

2. Term of Contract / Liquidated Damages - The terms of this contract shall be completed within the time specified for completion of the work. The Authority reserves the right to extend this term of the contract upon application by the contractor providing evidence of circumstances beyond the control of the contractor preventing his successful completion of the contract. In the case the Contractor shall fail to complete the work within the time fixed for such completion, or within the time to which such completion may have been extended, the Contractor shall pay to the Authority in the sum of 1500.00 dollars for each and every working day that the time consumed in completing the work exceeds the time allowed therefore; starting at twelve (12 o'clock) midnight of the date set for completion of the contract, which said sum, in view of the difficulty or accurately ascertaining the loss which the Authority will suffer by reason of delay in the completion of the work hereunder is hereby fixed and agreed as the liquidated damages that the Authority will suffer by reason of such delay, and not as a penalty. The Authority will deduct, and retain out of the monies, which may become due hereunder, the amount of any such liquidated damages.

F. The successful bidder/ contractor shall not assign transfer, convey, sublet or otherwise dispose of any interest in this contract without the prior written consent of the Authority.

XI. TERMINATION OF CONTRACT

A. If through any cause, the successful bidder shall fail to fulfill in a timely and proper manner obligations under this contract or if the contractor shall violate any of the requirements of this contract, the Authority shall thereupon have the right to terminate this contract by giving written notice to the contractor of such termination and specifying the effective date of termination. Such termination shall relieve the Authority of any obligation for balances to the contractor of any sum or sums set forth in the contract.

B. Notwithstanding the above, the contractor shall not be relieved of liability to the Authority for damages sustained by the Authority by virtue of any breach of the contract by the contractor and the Authority may withhold any payments to the contractor for the purpose of compensation until such time as the exact amount of the damage due the Authority from the contractor is determined.

C. The contractor agrees to indemnify and hold the Authority harmless from any liability to subcontractors / suppliers concerning payment for work performed or goods supplied arising out of the lawful termination of the contract by the Authority under this provision.

D. In case of default by the successful bidder, the Authority may procure the articles or services from other sources and hold the successful bidder responsible for any excess cost occasioned thereby.

E. The Authority shall have the right to declare the Contract in default in any of the following eventualities:

1. The Contractor becomes insolvent or a voluntary or involuntary petition in bankruptcy be filed by or against the Contractor.
2. The Contractor makes an assignment for the benefit of creditors pursuant to the Statutes of the State of New Jersey.
3. The Contractor fails to commence work when notified to do so by the Authority or the Engineer.
4. The Contractor shall abandon the work.
5. The Contractor shall refuse to proceed with the work when and as directed by the Authority or the Engineer.
6. The Contractor shall without just cause, reduce his working force to a number which, if maintained, shall be insufficient, in the opinion of the Authority or the Engineer, to complete the work in accordance with the approved Progress Schedule, and shall fail or refuse to sufficiently to increase such working force when ordered to do so by the Authority or Engineer.

7. The Contractor shall sublet, assign, transfer, convey or otherwise dispose of this Contract other than as herein specified.
8. A receiver or receivers are appointed to take charge of the Contractors property or affairs.
9. The Authority or Engineer shall be of the opinion that the Contractor is or has been unnecessarily, unreasonably, or willfully delaying the performance or completion of the work, and the awards of necessary sub-contractors, or the placing of necessary material and equipment orders.
10. The Authority or Engineer shall be of the opinion that the Contractor is or has been willfully or in bad faith violating any of the provisions of this contract in good faith and in accordance with its terms.
11. The work is not completed within the time herein provided therefore or within the time to which the Contractor may be entitled to have such completion extended.

Before the Authority shall exercise its right to declare the Contractor in default by reason of the conditions set forth above, the Contractor shall be given an opportunity to be heard. The right to declare in default, for any of the grounds specified or referred to herein, shall be exercised by sending the Contractor a notice, signed by the Authority, setting forth the ground or grounds upon which such default is declared. Upon receipt of such notice, the Contractor shall immediately discontinue all further operations under this contract and shall immediately quit the site, leaving UNTOUCHED all plans, materials, equipment, tools and supplies then on the site.

The Authority, after declaring the Contractor in default, shall then have the work completed by such means and in such manner, by contract with or without public bidding, or otherwise, as the Authority shall deem advisable, utilizing for such purposes any of the Contractor's or Subcontractor's plans, materials, equipment, tools and supplies remaining on the site, as shall be deemed to be available. After such completion, the, Authority shall certify the expense incurred in such completion, which shall include the cost relating as well as the total amount of liquidated damages (at the rate provided for) from the date when the work should have been completed by the Contract, in accordance with the terms hereof to the date of actual completion of the work. Such certifications shall be binding and conclusive upon the Contractor, his Sureties, and any person claiming under the contract, as to the amount thereof.

The expense of such completion, as so certified by the Authority shall be charged against and deducted from such monies as would have been payable to the Contractor, if he had completed the work, and the balance of such monies, if any, subject to the other provisions of this Contract, shall be paid to the Contractor without interest after such completion. Should the expense of such completion, so certified by the Authority, exceed the total sum which would have been payable under this contract if the same had been completed by the Contractor, any such excess shall be paid by the Contractor to the Authority upon demand.

F. Continuation of the terms of this contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the Authority reserves the right to cancel this contract.

XII. DEFAULT PROVISIONS

For those contracts which do not require a Performance Bond, the following DEFAULT PROVISIONS govern:

If the contractor fails to complete the required work within the number of days specified in the contract, or abandons the required work for 10 working days, and fails to commence working within 3 calendar days after receiving Notice of Default from the Authority, then the contractor is declared to be in default of the contract. In instances of the default of a contract, the Musconetcong Sewerage Authority reserves the right to immediately have the specified work completed by an alternate contractor and the cost of this completion deducted from any and all monies owed to the original contractor. If insufficient funds are not available within the value of the original contract, then the contractor shall be liable for any and all extra costs incurred by the Authority in completing the specified work.

XIII. DISPUTE RESOLUTION

Any dispute arising under this Contract shall be resolved in accordance with and subject to the provisions contained in N.J.S.A. 40A: 11-41.1 as outlined below. Nothing in this section shall prevent the Authority from seeking an injunctive or declaratory relief in court at any time.

A. All remedies provided elsewhere in the contract and/or specifications governing the project in dispute shall be exhausted prior to initiating this Dispute Resolution process. Where the Authority, its engineer or architect, or its administrative authorities are required by contract or specifications to issue a decision, such decision, must be rendered within the time constraints in said contract prior to proceeding to resolve the dispute in accordance with this section.

B. Prior to litigation, the Authority and contractor shall endeavor to settle disputes by mediation in accordance with the current Construction Industry Mediation Rules of the American Arbitration Association. The demand for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association, with a copy to the Administrator, Engineer or Architect for the project. This demand must cite the specifics of the dispute and the relevant remedies sought.

1. In no event shall a demand for mediation be made more than 30 days after the decision in dispute is rendered by the Authority, its engineer, architect, or administrative authorities, nor more than 30 days after the completion and acceptance of the work and issuance of final payment, nor after the institution of legal or equitable proceedings unless specifically agreed to by all parties to the dispute.

2. Nothing herein shall be construed to prevent the Authority and contractor from agreeing to an alternate dispute resolution procedure in lieu of or in addition to mediation.

C. This Dispute resolution procedure shall not prevent the Authority from notifying any performance guarantor (surety) or maintenance guarantor (surety) of the dispute and requesting the surety's assistance in resolving any disputes, which involve the contractor's performance or lack thereof.

MISCELLANEOUS

The terms "Vendor," "Bidder" and "Contractor" are used interchangeably herein. In Article IV (Commercial Insurance) and Article V (Indemnification and Hold Harmless) only, the term "Vendor" shall refer to the Vendor and any of its subcontractors.

Notwithstanding any reference to subcontractors herein, no subcontractors shall be permitted to perform services or supply goods under this contract without the express prior written consent of the Musconetcong Sewerage Authority. In the event subcontractors are permitted, no subcontractor shall be permitted on site without having signed and complied with the Site Access/Service Provider's Agreement attached hereto as Exhibit F.

**MANDATORY AFFIRMATIVE ACTION LANGUAGE
PROCUREMENT, PROFESSIONAL AND SERVICE CONTRACTS
P.L. 1975, c. 127 (N.J.A.C. 17:27)**

EXHIBIT A

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affection or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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 by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable 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 age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus~ colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code N.J.A.C., 17:27).

**MANDATORY AFFIRMATIVE ACTION LANGUAGE
CONSTRUCTION CONTRACTS
P.L. 1975, c. 127 (N.J.A.C. 17:27)**

EXHIBIT B

A) During the performance of this contract the contractor agrees as follows:

- a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant or employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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 by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.
- b) The contractor or subcontractor, where applicable, 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 age, race, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.
- c) The contractor or subcontractors, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractors commitments under this act and shall Post copies of the notice in conspicuous places available to Employees and applicants for employment.
- d) The contractor or subcontractor, where applicable, agrees to comply with any Regulations promulgated by the Treasurer pursuant to P.L 1975, c. 127, as amended and supplemented from time to time.

- e) When hiring workers in each construction trade, the contractor or subcontractor agrees to attempt in good faith to employ minority and female workers in each construction trade consistent with the applicable employment goal prescribed in section N.J.A.C. 17:27-7.3 provided, however, that the Affirmative Action Office, may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions A, B, and C. as long as the Affirmative Action Office is satisfied that the contractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Affirmative Action Office, that its percentage of active "card carrying" members who are minority and female workers is equal to or greater than the applicable employment goal prescribed by section N.J.A.C. 17:27-7.3 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975. c. 127, as amended and supplemented from time to time. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:
- B) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three (3) days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as it is supplemented and amended from time to time. If the contractor or subcontractor is unable to obtain said assurances from the construction Wide union at least five (5) days prior to the commencement of construction work, the contractor or subcontractor agrees directly to attempt to hire minority and female workers consistent with the applicable employment goal. If the contractor or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances indicates a significant possibility that the trade union will not refer sufficiently minority and female workers consistent with the applicable employment goal, the contractor or subcontractor agrees to be prepared directly to hire minority and female workers consistent with the applicable employment goal by complying with the following hiring procedures prescribed under (C) below; and the contractor or subcontractor further agrees immediately to take said action if it determines or is so notified by the Affirmative Action Office that the union is not referring minority and female workers consistent with the applicable employment goal.
- C) If the hiring of a workforce consistent with the employment goal has not or cannot be achieved for each construction trade, by adhering to the procedures of the preceding provisions (B) above, or if the contractor or subcontractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions consistent with the applicable county employment goal:

- a) To notify the Public Agency Compliance Officer, Affirmative Action Office and at least one approved minority referral organization of its manpower needs, and request the referral of minority workers and female workers;
- b) To notify any minority and female workers who have been listed with it as awaiting available vacancies;
- c) Prior to commencement of work, to request the local construction trade unit, if the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, to refer minority and female workers to fill job openings;
- d) To leave standing requests for additional referral of minority and female workers with the local construction trade union if the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and the other approved referral sources until such time as the workforce is consistent with the employment goal;
- e) If it is necessary to lay off some of the workers in a given trade on the construction site, to assure, consistent with the applicable State and Federal statutes and court decisions, that sufficient minority and female employees remain on the site consistent with the employment goal, and to employ any minority and female workers so laid off by the contractor on any other construction site in the area on which its workforce composition is not consistent with an employment goal established pursuant to rules implementing P. L. 1975, c. 127; (6)
- f) To adhere to the following procedure when minority and female workers with the construction trade union if the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and the other approved referral sources until such time as the workforce is consistent with the employment goal;
- g) If it is necessary to lay off some of the workers in a given trade on the construction site, to assure consistent with the applicable State and Federal statutes and court decisions, that sufficient minority and female employees remain on the site consistent with the employment goal; and to employ any minority and female workers so laid off by the contractor on any other construction site in the area on which its workforce composition is not consistent with an employment goal established pursuant to rules implementing P.L 1975, C. 127;

- h) To adhere to the following procedure when minority and female workers apply or are referred to the contractors or subcontractor;
1. If said individuals have never previously received any document or certification signifying a level or qualifications of such individuals and if the contractors or subcontractors workforce in each construction trade is not consistent with the applicable employment goal, it shall employ such persons which satisfy appropriate qualification standards; provided, however, that a contractor or subcontractor shall determine that the individual at least possesses the skills and experience recognized by any worker's skills and experience classification determination which may have been made by a Public Agency Compliance Officer, union, apprentice program or a referral agency, provided the referral agency is acceptable to the Affirmative Action Office and provided further, that if necessary, the contractor or subcontractor shall hire minority and female workers who qualify as trainees pursuant to these Regulations. All of the requirements of this paragraph, however, are limited by the provisions of paragraph (D) below.
 2. If the contractor's or subcontractor's workforce is consistent with the applicable employment goal, the name of said female or minority group individual shall be maintained on a waiting list for the first consideration in the event the contractor's or subcontractor's workforce is no longer consistent with the applicable employment goal.
 3. If for any reason said contractor or subcontractor determines that a minority individual or female qualifies is not qualified or if the individual qualifies as an advanced trainee or apprentice, said contractor or subcontractor shall inform the individual in writing with the reasons for the determination, maintain a copy in its files, and send a copy to the Public Agency Compliance Officer and the Affirmative Action Office.
- i) To keep a complete and accurate record of all requests made for the referral involved in any trade covered by the contract and on forms made available by the Affirmative Action Office and shall be submitted promptly to that Office upon request.

- D) The contractor or subcontractor agrees that nothing contained in the preceding provision (h) preceding provision shall preclude the contractor or subcontractor from complying with the hiring hall or apprenticeship provisions in any applicable collective bargaining agreement or hiring hall agreement and, where required by custom or agreement; it shall send journey workers and trainees to the union for referral or to the apprenticeship program for admission, pursuant to such agreement or arrangement, provided, however, that where the practice of a union or apprenticeship program will result in the exclusion of minority and females or the failure to refer minorities or females consistent with the county employment goal the contractor or subcontractor shall consider for employment persons referred pursuant to said provisions (h) without regard to such agreement or arrangement, provided further, however, that the contractor or subcontractor shall not be required to employ female and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. In addition, the contractor or subcontractor agrees that in implementing the procedures of the preceding provision (C), it shall, where applicable employ minority and female workers residing within the geographical jurisdiction of the union.
- E) The contractor agrees to complete Initial Project Manning Reports on forms provided by the Affirmative Action Office or in the form prescribed by the Affirmative Action Office and submit copy of said form no later than three (3) days after signing a construction contract; provided, however, that the public agency may extend in the particular case the allowable time for submitting the form to no more than fourteen (14) days; and to submit a copy of the Monthly Project Manning Report once a month by the seventh working day of each month, thereafter for the duration of this contract to the Affirmative Action Office and to the Public Agency Compliance Officer. The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and off-the job programs for outreach and training of minority and female trainees employed on the construction projects.
- F) The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code N.J.A.C. 17:27).

AMERICANS with DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disabilities

EXHIBIT C

The CONTRACTOR and the OWNER do hereby agree that the provisions of Title II of the Americans With Disabilities Act of 1990 (the "ACT") (42 U.S.C- S 12 101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this contract. In providing any act benefit or service on behalf of the OWNER pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event that the Contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the OWNER in any action or administrative proceeding commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the OWNER, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the OWNER grievance procedure, the CONTRACTOR agrees to abide by any decision of the OWNER which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the OWNER or if the OWNER must any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the CONTRACTOR shall satisfy and discharge the same at its own expense.

The OWNER shall, as soon as practicable after a claim has been made against it give written notice thereof to the CONTRACTOR along with frill and complete particulars of the claim, if any action or administrative proceedings is brought against the OWNER or any of its agents, servants, and employees, the OWNER shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint notice, summons, pleading, or other process received by the OWNER or its representatives.

It is expressly agreed and understood that any approval by the OWNER of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the OWNER pursuant to this paragraph. It is further agreed and understood that the OWNER assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the CONTRACTORS obligations assumed in this Agreement, nor shall they be construed to relieve the CONTRACTOR from any liability, nor preclude the OWNER from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

**INSTRUCTIONS FOR CONTRACTING AGENCIES AND BUSINESS
ORGANIZATIONS COVERED BY P.L. 2004, c.57**

EXHIBIT D

I. General Information

P.L. 2004, c. 57 (Chapter 57) amends and supplements the business registration provisions of N.J.S.A. 52:32-44 which impose certain requirements upon a business competing for, or entering into a contract with a State agency. Chapter 57 expands the requirement of business registration to business organizations competing for, or entering into a contract with the following public contracting agencies:

1. State colleges and universities, and county colleges
2. Contracting units as defined in the Local Public Contracts Law (N.J.S.A. 40A: 11-2)
3. Boards of education as defined in the Public School Contracts Law (N.J.S.A. 18A: 18A-2)
4. Private firms that have entered into a contract with a public entity to provide water supply services pursuant to N.J.S.A. 58:26-19
5. A private firm or public authority that has entered into a contract with a public entity to perform wastewater treatment services pursuant to N.J.S.A. 58:27-19, or a duly incorporated nonprofit association that has entered into a contract with a city of the first class to provide wastewater treatment services pursuant to N.J.S.A. 58:27-19.

These instructions provide guidance to public contracting agencies and business organizations in meeting their obligations under the new law. For further guidance, interested parties may contact the Division of Taxation, Regulatory Services Branch, directly at 609-292-5995. Questions concerning activities of public contracting agencies under the Local Public Contracts Law or Public School Contracts Law should be directed to the Division of Local Government Services at 609-292-7842, or at lpcl@dca.state.nj.us by e-mail.

II. Definitions

- a. "Affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity if it owns, directly or individually, more than 50% of the ownership interest in that entity.
- b. "Bid" or "request for proposal" means a formal process used by a contracting agency to receive offers to provide goods or services to the contracting agency. It is not the same as any informal, non-advertised process of requesting quotations from contractors.

- c. "Business organization" means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof. It also includes any affiliates of the business organization. It does not include government agencies or organizations organized as non-profit entities.
- d. "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement.
- e. "Contractor" means a business organization that seeks to enter, or has entered into a contract with a contracting agency, to provide goods, services, or a construction project, the cost of which exceeds 15% of the contracting unit's bid threshold.
- f. "Subcontractor" means any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract issued by a contracting agency where the cost of the subcontractors work exceeds 15% of the contracting unit's bid threshold.
- g. "Supplier" means a business organization that knowingly provides goods or services directly to a subcontractor or to a contractor in fulfillment of a construction contract issued by a contracting agency, where the value of the goods and services of the supplier exceeds 15% of the contracting unit's bid threshold.

III. General Provisions

- a. The effective date of Chapter 57 is September 1, 2004. Chapter 57 affects all contracts awarded after that date, but does not apply to contracts awarded prior to September 1, 2004, even if the contract is performed in whole or in part after September 1, 2004.
- b. When required, a business organization must submit proof of business registration to the contracting agency. Proof of business registration shall be a copy of a Business Registration Certificate issued by the Department of the Treasury, Division of Revenue. Information on how a business can obtain a certificate can be obtained on the Internet at www.nj.gov/njbgs or by phone at (609) 292-1730.

- c. An individual with **no** business tax or employer obligations to the State of New Jersey, who is entering into, or has entered into a contract with a contracting agency to perform personal services shall submit proof of business registration in the form of a Certification and Registration for Individuals Contracting with Public Agencies (NJ-REG-A) issued by the Department of the Treasury, Division of Revenue. The Certificate and Registration form can be downloaded at www.nj.gov/treasury/revenue/pdf/forms/reg_a.pdf or by telephone at (609) 292-1730.
- d. A contracting agency must provide notice of the requirement of submission of proof of business registration in its bid specifications, requests for proposals, or other documents notifying potential contractors of procurement opportunities.
- e. A contracting agency may not enter into a contract with a contractor unless it has received proof of business registration: (a) at the time of bid or proposal submission, in response to a request for bids or proposals; or (b) for all other transactions, prior to issuance of a purchase order or other contracting document.
- f. The requirement to submit proof of business registration is not applicable in those contracting situations in which the dollar value of the contract is less than 15 percent of the bid threshold dollar amount defined in the applicable contracting agency procurement law.
- g. When a contract does **not** involve a request for bids or a request for proposals, a contracting agency may waive the requirement of submission of proof of business registration **only** if such proof had been previously provided to the contracting agency.
- h. For any purchase of goods or services made by a contracting agency under a State of New Jersey Cooperative Purchasing Contract, or any other authorized cooperative purchasing agreement, the contracting agency awarding the contract shall receive and hold the proof of registration. Contract documents issued under a cooperative purchasing agreement shall identify the contracting agency awarding the contract.
- i. For bids and requests for proposals, the contracting agency must keep the proof of business registration in the file where documents relating to the contract are maintained. For all other contracts, proofs of business registration shall be kept in a single alphabetical file.
- j. In situations of an emergent nature, a contracting agency may enter into a contract with a business organization, but the contracting agency shall not pay the organization for work done or goods provided under the contract until such time as a copy of the business registration or registrations is/are provided to the contracting agency.

- k. In situations involving sole source contractors unwilling to provide proof of business registration, a contracting agency may refer the matter to the Division of Taxation, Regulatory Services, for resolution on a case-by-case basis.

IV. Contractor Requirements Generally

- a. A contractor must include proof of business registration at the time it submits a bid or proposal in response to a request for bids or proposals. For all other transactions, proof of business registration must be submitted before the issuance of a purchase order or contracting document.
- b. A contractor must provide written notice to its subcontractors, regardless of the level (tier) of the contractor or subcontractor, of the requirement to submit proof of business registration to the contractor. The contractor shall obtain and maintain on file the proof of business registration of each subcontractor.
- c. Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.
- d. A contractor and its affiliates, and a subcontractor and its affiliates, regardless of the level (tier) of the contractor or subcontractor must collect and remit to the Division of Taxation the use tax pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State regardless of whether the tangible personal property is intended for a contract with a contracting agency.

V. Procedures for Construction Contracts

- a. These procedures shall be used for all construction contracts. For consistency, "construction" shall mean, exclusive of the value of the work, "public work" as defined in the "Prevailing Wage Act", N.J.S.A. 34:11-56.26:
 - i. "Public work" means construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program
 - ii. "Maintenance work" means the repair of existing facilities when the size, type or extent of such facilities is not thereby changed or increased.

- b. In response to a request for bids or a request for proposals for construction work, a contractor must include proof of its own business registration and proofs of business registration of those subcontractors required to be listed in the contractor's submission (i.e., "named subcontractors.") The proof of business registration shall be provided at the time the bid or proposal is officially received and opened by the contracting agency.
- c. After award of the contract, a contractor must obtain proof of business registration of subcontractors and suppliers through all tiers of a contract, when the value of the goods or services to be provided by the subcontractor or supplier exceeds 15% of the contracting agency's bid threshold.
- d. The contracting agency shall include the following language in each bid specification, purchase order or other contracting document for construction contracts.

"New Jersey Business Registration Requirements"

The contractor shall provide written notice to its subcontractors and suppliers of the responsibility to submit proof of business registration to the contractor. The requirement of proof of business registration extends down through all levels (tiers) of the project.

Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.

For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52: 32-44 et al.) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5: 12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency."

VI. Non-construction Contract Language

The contracting agency shall include the following language in each bid specification, purchase order or other contracting document:

“New Jersey Business Registration Requirements”

The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor.

Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.

For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52: 32-44 et al.) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5: 12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.”

New Jersey Local Unit “Pay to Play” Law
Excerpted from Chapter 19, P.L. 2004 (as amended by P.L. 2005, c.51)*
N.J.S.A. 19:44A-20.4 et seq.

EXHIBIT E

AN ACT concerning certain campaign contributions by certain business entities and county political party committees, supplementing P.L.1973, c.83 (C.19:44A-1 et seq.), and amending P.L.1973, c.83.

...

19:44A-20.4 Contributors to county committee of political party of elective officers; eligibility for county contracts.

3. Notwithstanding the provisions of any other law to the contrary:

a county, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the county, agency or instrumentality, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any county committee of a political party in that county if a member of that political party is serving in an elective public office of that county when the contract is awarded or to any candidate committee of any person serving in an elective public office of that county when the contract is awarded; and

a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a county, or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any county committee of a political party in that county if a member of that political party is serving in an elective public office of that county when the contract is awarded or to any candidate committee of any person serving in an elective public office of that county when the contract is awarded, during the term of that contract.

No such committee shall accept such a contribution from a business entity during the term of its contract with the county.

L.2004, c.19, s.3.

19:44A-20.5 Contributors to municipal committee of political party of elective officers; eligibility for municipal contracts.

4. Notwithstanding the provisions of any other law to the contrary:

a municipality, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the municipality, agency or instrumentality, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded; and

a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a municipality, or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded, during the term of that contract.

No such committee shall accept such a contribution from a business entity during the term of its contract with the municipality.

L.2004,c.19,s.4.

19:44A-20.6 Certain contributions deemed as contributions by business entity.

5. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

L.2004,c.19,s.5.

19:44A-20.7 Definitions relative to certain campaign contributions.

6. As used in sections 2 through 12 of this act:

"business entity" means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate;

"fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and publicly opened and announced when awarded. The decision of a public entity as to what constitutes a fair and open process shall be final.

"State agency in the Legislative Branch" means the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch.

L.2004,c.19,s.14; amended 2005, c.51, s.14.

19:44A-20.8 Business entity to provide written certification, ELEC reports.

7. a. Prior to awarding any contract, except a contract that is awarded pursuant to a fair and open process, a State agency in the Legislative Branch, a county, or a municipality shall require the business entity to which the contract is to be awarded to provide a written certification that it has not made a contribution that would bar the award of a contract pursuant to this act.

b. A business entity shall have a continuing duty to report to the Election Law Enforcement Commission any contributions that constitute a violation of this act that are made during the duration of a contract.

L.2004,c.19,s.7; amended 2005, c.51, s.15.

19:44A-20.9 Repayment of contribution.

8. If a business entity makes a contribution that would cause it to be ineligible to receive a public contract or, in the case of a contribution made during the term of a public contract, that would constitute a violation of this act, the business entity may request, in writing, within 60 days of the date on which the contribution was made, that the recipient thereof repay the contribution and, if repayment is received within those 60 days, the business entity would again be eligible to receive a contract or would no longer be in violation, as appropriate.

L.2004,c.19,s.8.

19:44A-20.10 Violations by business entities, penalties.

9. A business entity which is determined by the Election Law Enforcement Commission to have willfully and intentionally made a contribution or failed to reveal a contribution in violation of this act may be liable to a penalty of up to the value of its contract with the public entity and may be debarred by the State Treasurer from contracting with any public entity for up to five years.

L.2004,c.19,s.9.

19:44A-20.11 Penalty for acceptance of unlawful contribution.

10. Any person who is determined by the Election Law Enforcement Commission to have willfully and intentionally accepted a contribution in violation of the provisions of sections 1 through 4 of this act shall be liable to a penalty for each such violation equal to the penalties set forth in subsection e. of section 22 of P.L.1973, c.83 (C.19:44A-22).

L.2004,c.19,s.10.

19:44A-20.12 Construction of act relative to public exigency.

11. Nothing contained in this act shall be construed as prohibiting the awarding of a contract when the public exigency requires the immediate delivery of goods or performance of emergency services as determined by the State Treasurer.

L.2004,c.19,s.11.

Temporary and Executing

12. Nothing contained in this act shall be construed as affecting the eligibility of any business entity to perform a public contract because that entity made a contribution to any committee during the one-year period immediately preceding the effective date of this act.

L.2004,c.19,s.12.

C.19:44A-11.3a Limitations on receipt of contributions, certain, between county committees; violations, penalties.

13. In addition to any other applicable limit prescribed by law, between January 1 and June 30 of each year, a county committee of a political party shall not make a contribution to any other county committee of a political party, nor shall any such county committee accept a contribution from any other county committee during that time period. In addition to any other penalty provided by law, a county committee that willfully and intentionally violates this section, or willfully and intentionally makes a contribution to any candidate or committee with the intent, condition, understanding or belief that the candidate or committee has made or shall make a contribution to another county committee, shall be liable to a penalty equal to four times the amount of the contribution.

14. Section 2 of P.L.1973, c.83 (C.19:44A-22) is amended to read as follows:

C.19:44A-22 Violations; civil penalties; forfeiture.

22. a. (1) Except as provided in subsection e. or f., any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, charged with the responsibility under the terms of this act for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of this act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of this act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$3,000.00 for the first offense and not more than \$6,000.00 for the second and each subsequent offense.

(2) No person shall willfully and intentionally agree with another person to make a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee with the intent, or upon the condition, understanding or belief, that the recipient candidate or committee shall make or have made a contribution to another such candidate or committee, but this paragraph shall not be construed to prohibit a county or municipal committee of a political party from making a contribution or contributions to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A finding of a violation of this paragraph shall be made only upon clear and convincing evidence. A person who violates the provisions of this paragraph shall be liable to a penalty equal to four times the amount of the contribution which that person agreed to make to the recipient candidate or committee.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State.

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsections b. and c. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's determination shall be by majority vote of the entire authorized membership thereof.

e. Any person who willfully and intentionally makes or accepts any contribution in violation of section 4 of P.L.1974, c.26 (C.19:44A-29) or section 18, 19 or 20 of P.L.1993, c.65 (C.19:44A-11.3, C.19:44A-11.4 or C.19:44A-11.5), shall be liable to a penalty of:

(1) Not more than \$5,000.00 if the cumulative total amount of those contributions is less than or equal to \$5,000.00;

(2) Not more than \$75,000.00 if the cumulative total amount of those contributions was more than \$5,000.00 but less than \$75,000; and

(3) Not more than \$100,000.00 if the cumulative total amount of those contributions is equal to or more than \$75,000.00.

f. In addition to any penalty imposed pursuant to subsection e. of this section, a person holding any elective public office shall forfeit that public office if the Election Law Enforcement Commission determines that the cumulative total amount of the illegal contributions was more than \$50,000.00 and that the violation had a significant impact on the outcome of the election.

g. Any penalty prescribed in this section shall be enforced in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

15. This act shall take effect on January 1, 2006. Approved June 16, 2004.

Exhibit F

SITE ACCESS/ SERVICE PROVIDER'S AGREEMENT

This Agreement made between **Musconetcong Sewerage Authority**, herein called "MSA" and *****, its subcontractors (any tier), and/or agents (collectively, "Provider"/SIGNATOR(s)) so that ***** may deliver goods, provide services, and/or perform any work at MSA Facilities located at _____, this Site Access/ Service Provider's Agreement must be signed by the respective company representatives with full authority.

1. INDEMNIFICATION AND HOLD HARMLESS- To the fullest extent permitted by law and at its own cost and expense, Provider shall defend, indemnify, and save harmless MSA and their respective directors, shareholders, partners, officers, Commissioners, members, affiliates, subsidiaries, managers, employees, companies, corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, firms, trusts, trustees, Agencies, Nominees, Consultants, Public Officials, successors, assigns, mortgagees and/or other designees (collectively, the "Indemnified Entities"), from and against any and all claims, demands, suits, actions, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including reasonable attorneys' fees and expenses (collectively "Claims"), on account of bodily or personal injury, sickness, disease, or death sustained by any person or persons, or injury or damage to or destruction of any property, including, without limitation, loss of use thereof, directly or indirectly arising out of or in connection with or relating to acts or omissions in connection with or pursuant to the activities and completed operations at the site. Provider shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits and proceedings. If any such suit, action or proceeding is brought against the Indemnified Entities for the vicarious liability imposed or alleged by the actions of the Provider then upon notice from the Indemnified Entities, Provider shall, at Provider's sole expense, resist or defend such suit, action, or proceeding by counsel reasonably acceptable to the Indemnified Entities. If for any reason any part of this indemnification shall be in contravention of any statute, ordinance, regulation or rule, or any decision of any court or adjudicatory body, then this indemnification provision shall survive to the fullest extent permitted thereby.

The foregoing indemnification shall apply irrespective of whether Claims are asserted by a party, by its employees, agents or subcontractors, sub-subcontractors (any tier) or by unrelated third parties. Nothing contained herein shall relieve Provider of any responsibility for Claims regardless of whether Provider is required to provide insurance covering such Claims or whether the matter giving rise to the Claims is the responsibility of Provider's agents, employees or sub-subcontractors (any tier).

These Indemnifications are intended to provide the broadest indemnification permitted by law and shall be construed consistent with all applicable laws, including but not limited to the laws pertaining to indemnification. These indemnification provisions shall survive the completion and acceptance of the Agreement, and shall be effective until the statutes of limitation and repose have run.

2. COMMERCIAL INSURANCE

a. Provider shall not commence any work or operations in connection with this Agreement or entering onto the premises to conduct such work or operations under the Agreement until the Provider has obtained, at the Provider's own expense, all insurance required by this Article 2 as indicated by the boxes which are marked with an "X". The type of insurance required from a particular Provider shall be at the sole discretion of the MSA.. Provider shall not begin work or operations at the site until the required insurance and certificates of insurance (and if requested by MSA the Policy Declaration Pages and Forms List and specified policy documents) have been provided to MSA by Provider. Such insurance and certificates of insurance must be in a form satisfactory to MSA.

b. MSA does not represent that the coverage and limits set forth herein are adequate to protect the Provider and such coverage and limits shall not be deemed to limit the Providers' liability under the indemnifications provided to the Additional Insureds in this Agreement. The proposed limits are minimum amounts and where greater limits are issued to the Provider those greater limits shall apply and supersede the minimum limits set forth herein.

c. Provider shall purchase, and shall maintain throughout the term of this Agreement and/or completed delivery of goods and services, at its own cost, and with companies rated not less than A, Class VII by A.M. Best Company, Inc. (or reflecting a comparable rating by a comparable rating organization) and licensed to do business in New Jersey, insurance for MSA and the other Additional Insured's with evidence of coverage for provisions indicated and limits of liability at least as required by law, but not with less than indicated below:

☐ (i) **COMMERCIAL GENERAL LIABILITY**

Bodily Injury & Property Damage- \$1,000,000 per occurrence/ \$2,000,000 aggregate as respects Products and Completed Operations (without a self insured retention or deductible exceeding \$5,000) on an Occurrence basis.

Personal Injury- \$1,000,000 per occurrence (without a self insured retention or deductible exceeding \$5,000).

\$2,000,000 aggregate

Additional Insureds- The Commercial General Liability policy shall name MSA and their respective directors, shareholders, partners, officers, Commissioners, members, affiliates, subsidiaries, managers, employees, companies, corporations, partnerships, limited partnerships, limited liability partnerships, limited liability companies, firms, trusts, trustees, Agencies, Nominees, Consultants, Public Officials, successors, assigns, mortgagees and/or other designees (collectively, the "Additional Insureds")

- a. ISO CG 20 26 07 04 Additional Insured – Designated Person or Organization.
- b. ISO CG 20 37 04 Additional Insured-Owner
or any Additional Insureds/Lessees/Contractors-Completed Operations.
- c. ISO CG 20 01 04 13 Primary and Noncontributory- Other Insurance Condition.
- d. CG 24 04 05 09 Waiver Of Transfer Of Rights Of Recovery Against Others To Us.
- e. ISO CG 25 03 11 85 Amendment-Aggregate Limit of Insurance (Per Project) endorsement or its equivalent.

Notice of Cancellation- in the event of policy cancellation Provider and the Provider's insurer when commercially available shall provide 30 days written notice to the MSA (10 days for cancellation due to non-payment of premium) delivered return Receipt Requested to Musconetcong Sewerage Authority, 110 Continental Drive, Budd Lake, NJ 07828.

☐ (ii) **AUTOMOBILE LIABILITY-**

a. Minimum Policy Limits: Business auto liability insurance with a limit of not less than \$1,000,000 each accident and aggregate.

b. Coverage Applicability: Policy of insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

c. Coverage Form Applicability: Business auto coverage shall be written on ISO form CA 00 01 03 06 or a substitute policy form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in ISO form CA 00 01.

d. Additional/Designated Insured: Policy shall be endorsed to include the Additional Insureds in this Agreement under an ISO CA 20 48 02 99 Designated Insured Endorsement or equivalent. The endorsement shall specifically schedule the Additional Insureds as the subject of the provision irrespective of the existence or non-existence of any contractual obligation.

Scheduled Additional Insureds to read:

Musconetcong Sewerage Authority and any of their affiliates and each of their respective agencies, employees, public officials, officers, directors, members, employees, shareholders, nominees, consultants, successors and assigns, (collectively the "Additional Insureds") 110 Continental Drive, Budd Lake, NJ 07828.

e. Waiver of Subrogation- Policy shall be endorsed to include the Scheduled Additional Insureds under an ISO CA 04 44 10 13 Waiver of Transfer of Rights of Recovery Against Others to Us (waiver of subrogation) Endorsement or equivalent. The endorsement shall specifically schedule the Additional Insureds as the subject of the provision irrespective of the existence or non-existence of any contractual obligation.

Scheduled Additional Insureds to read:

Musconetcong Sewerage Authority and any of their affiliates and each of their respective agencies, employees, public officials, officers, directors, members, Commissioners, employees, shareholders, nominees, consultants, successors and assigns, (collectively the "Additional Insureds") 110 Continental Drive, Budd Lake, NJ 07828.

f. Notice of Cancellation In the event of policy cancellation Provider and the Provider's insurer when commercially available shall provide 30 days written notice to the MSA (10 days for cancellation due to non-payment of premium) delivered return Receipt Requested to Musconetcong Sewerage Authority, 110 Continental Drive, Budd Lake, NJ 07828.

g. Environmental Liability- When Provider's operations include the handling, transport, delivery or pickup of Hazardous Materials then Provider will have the following additional endorsements added to the commercial automobile/truckers policy:

- ISO CA 99 48 Broadened Pollution Coverage or equivalent
- MCS 90 Endorsement.

- ☐ **(iii) Workers Compensation:** The Contractor shall maintain Workers Compensation Insurance to include Employees Liability Limits in accordance with New Jersey law and disability benefits in accordance with applicable statutory requirements and providing coverage for any Contractor Employee entering onto any Additional Insureds site, even if not required by statute.

Notice of Cancellation In the event of policy cancellation Provider and the Provider's insurer when commercially available shall provide 30 days written notice to the MSA (10 days for cancellation due to non-payment of premium) delivered return Receipt Requested to Musconetcong Sewerage Authority, 110 Continental Drive, Budd Lake, NJ 07828.

- ☐ **(iv) Commercial Excess or Umbrella Liability:** The Provider shall maintain occurrence based Combined Single Limit of at least \$5,000,000 per occurrence and aggregate. Such policies must comply with Article 2 Commercial Insurance provisions herein and minimally follow form over the commercial general liability, commercial automobile and employer's liability inclusive of the preceding modifying endorsements. Such endorsements shall specifically schedule the Additional Insureds as the subject of the provisions.

- ☐ **(v) Contractors Pollution:** The Provider shall maintain occurrence based with a minimum limit of \$1,000,000 per claim and aggregate. Policy will have a "per occurrence" deductible no greater than \$5,000. Contractor's Pollution coverage to be applicable to both Operations and Completed Operations.

The following policy modifications under the Contractor's Pollution Liability policy must be accomplished using the following or equivalent ISO endorsements:

- a. ISO CG 20 26 07 04 Additional Insured – Designated Person or Organization
- b. ISO CG 20 37 04 Additional Insured-Owner or any Additional Insureds/Lessees/Contractors-Completed Operations.
- c. ISO CG 20 01 04 13 Primary and Noncontributory- Other Insurance Condition
- d. ISO **CG 24 04 05 09** Waiver Of Transfer Of Rights Of Recovery Against Others To Us
- e. ISO CG 25 03 11 85 Amendment-Aggregate Limit of Insurance (Per Project) endorsement or its equivalent.

Notice of Cancellation- In the event of policy cancellation Provider and the Provider's insurer when commercially available shall provide 30 days written notice to the MSA (10 days for cancellation due to non-payment of premium) delivered return Receipt Requested to Musconetcong Sewerage Authority, 110 Continental Drive, Budd Lake, NJ 07828.

ACCEPTED BY

Musconetcong Sewerage Authority

Executed By:

Signature: _____

Title: _____

Date: _____

ACCEPTED BY

Providers Name: *****

Executed By:

Signature: _____

Title: _____

Date: _____

ACCEPTED BY

Subcontractor- _____

Executed By:

Signature: _____

Title: _____

Date: _____

ADDENDUM

Schedule of Designated Additional Insured's

- 1.
- 2.
- 3.