

County of Mercer

McDade Administration Building, 640 South Broad Street, P.O. Box 8068, Trenton, NJ 08650-0068

SPECIFICATIONS FOR BID

REPLACEMENT DOORS AT THE MERCER COUNTY PARK MARINA

For The

MERCER COUNTY PARK COMMISSION

Located At

**334 SOUTH POST ROAD
WEST WINDSOR, NEW JERSEY 08550**



**To Be Received On
JUNE 23, 2009**

Prepared By:
Department of Purchasing

AB2009-21

COUNTY OF MERCER BIDDER'S CHECKLIST

FAILURE TO SUBMIT THE FOLLOWING FOUR DOCUMENTS IS A MANDATORY CAUSE FOR THE BID TO BE REJECTED. (N.J.S.A. 40A:11-23.2)

	MANDATORY	INITIALS
STATEMENT OF CORPORATE OWNERSHIP PURSUANT TO <u>N.J.S.A. 52:25-24.2</u>	<input checked="" type="checkbox"/>	_____
ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA (If Applicable)	<input checked="" type="checkbox"/>	_____
LISTING OF SUBCONTRACTORS AS REQUIRED BY <u>N.J.S.A. 40A:11-16</u>	<input checked="" type="checkbox"/>	_____
BUSINESS REGISTRATION CERTIFICATE FOR GENERAL CONTRACTOR AND REFERENCED SUBCONTRACTORS	<input checked="" type="checkbox"/>	_____
SUBMIT OR COMPLY WITH THE FOLLOWING IF CHECKED: NEW JERSEY PUBLIC WORKS CONTRACTOR REGISTRATION <u>GENERAL CONTRACTOR AND REFERENCED SUBCONTRACTORS MUST</u> <u>BE REGISTERED AT THE TIME OF BID SUBMISSION</u>	<input checked="" type="checkbox"/>	_____
NON-COLLUSION AFFIDAVIT	<input checked="" type="checkbox"/>	_____
COMPLIANCE AS APPLICABLE: STATUTORY LICENSURE FOR: LOCKSMITHING SERVICE	<input checked="" type="checkbox"/>	_____
COMPLIANCE WITH THE PREVAILING WAGE ACT	<input checked="" type="checkbox"/>	_____
AFFIRMATIVE ACTION CERTIFICATE	<input checked="" type="checkbox"/>	_____
AFFIRMATIVE ACTION EVIDENCE (AA201 COMPLETED AND SUBMITTED) EXHIBIT "B" (CONSTRUCTION CONTRACTS	<input checked="" type="checkbox"/>	_____

COUNTY OF MERCER BIDDER'S CHECKLIST

	MANDATORY	INITIALS
EQUIPMENT CERTIFICATION	<input checked="" type="checkbox"/>	_____
EXECUTIVE ORDER 99-1	<input checked="" type="checkbox"/>	_____
EXECUTIVE ORDER 98-1	<input checked="" type="checkbox"/>	_____
RESPONSIBLE CONTRACTOR POLICY	<input checked="" type="checkbox"/>	_____
SIGNED PROPOSAL	<input checked="" type="checkbox"/>	_____
ONE ORIGINAL AND ONE COPY OF COMPLETED BID	<input checked="" type="checkbox"/>	_____
NAME OF BIDDER: _____		
AUTHORIZED REPRESENTATIVE:		
SIGNATURE: _____		
PRINT NAME: _____		
DATE: _____		

NOTICE TO BIDDERS

Notice is hereby given that on June 23, 2009 at 11:00AM (Prevailing time), sealed bids will be opened and read in public by the Purchasing Agent in the Mercer County McDade Administration Building, 640 South Broad Street, Room #109, Trenton, New Jersey for:

**REPLACEMENT DOORS AT THE MERCER COUNTY PARK MARINA (AB2009-21)
FOR THE MERCER COUNTY PARK COMMISSION
334 SOUTH POST ROAD
WEST WINDSOR, NEW JERSEY 08550**

Bids shall be delivered in sealed envelopes and addressed to Marcella M. Longo, Purchasing Agent, Room #109, 640 South Broad Street, P.O. Box 8068, Trenton, NJ 08650-0068.

Express mail shall be delivered to the Department of Purchasing, 640 S. Broad Street, Room 109, Trenton, New Jersey 08611.

Your New Jersey Business Registration is required with your bid submittal. Bidders are required to comply with the requirements of N.J.S.A.10:5-31 et seq. and N.J.A.C. 17:27.

COUNTY OF MERCER, NEW JERSEY
Marcella M. Longo, QPA
Purchasing Agent

**REQUEST FOR BID
FOR INSTALLATION OF REPLACEMENT DOORS AT
THE MERCER COUNTY PARK MARINA
FOR THE MERCER COUNTY PARK COMMISSION
334 SOUTH POST ROAD
WEST WINDSOR, NEW JERSEY 08550
CONTACT PERSON: JEREMY MCDERMOTT (609-306-2096)**

INTENT:

The Mercer County Park Commission requests bids for the removal of the existing doors and furnishing and installing replacement doors at the Mercer County Park Marina. All doors are to be professionally installed at the facility at the locations as designated in the specifications. Existing doors shall be removed and discarded at the awarded bidder's expense. The awarded contractor shall complete the installation within thirty (30) days from the notice to proceed. The location shall be secured at the end of each work day; at no time shall the area be left unsecured. This will be the responsibility of the awarded contractor. All work shall be performed in a professional workman like manner and in accordance to all requirements listed in this bid and in accordance with the manufacturer. Bidders must employ or subcontract the work of a licensed locksmith. Bidders must include a copy of the locksmith license as required through the New Jersey Department of Consumer Affairs. A site visit is highly recommended. There is no electrical work.

REPLACEMENT DOOR LOCATIONS:

Front Entrance and Rear Deck Entrance to Building (2 pair double entry doors)

2 Pair Arch manufacturing or equivalent aluminum entrance doors and frames, medium style doors with 4" high horizontal mid rails with white powder coat finish. Clear insulated tempered glass with Colonial style white internal grids between the glass.

(4) Surface mount door closers, brush chrome butt hinges

(4) Concealed vertical rod panic bars

All doors fully weather stripped and keyed alike

Main Front entrance door size is 6'0" wide x 7'0" high

Side entrance of ballroom off deck door size is 6'0" wide x 7'0" high

Kitchen entrance: (1 single entry door)

1 single Arch manufacturing or equivalent aluminum entrance door with frame, medium style door with 4" high horizontal mid rails with white powder coat finish. Clear insulated tempered glass with Colonial style white internal grids between the glass.

(1) Rim panic device for single door

Door fully weather stripped and keyed alike

Size of door is 3'0" wide x 6' 8" high

Interior doors: Hallway entrance and Ballroom entrance (2) pair double entry doors
2 pair wood interior French Doors. (Foyer and Ballroom entrance)
15 Tru-divided Colonial lites
Prehung wood jambs, bright brass hinges
(4) Bright brass push/pull handles
(4) Bright brass surface mount door closers
Ballroom entrance: 1 brass deadbolt, 2 brass slide bolts
Finish painted white (both sets of doors)
All doors fully weather stripped and keyed alike
Interior hallway door size is 6'0" wide x 7'0" high
Interior ballroom door size is 6'0" wide x 6'8" high

COUNTY OF MERCER

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA

The undersigned Bidder hereby acknowledges receipt of the following Addenda:

<u>Addendum Number</u>	<u>Date Received</u>	<u>Method of Receipt</u> (Mail, Fax, Etc.)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

No addenda were received:

Acknowledged for: _____
(Name of Bidder)

By: _____
(Signature of Authorized Representative)

Name: _____
(Print or Type)

Title: _____

Date: _____

INSTRUCTIONS TO BIDDERS AND STATUTORY REQUIREMENTS

1. SUBMISSION OF BIDS

- A. Sealed bids shall be received by the County of Mercer in accordance with public advertisement as required by law, with a copy of said notice being attached hereto and made a part of these specifications.
- B. The bid shall be submitted in a sealed envelope: (1) addressed to the County of Mercer, (2) bearing the name and address of the bidder written on the face of the envelope, and (3) clearly marked "BID" with the contract title and/or bid # being bid.
- C. It is the bidder's responsibility that bids are presented to the Purchasing Agent at the time and at the place designated. Bids may be hand delivered or mailed; however, the County disclaims any responsibility for bids forwarded by regular or overnight mail. If the bid is sent by express mail service, the designation must also appear on the outside of the express mail envelope. Bids received after the designated time and date will be returned unopened. **Express mail shall be delivered to the Department of Purchasing, 640 S. Broad Street, Room 109, Trenton, New Jersey 08611.**
- D. The Mercer County Park Commission and the Mercer County Library System are considered agencies of the County entitled to participate in the contract(s) resulting from this bid.
- E. Sealed bids forwarded to the County before the time of opening of bids may be withdrawn upon written application of the bidder. Once bids have been opened, they shall remain firm for a period of sixty (60) calendar days.
- F. All prices and amounts must be written in ink. Bids containing any conditions, omissions, unexplained erasures or alterations, 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 County. Any changes, whiteouts, strikeouts, etc. in the bid must be initialed in ink by the person signing the bid.
- G. Each bid proposal form must give the full business address, business phone, fax, e-mail if available, the contact person of the bidder, and be signed by an authorized representative as follows:
- 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.
 - Bids by sole-proprietorship shall be signed by the proprietor.
 - When requested, satisfactory evidence of the authority of the officer signing shall be furnished.
- H. Bidder should be aware of the following statutes that represent "Truth in Contracting" laws:
- N.J.S.A. 2C:21-33, et seq. governs false claims and representations by bidders. It is a serious crime for the bidder to knowingly submit a false claim and/or knowingly make material misrepresentation.
 - N.J.S.A. 2C:27-10 provides that a person commits a crime if said person offers a benefit to a public servant for an official act performed or to be performed by a public servant, which is a violation of official duty.
 - N.J.S.A. 2C:27-11 provides that a bidder commits a crime if said person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.
 - Bidder should consult the statutes or legal counsel for further information.

- I. If not submitting a bid proposal in accordance with the attached instructions and specifications, the outside of the above stated envelope shall be plainly marked “**NO BID**” when being returned. If bidder wishes to remain on bid list, please mark “**NO BID - PLEASE RETAIN ON BID LIST**” on front page of this proposal. Failure to comply may result in bidder being dropped from bid list.
- J. Contract shall be awarded to the lowest responsible bidder as declared by the County of Mercer. The contract awarded between the County of Mercer and the successful bidder shall establish the contractual obligation regarding specific items, specifications and services to be provided to the county.
- K. Successful bidder shall not assign, transfer, convey sublet or otherwise dispose of the contract or any part thereof to anyone without the written consent of the County of Mercer.
- L. The County of Mercer reserves the right in the event of unsatisfactory service to cancel the contract awarded to the successful bidder and procure the goods or services from the open market and hold the contractor responsible for any excess cost.
- M. The successful bidder agrees that he will make no claim for additional payment or any other concession because of any misrepresentation or misunderstanding of the contract on his part, or of any failure to fully acquaint himself with any conditions relating to the contract.
- N. If the request for proposal involves the use of equipment or machinery, bidder shall submit a list of same owned by the bidder necessary to perform the work being sold.
- O. Bidder shall list all deviations from the specifications as contained herein when returning proposal as specified.
- P. Bidder shall submit financial statements if requested showing its financial ability to perform the work being bid. The County reserves the right to require additional financial documentation prior to the award of bid if, in the opinion of the County, the financial statements submitted with the bid are deemed to be inadequate. Failure to comply with this requirement may result in being rejected at the option of the County.

ADDITIONS/DELETIONS OR SERVICE:

The County reserves the right to add and/or delete services to this contract. Should a service requirement be deleted, payment to the Contractor will be reduced proportionally to the amount of service deleted in accordance with the bid price. Should additional services be required, payment to the Contractor will be increased proportionally to the amount of service added in accordance with the bid price.

2. INTERPRETATIONS AND ADDENDA

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

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 Purchasing Agent. In the event the bidder fails to notify the County of such ambiguities, errors or omissions, the bidder shall be bound by the bid.

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 Purchasing Agent. In order to be given consideration, written requests for interpretation must be received at least (10) 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 Statute. All addenda so issued shall become part of the contract documents, and shall be acknowledged by the bidder in the bid. The County's interpretations or corrections thereof shall be final.

If the amount shown in words and its equivalent figures do not agree, the written words shall be binding. Ditto marks are not considered writing or printing and shall not be used. 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 County of the extended totals shall govern.

CHALLENGE TO SPECIFICATIONS

Any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the contracting agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the contracting unit or the award of contract.

PRE-BID CONFERENCE – REFER TO ADVERTISEMENT FOR BID FOR DATE AND TIME – IF REQUESTED

3. BRAND NAMES, STANDARDS OF QUALITY AND PERFORMANCE

Brand names and/or descriptions used in these specifications are to acquaint bidders with the types of goods and services desired and will be used as a standard by which goods and services offered as equivalent will be evaluated. Variations between the goods and services described and the goods and services offered are to be fully identified and described by the bidder on a separate sheet and submitted with the bid proposal form. Vendor literature WILL NOT suffice in explaining exceptions to these specifications. In the absence of any exceptions by the bidder, it will be presumed and required that the goods and services as described in the bid specification be provided or performed. It is the responsibility of the bidder to document and/or demonstrate the equivalency of the goods and services offered. The County reserves the right to evaluate the equivalency of the goods and services.

In submitting its bid, the bidder certifies that the goods and services to be furnished will not infringe upon any valid patent or trademark and that the successful bidder shall, at its own expense, defend any and all actions or suits charging such infringement, and will save the County harmless from any damages resulting from such infringement.

Only manufactured and farm products of the United States, wherever available, shall be used pursuant to N.J.S.A. 40A:11-18. The contractor shall guarantee any or all goods and services supplied under these specifications. Defective or inferior goods shall be replaced at the expense of the contractor. The contractor will be responsible for return freight or restocking charges.

4. PRICING INFORMATION FOR PREPARATION OF BIDS

The County is exempt from any local, state or federal sales, use or excise tax.

Estimated Quantities (Open-End Contracts): The County 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. 5:30-11.2 and 11.10. **NO MINIMUM PURCHASE IS IMPLIED OR GUARANTEED.**

Contractor 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 have included this cost.

Bidders shall insert prices for furnishing goods and services 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 County. As specified, placement may

require inside deliveries. No additional charges will be allowed for any transportation costs resulting from partial shipments made for the contractor's convenience.

5. METHOD OF CONTRACT AWARD

The length of the contract shall be stated in the technical specifications. Pursuant to requirements of N.J.A.C. 5:30-5.1 et seq., any contract resulting from this bid shall be subject to the availability and appropriation of sufficient funds annually. Please see Section entitled Termination of Contract.

If the award is to be made on the basis of a base bid only, it shall be made to that responsible bidder submitting the lowest base bid.

If the award is to be made on the basis of a combination of a base bid with selected options, it shall be made to that responsible bidder submitting the lowest net bid.

The County may also elect to award the contract on the basis of unit prices.

The form of contract shall be submitted by the County to the successful bidder. Terms of the specifications/bid package prevail. Bidder exceptions must be formally accepted by the County.

6. TERMINATION OF CONTRACT

A. If, through any cause, the contractor shall fail to fulfill in a timely and proper manner obligations under the contract or if the contractor shall violate any of the requirements of the contract, the County shall there upon have the right to terminate the contract by giving written notice to the contractor of such termination and specifying the effective date of termination. Such termination shall relieve the County of any obligation for balances to the contractor of any sum or sums set forth in the contract. County will pay only for goods and services accepted prior to termination.

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

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

D. In case of default by the contractor, the County may procure the goods or services from other sources and hold the contractor responsible for any excess cost.

E. Continuation of the terms of the 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 County reserves the right to cancel the contract.

F. ACQUISITION, MERGER, SALE AND/OR TRANSFER OF BUSINESS, ETC.

It is understood by all parties that if, during the life of the contract, the contractor disposes of his/her business concern by acquisition, merger, sale and or/transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to that new party. In this event, the new County(s) will be required to submit all documentation/legal instruments that were required in the original bid/contract. Any change shall be approved by the County.

G. The contractor will not assign any interest in the contract and shall not transfer any interest in the same without the prior written consent of the County.

H. The County of Mercer reserves the right, at its option, to terminate this contract upon giving thirty (30) days written notice to the contractor.

7. PAYMENT

No payment will be made unless duly authorized by the County of Mercer's authorized representative and accompanied by proper documentation. Payment will be made in accordance with the County of Mercer's policy and procedures.

8. TRANSITIONAL PERIOD

In the event services are terminated by contract expiration or by voluntary termination by either the Contractor or The County of Mercer, the Contractor shall continue all terms and conditions of said contract for a period not to exceed thirty (30) days at the County's request.

9. NEW JERSEY SALES TAX

In submitting his bid, the Contractor certifies that the total base bid set forth does not include any New Jersey Sales Tax, and he further certifies that in the event he is the successful bidder, he will only apply for an exemption for materials or supplies to be used in connection with County property.

Contractor's Exemption Purchase Certificate, Form ST-13, issued by the State of New Jersey Division of Taxation, Sales Tax Bureau, shall be completed and presented to his suppliers for material used to make any permanent change to a County Building on this contract.

STATUTORY AND OTHER REQUIREMENTS

CONSTRUCTION DOCUMENTS AND BID SPECIFICATIONS

Construction drawings and the title pages of the specifications shall be dated, signed and sealed by the architect or engineer in responsible charge in one of two ways:

1. Sign and date the original documents, including tracings, reproducible drawings or those generated electronically, then affix the seal to opaque prints or reproductions of the originals; or
2. In lieu of signing and dating the original documents, sign, date, and seal the opaque copies of the originals.

All certifications that amend or clarify or modify construction documents prepared by the architect or engineer in responsible charge shall be dated, signed and sealed prior to forwarding to a public agency. An engineer or architect shall seal bid documents and drawings only with seal presses. Bidding plans and construction plans are one in the same and must be signed and sealed prior to the issuance to prospective bidders.

Specifications shall not reference "pre-approval" or "pre-qualification" of an equivalent product prior to the submission of bids. Specifications for a contract item may include a specific manufacturer's brand and model number or equivalent. The product brand or brands referenced in the specifications shall be restricted to one brand produced or manufactured by a multi-brand commercial products manufacturer.

Consultants are prohibited from specifying a product line in which such consultant has an affiliation. As such, there shall be no affiliation between the consultant and product manufacturers referenced in the specifications, nor shall the consultant endorse those companies or manufacturers referenced in the specifications.

MANDATORY AFFIRMATIVE ACTION CERTIFICATION

All successful bidders (goods and services vendors, professional service vendors and construction contractors) are required to submit evidence of appropriate affirmative action compliance to the Division of Public Contracts Equal Employment Opportunity Compliance and the County. During a review, Division representatives will review the County files to determine whether the affirmative action evidence has been submitted by the vendor/contractor. Specifically, each vendor/contractor shall submit to the County, prior to execution of the County contract, the following documents:

- The construction contractors shall complete and submit an Initial Project Workforce Report, Form AA-201 upon notification of award. Proper completion and submission of this report shall constitute evidence of the contractor's compliance with the regulations. Failure to submit this form may result in the contract being terminated.
- The contractor also agrees to submit a copy of the Monthly Project Workforce Report, Form AA-202 once a month thereafter for the duration of the contract to the Division and to the County Compliance Officer. After notification of award, but prior to signing a construction contract the EEO/AA evidence must be submitted. The County shall retain the Affirmative Action evidence in our bid file for review by the Division.

TRAINING FUND REQUIREMENTS

The FY 09 Appropriations Act, signed into law on June 30, 2008, provides an on-going pool of funding for NJ Build, the construction trades training program for minorities and women in the construction trades, through the Department of Treasury, Division of Contract Compliance and EEO in Public Contracts to the Department of Labor. To ensure a continued flow of funds and an effective construction trades training program, beginning July 1, 2008, the funding of NJ Build will be exclusively provided by state government agencies. Local government agencies are not required to make a funding commitment; however, they will still be subjected to EEO in public contracting requirements and may voluntarily contribute to the construction trades training program.

AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. Bidders are required to read Americans With Disabilities language that is included in this specification and agree that the provisions of Title II of the Act are made a part of the contract. The contractor is obligated to comply with the Act and to hold the County harmless.

STOCKHOLDER DISCLOSURE

N.J.S.A. 52:25-24.2 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any goods and services, unless, prior to the receipt of the bid or accompanying the bid of said corporation or partnership. Bidders shall submit 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. The included Statement of Ownership shall be completed and attached to the bid proposal. This requirement applies to all forms of corporations and partnerships, including, but not limited to, limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations. Failure to submit a stockholder disclosure document shall result in rejection of the bid.

NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT

The manufacturer or supplier of chemical substances or mixtures shall label them in accordance with the N.J. Worker and Community Right to Know Law (N.J.S.A. 34:51 et seq., and N.J.A.C 5:89-5 et seq.,). Containers that the law and rules require to be labeled shall show the Chemical Abstracts Service number of all the components and the chemical name. Further, all applicable Material Safety Data Sheets (MSDS) - hazardous substance fact sheet - must be furnished.

PREVAILING WAGE ACT

Pursuant to N.J.S.A. 34:11-56.25 et seq., contractors on projects for public work shall adhere to all requirements of the New Jersey Prevailing Wage Act. The contractor shall be required to submit a certified payroll record to the owner 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 is the contractor's responsibility to obtain any additional copies of the certified payroll form to be submitted by contacting the New Jersey Department of Labor and Workforce Development, Division of Workplace Standards. [Additional information is available at www.state.nj.us/labor/lasse/lspubcon.html](http://www.state.nj.us/labor/lasse/lspubcon.html) or at the following:

Public Contracts Section
Office of Wage and
Hour Compliance
CN 389
Trenton, New Jersey 08625-0389
Telephone number: (609) 292-2259

Public Law 2004, Chapter 101 took affect on July 14, 2004. This law, N.J.S.A. 34:11-56.26(5), adds to existing prevailing wage requirements off-site workers who custom fabricate plumbing, heating, cooling, ventilation, or exhaust duct systems and mechanical insulation as part of a public works project. The New Jersey Department of Labor's Division of Wage and Hour Compliance's electronic application for official Prevailing Wage Rate Determinations can be obtained at: <https://wnjpin.state.nj.us/pw/prevwage.html>.

This page provides public body officials or their representatives an opportunity to apply for and download an official New Jersey Prevailing Wage Rate Determination. Official Prevailing Wage Rate Determinations are required for public work contracts and certain Economic Development Authority assisted projects.

THE PUBLIC WORKS CONTRACTOR REGISTRATION ACT

N.J.S.A. 34:11-56.48 et seq. requires that a general or prime contractor and any listed subcontractors named in the contractor's bid proposal shall possess a certificate *at the time the bid proposal is submitted*. After bid proposals are received and prior to award of contract, the successful contractor shall submit a copy of the contractor's certification along with those of all listed subcontractors. All non-listed subcontractors and lower tier sub-subcontractors shall be registered prior to starting work on the project. It is the general contractor's responsibility that all non-listed subcontractors at any tier have their certificate prior to starting work on the job.

PROOF OF BUSINESS REGISTRATION

N.J.S.A. 52:32-44 requires that each bidder (contractor) submit proof of business registration with the bid proposal. Proof of registration shall be a copy of the bidder's Business Registration Certificate (BRC). A BRC is obtained from the New Jersey Division of Revenue. Information on obtaining a BRC is available on the internet at www.nj.gov/njbgs or by phone at (609) 292-1730.

RETAINAGE

With respect to any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) for which the contractor shall agree to the withholding of payments pursuant to P.L.1979, c.152 (C.40A:11-16.1), 2% of the amount due on each partial payment shall be withheld by the contracting unit pending completion of the contract.

PARTIAL PAYMENTS FOR MATERIALS

Any contract entered into by a contracting unit pursuant to section 1 of P.L.1979, c.464 (C.40A:11-16.2) may provide for partial payments at least once in each month with respect to all materials placed along or upon the site, or stored at secured locations, which are suitable for use in the execution of the contract, if the person providing the materials furnishes releases of liens for the materials at the time each estimate of work is submitted for payment. The total of all the partial payments shall not exceed the cost of the materials.

NUMBER OF WORKING DAYS SPECIFIED

All specifications for the doing of any public work for a contracting unit shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion; and every such contract shall contain a provision for a deduction, from the contract price, or any wages paid by the contracting unit to any inspector or inspectors necessarily employed by it on the work, for any number of days in excess of the number allowed in the specifications.

PROCESS OF ALTERNATE DISPUTE RESOLUTION

Contract documents entered into in accordance with the provisions of P.L.1971, c.198 (C.40A:11-1 et seq.) after the effective date of P.L.1997, c.371 (C.40A:11-50) shall provide that disputes arising under the contract shall be submitted to a process of resolution pursuant to alternative dispute resolution practices, such as mediation, binding arbitration or non-binding arbitration pursuant to industry standards, prior to being submitted to a court for adjudication. It is understood that the County of Mercer shall have the right to request mediation if services being provided are deemed deficient in any way.

NJ ONE CALL

By presenting a bid, contractor declares that he is aware of and, if required, will comply with the requirements of the "Underground Facility Protection Act (Public Law 1994, Chapter 118)" prior to commencing any intended excavation. The telephone number to call is 1-800-272-1000. The successful bidder will be required to show compliance with this requirement by submitting to the appropriate project coordinator the confirmation number obtained from ONE-CALL before any excavation is undertaken.

PAY TO PLAY

Starting in January, 2008, business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

PROMPT PAYMENT OF CONSTRUCTION CONTRACTS P.L. 2006, C. 96

In compliance with N.J.S.A. 2A:30A-1 et seq., the County of Mercer shall impose the following payment process:

The County of Mercer shall pay the submitted bill not more than 30 calendar days after the receipt of the bill by the County if the vendor has performed in accordance with the contract and the work has been approved and certified by the County. The billing shall be deemed "approved" and "certified" 20 calendar days after the owner receives it, unless the County provides, before the end of the 20-day period, a written statement of the amount withheld and the reason for withholding payment.

BIDDERS MUST COMPLY WITH THE FOLLOWING STANDARDS FOR THE CERTIFICATION OF: BURGLAR, FIRE ALARM AND LOCKSMITHING CONTRACTOR LICENSURE N.J.S.A. 45:5A-1 et. seq. FIRE PROTECTION EQUIPMENT CONTRACTORS N.J.S.A.52:14B-5.1c LANDSCAPE IRRIGATION CONTRACTOR CERTIFICATION ACT N.J.S.A.45:5AA-3 TREE EXPERT ACT N.J.S.A.45:15C-2.1

1. BIDDING:

PRICING: Bidder shall insert unit price and extension against each item. Quoted price shall include all handling and delivery charges and will be firm, fixed prices for the term of the contract. Lead pencil must not be used. **Unit price shall govern.**

DISCOUNTS: Cash discounts will not be a factor in determining awards unless otherwise indicated by the County. Trade discounts will be a factor in determining the award. Time, in connection with discount offered, will be computed from the date of final inspection and acceptance of delivery of supplies to the using department or agency, or from the date the correct voucher, property certified, is received, or which ever is later.

F.O.B. DELIVERY POINT: All prices bid must be on the basis of F.O.B. delivery point, unloaded inside and assembled unless otherwise indicated in the proposal.

In conformance with the State of New Jersey Statute C. 40A:11-18, only goods and products manufactured or produced in the United States, where possible, and wherever available, are to be used for this proposal.

BID SECURITY AND BONDING REQUIREMENTS

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 (NOT APPLICABLE)

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 County. When submitting a Bid Bond, it shall contain Power of Attorney for full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the County. The check or bond of the unsuccessful bidder(s) shall be returned pursuant to N.J.S.A. 40A:11-24a. 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 a bid guarantee shall result in 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 bid price from a Surety Company authorized to do business in the State of New Jersey and acceptable to the County 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 a Consent of Surety form shall result in rejection of the bid.

C. PERFORMANCE BOND

Bidder shall simultaneously with the delivery of the executed contract, submit an executed bond in the amount of one hundred percent (100%) of the acceptable bid as security for the faithful performance of this contract.

Failure to submit this with the executed contract shall be cause for declaring the contract null and void pursuant to N.J.S.A. 40A:11-22.

D. LABOR AND MATERIAL (PAYMENT) BOND

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 submit a labor and material bond with the performance bond shall be cause for declaring the contract null and void.

E. MAINTENANCE BOND

Upon acceptance of the work by the County, the contractor shall submit a maintenance bond (N.J.S.A. 40A:11-16.3) in an amount not to exceed 100% of the project costs guaranteeing against defective quality of work or materials for the period of:

- _____ 1 year
- _____ 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. The surety on such bond or bonds shall be a duly authorized surety company authorized to do business in the State of New Jersey pursuant to N.J.S.A. 17:31-5.

2. AWARD WILL BE MADE BY ITEM OR CLASS

ITEMS AND CLASS AWARD: When class bids are indicated, bidder must bid on each item in the class. A bidder desiring to bid "No Charge" on an item in a class must so indicate, otherwise the bid for the class will be construed to be incomplete. Items may be combined and awarded as a group.

TIE BIDS: Tie bids will be decided by the Mercer County Board of Chosen Freeholders price and other factors considered.

3. DELIVERY

INSPECTION: Inspection shall be made at point of delivery unless otherwise specified.

CONTAINERS AND REELS: All containers and reels shall become the property of Mercer County unless otherwise specified.

LABELS: All supplies, which are customarily labeled or identified, must have securely affixed thereto the original un mutilated label or marking of the manufacturer. All direct use containers shall bear a label indicating the chemical name(s) and Chemical Abstracts Service number(s) of all hazardous substances in the container, and all other substances, which are among the five most predominant substances in the container, or their trade secret registry number(s). (N.J.A.C. 8:59-5)

NEW MERCHANDISE: Unless otherwise stated in the quotation or orders, deliveries must consist only of new and unused merchandise.

All deliveries must be inside deliveries to locations specified, if requested, the vendor shall remove all crating and wrapping. Each delivered unit shall be completely assembled, thoroughly serviced and ready for use when applicable.

4. DELAYS, NON-DELIVERY, REJECTIONS

VENDOR'S FAULT: If the vendor fails to make delivery within the time specified, or if the delivery is rejected, the Department of Purchasing may obtain such commodities or any part thereof from other sources in the open market or on contract. Should the new price be greater than the order price the difference will be charged against the vendor. Should the new price be less, the vendor shall have no claim to the difference.

REJECTED MERCHANDISE: The County of Mercer may withhold acceptance of or reject any goods, which are found, upon examination, not to meet the specification requirements. Upon written notification of rejection, goods left longer than thirty (30) days will be regarded as abandoned and the County of Mercer shall have the right to dispose of them as its own property. On foodstuffs and drugs, no written notice of rejection need be given; upon verbal notice to do so, the vendor shall immediately remove and replace rejected merchandise.

5. SALES AND EXCISE TAXES

Unless the proposal indicates otherwise, the County of Mercer is exempt from the payment of sales, excise or federal transportation taxes. The bid must be net exclusive of taxes and will be so construed.

6. DEMONSTRATION

If so requested, the vendor shall provide demonstration.

7. SAMPLE

If so requested, the vendor shall submit a sample of the units or merchandise.

8. MANUFACTURERS' NAMES

Any manufacturers' names, trade names, brand names or catalog numbers used in the specifications are for the purpose of describing and establishing general quality levels. Such references are not intended to be restrictive. Bids will be considered for any brand, which meets or exceeds the quality of the specifications listed for any item.

9. AWARD/REJECTION

In accordance with N.J.S.A. 40A:11-24, all contracts will be awarded or all bids will be rejected within sixty (60) days of the receipt of bids unless vendor agrees to extend for a longer period of time.

(A.) Cost Estimates

All bids may be rejected when the lowest bid substantially exceeds Cost Estimates for the project.

- (B.) Abandonment**
All bids may be rejected when Mercer County abandons the project.
- (C.) Revisions**
All bids may be rejected when the specifications are substantially revised.
- (D.) Provisions of Law**
All bids may be rejected when the purposes and/or provisions of law are violated.
- (E.) State Contract**
All bids may be rejected when the County decides to use the State Contract for the goods or services needed.
- (F.) 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.
- (G.) 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.
- (H.) Unsatisfactory Past Performance**
Bids received from bidders who have previously failed to complete contracts within the time scheduled therefore, or who have performed prior work for the County of Mercer in an unacceptable manner, may be rejected.
- (I.) Failure to Enter Contract**
Should the bidder, to whom the contract is awarded, fail to enter into a contract within 21 days, Sundays and holidays excepted, the County of Mercer may then, at its option, retain the bidder's bid deposit/bond and accept the bid of the next lowest responsible bidder.

10. INQUIRIES

All questions and information pertaining to this proposal shall be directed to the Department of Purchasing at (609) 989-6710.

11. BID PACKAGES SUPPLIED BY OTHERS

If any bid package is not obtained directly from the County of Mercer, the County cannot be responsible for or guarantee the accuracy of its contents. The County, at its option, may choose not to accept the bid.

12. COMMUNICATIONS AFTER THE BID OPENING

It is highly improper for a bidder after bid opening to contact any representative of the County of Mercer to discuss the bids. The solicitation package contains all documents and instructions. These may be supplemented by any comments you wish to make. Such additional material and comments must be submitted with the bid. Should there be any questions concerning the bid submitted, you will be contacted by a representative of the County of Mercer and any discussion or contact will be limited to the questions of the representative.

13. INDEX RATE

If the local unit desires to extend a contract under the provisions of N.J.S.A. 40A:11-15 or N.J.S.A. 18A:18A-42, the index rate is the basis to determine the appropriate increase in the contract price. The following are the requirements for using this provision:

Contracts for services, the statutory length of which is for three years or less, may only include provisions for no more than one (1) two-year or two (2) one-year extensions. The original bid specifications and contract must include language that explains the possibility for an extension.

IMMIGRATION AND NATURALIZATION LAWS AND CRIMINAL BACKGROUND CHECK (AS APPLICABLE)

The vendor must comply with all Immigration and Naturalization Laws as are currently in force on each potential employee to work under this contract on County of Mercer property and will not employ individuals who are not properly registered with the United States Citizenship and Immigration Service. Successful bidder will provide a photocopy of the Alien Registration Form or I-94 Arrival/Departure Form to the County of Mercer [insert appropriate department, agency, commission, etc.] at least ten (10) days prior to any of its employees being permitted to work under this contract on County of Mercer property.

The vendor must contact the New Jersey State Police to perform a Criminal Background Check on each potential employee to work under this contract on County of Mercer property. A copy of the results of the Criminal Background Check must be provided to the County of Mercer [insert appropriate department, agency, commission, etc.] at least ten (10) days prior to an employee being permitted access to County of Mercer property. The County of Mercer will notify the vendor if a proposed vendor employee will not be permitted to work under this contract within ten (10) work days following receipt of the results. If the County of Mercer does not notify the vendor of such exclusion within ten (10) days the vendor may assign said employee to work under the contract.

The vendor must also inform the County of Mercer of all Immigration and Naturalization status changes and arrests of its employees working under this contract on County of Mercer property for the duration of the contract. In this regard, the vendor shall make quarterly inquiry of all employees working under this contract as to any Immigration and Naturalization changes and employee arrests.

[For insertion into multi-year contracts] The vendor must provide a photocopy of the Alien Registration Form or I-94 Arrival/Departure Form and the results of a Criminal Background Check on its employees working under the contract on County of Mercer property every twelve (12) months.

Please access the following website for Instructions For Obtaining a Criminal History Record:
http://www.state.nj.us/lps/njsp/about/serv_chrc.html#instruct

INSTRUCTIONS TO BIDDERS – PERFORMANCE OF SPECIALTY TRADE WORK

In the event a general contractor will be required to furnish (1) plumbing and gas fitting and kindred work; (2) steam power plants, steam and hot water heating and ventilating apparatus and kindred work; (3) electrical work; and/or (4) structural steel and ornamental iron work, the general contractor must complete all of the sections on the following form in order to provide the required information demonstrating that either its subcontractors, its own employees or the bidder himself possess the necessary or required qualifications to perform work in each appropriate specialty trade category applicable to the contract. If the contract does not involve any of the specialty trade categories, insert the word "NONE" in each appropriate space provided. The completed form must be submitted with the general contractor's bid.

A general contractor that intends to utilize a specific subcontractor to perform work in one or more of the specialty trade categories set forth on the following form shall provide the required information with regard to that subcontractor in the appropriate spaces for each specialty trade category applicable to the contract.

A general contractor that intends to perform work in one or more of the specialty trade categories set forth on the following form through the use of its own employees or the general contractor himself rather than through utilization of a subcontractor shall write the word "In-House" next to each applicable category and then insert the name, and the license number where required, of each such employee of the general contractor or the general contractor himself in the appropriate spaces for each specialty trade category applicable to the contract.

All bidders seeking to perform plumbing work on a publicly bid contract are required to comply with NJSA 45:14C-2 and NJAC 13:32-1.3. These provisions require that plumbing work on such a contract may only be performed by an entity in which a licensed master plumber owns not less than 10% of the issued and outstanding shares of stock in the corporation, or not less than 10% of the capital of the partnership, or not less than 10% of the ownership of any other firm or legal entity.

Accordingly, if a bidder intends to perform plumbing work on a publicly bid contract with its own employees or by the bidder himself, a master plumber must possess an ownership interest that complies with NJSA 45:14C-2 and NJAC 13:32-1.3 in the entity submitting the bid. Alternatively, if a bidder intends to perform such work through use of a subcontractor, a master plumber must possess an ownership interest that complies with NJSA 45:14C-2 and NJAC 13:32-1.3 in the subcontractor.

SUB CONTRACTOR OR GENERAL INFORMATION (IF GC PERFORMS, STATE IN-HOUSE WITH NAME OF LICENSE HOLDER FOR PLUMBING AND ELECTRICAL)

PROVIDE THE NAME, ADDRESS, TELEPHONE NUMBER AND FAX NUMBER OF ANY SUBCONTRACTOR IN THE FOLLOWING CATEGORIES AS REQUIRED BY N.J.S.A40A:11-16. **(IF PERFORMED INHOUSE, NOTE IN-HOUSE BELOW AND PROVIDE LICENSURE INFORMATION – BID SHALL BE REJECTED IF THIS INFORMATION IS NOT PROVIDED. GENERAL CONTRACTOR AND REFERENCED SUBCONTRACTOR(S) MUST PROVIDE THEIR NEW JERSEY BUSINESS REGISTRATION WITH THEIR BID SUBMITTAL AND MUST BE REGISTERED AS PUBLIC WORKS CONTRACTORS AT THE TIME OF THE BID OPENING.)**

NOT APPLICABLE

**THE INFORMATION ON THE PREVIOUS PAGE MUST BE ACKNOWLEDGED BY
THE BIDDER**

NAME OF BIDDER_____

SIGNATURE OF AUTHORIZED
REPRESENTATIVE_____

TITLE_____

DATE_____

**ORDINANCE 2008-3 OF THE COUNTY OF MERCER, NEW JERSEY
TO ESTABLISH AND ADOPT A RESPONSIBLE CONTRACTOR
POLICY**

WHEREAS, pursuant to the Optional County Charter Act, N.J.S.A. 40:41A-1 et seq., the County is vested with the power to regulate its internal affairs, create and abolish offices, positions with certain exceptions, and structure or restructure the government of Mercer County; and,

WHEREAS, the County of Mercer recognizes that there is a need to ensure that all work on significant public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel, and other qualifications and resources necessary to successfully perform public contracts in a timely, reliable, and cost-effective manner; and,

WHEREAS, it is a desirable public policy that all workers involved in the construction of significant County projects receive health insurance coverage for themselves and their families, and that they have the ability to plan for their future retirement by some sort of pension or retirement plan; and,

WHEREAS, in order to effectuate the purpose of selecting responsible contractors for significant public contracts and to protect Mercer County's investments in such contracts, prospective contractors and subcontractors should be required to meet pre-established, clearly defined, minimum standards relating to contractor responsibility, including requirements and criteria concerning technical qualifications, competency, expertise, adequacy of resources, including equipment, financial and personnel, and satisfactory records regarding past project performance, safety, law compliance and business integrity; and,

WHEREAS, due to the critical impact that skilled construction craft labor has on public works projects, and due to the limited availability of skilled construction craft labor and imminent craft labor skill shortages, it is necessary to require contractors and subcontractors to participate in established, formal apprenticeship training programs as a condition of bidding, for the purpose of both promoting successful project delivery and ensuring future workforce development. The County of Mercer also recognizes that it is beneficial to their employees and utilizes fair business, employment, and training practices that have a positive impact on local communities affected by such contracts; and,

WHEREAS, the following shall be required of all contractors bidding on significant Mercer County Projects:

1. The County of Mercer shall require compliance with the provisions of this Ordinance by business entities seeking to provide services to the County of Mercer as specified herein. The requirements of this Ordinance are intended to supplement, not replace, existing contractor qualifications and performance standards or criteria currently required by law, public policy or contracting documents. However, in the event that any of the provisions of this Ordinance conflict with any law, public policy or contracting documents of the County of Mercer, this Ordinance shall prevail.
2. All contractors and subcontractors of any tier that perform significant work on any public facility or public works project, including construction, alteration, renovation, repair, service, or maintenance work, shall meet the requirements of this Ordinance.
3. All firms engaged in contracts covered by this Ordinance shall be qualified responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and

qualifications and organizational, financial and personnel resources. Firms bidding on public contracts shall also be required to have a satisfactory past performance record and a satisfactory record of law compliance, integrity and business ethics.

4. As a condition of performing work on a public works contract subject to this Ordinance, a general contractor, construction manager, or other lead or prime contractor seeking award of a contract shall submit a Contractor Responsibility Certification at the time it submits its bid for a contract.
5. The Contractor Responsibility Certification shall be SIGNED and shall reference the project which a bid is being submitted by name and contract or project number.
6. In the Contractor Responsibility Certification, the construction manager, general contractor, other lead or prime contractor, and subcontractors shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:
 - a) The firm has all valid, effective licenses, registrations or certificates required by federal, state, county, or local law, including, but not limited to, licenses, registrations, or certificates required to: (1) do business in the designated locale; and (2) perform the contract work it seeks to perform. These shall include, but not limited to, licenses, registrations or certificates for any type of trade work or specialty work which the firm proposes to self-perform.
 - b) The firm meets the bonding requirements for the contract, as required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers compensation insurance and unemployment insurance requirements.
 - c) The firm has not been debarred by any federal, state or local government agency or authority in the past three years.
 - d) The firm has not defaulted on any project in the past three years.
 - e) The firm has not had any type of business, contracting or trade license, registration, or other certification suspended or revoked in the past three years.
 - f) The firm has not been cited for a willful violation of federal or state safety laws in the past three years.
 - g) The firm and its owners have not been convicted of any crime relating to the contracting business by a final decision of a court or government agency in the past ten years.
 - h) The firm has not within the past three years been found in violation of any law applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of \$1,000.00 or more.
 - i) The firm will pay all craft employees that it employs on the project the current wage rates and benefits as required under applicable federal, state or local wage laws.
 - j) The firm participates in an Apprenticeship Program that is currently registered and approved by the United States Department of Labor or the New Jersey Department of Labor for each

separate trade or classification in which it employs craft employees and shall continue to participate in such program or programs for the duration of the project.

- k) The firm provides approved health and hospital insurance plans, and an approved pensions plan.
- 7. The County of Mercer may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the County of Mercer may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- 8. If any provision of this Ordinance shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provisions of this Ordinance and all remaining provisions shall remain in full force and effect.

I have read the Responsible Contractor Policy and agree to comply with its requirements.

DATE: _____

SIGNED: _____

POSITION: _____

COMPANY: _____

Executive Order 98 - 1

WHEREAS it is in the interests of the county to purchase goods and services from responsible contractors that provide quality and services at a competitive price; and

WHEREAS the county does not desire to do business with companies that compete by exploiting their workforce rather than by running efficient, reliable and responsible operations; and

WHEREAS, the county purchases items of apparel and textiles, which is an industry in which many scandals have been uncovered in which producers maintain sweatshop conditions, such as paying poverty wages, violating workplace regulations, and suppressing worker rights; and

WHEREAS, such conditions in apparel and other industries threaten the jobs and working conditions of all workers; and

WHEREAS, it is the policy of the county that it should not purchase, rent or lease goods or services produced under such conditions; and

WHEREAS, sweatshop conditions flourish when the conditions of workers are hidden; and

WHEREAS, pressure from institutional purchasers such as governments is one of the most effective ways to combat sweatshop production,

THEREFORE IT IS HEREBY ORDERED, that it is the policy of the county that it should not purchase, lease, rent or take on consignment goods or services produced under sweatshop conditions, and that the following guidelines, criteria and procedures are adopted:

- Section 1: The procedures and guidelines set forth herein shall apply to items of apparel and textiles, such as clothing, headwear, footwear, linens and fabric, as well as to any other industry designated by the county executive as vulnerable to sweatshop competition.
- Section 2: In order to ensure that the county contracts with vendors that have responsible employment practices, the following criteria will be used in contracting for goods and services:
- A. Preference will be given whenever possible to goods or services produced in the U.S.A.
 - B. The county will whenever possible only contract with vendors with responsible employment practices, as defined in Section 3.B below.
- Section 3: The county shall require of every bidder for contracts covered under Section 1:
- A. Disclosure of all sub-contractors and sites. The bidder or vendor shall identify the name and address of each subcontractor to be used, as well as the address of all locations, including subcontractor locations, substantially involved in providing goods or services covered by this act. Such information will be considered public information.
 - B. Certification of Compliance. The bidder or vendor shall certify each location, including subcontractor locations, substantially involved in producing or distributing goods or services covered by this act meets the following standards:

1. Compensation. Wage and benefit levels must be sufficient to meet basic needs and provide some discretionary income for a family of 4 (a “living wage”).
2. Rights. The company respects workers’ rights to speak up about working conditions, without fear or retaliation, and to form unions of their own choosing without employer resistance. Due process and just cause procedures are used for discipline or discharge, with recourse to arbitration. The company complies with all laws, regulations and standards governing the workplace. The company does not use child labor, forced labor, corporal punishment. The company does not discriminate in hiring, promotion or compensation on the basis of race, national origin, religion, gender, sexual preference, union affiliation, or political affiliation.
3. Safety and Health. The factory provides a safe and healthy work environment.

Section 4: The county, at its discretion, may refuse to award a contract or terminate a contract or ban a vendor from holding contracts with the county for filing false information or for failing to file information required under this act. The county may, at its discretion, require correction and remediation of violations of the standards listed in section 3.B prior to renewing commerce with the contractor. The county may require further proof of compliance with the standards listed in Section 3.B. Upon request the contractor or subcontractor will make all relevant records available to the county or its designee.

I have read Executive Order 98-1 and agree to comply with its requirements.

DATE: _____

SIGNED: _____

POSITION: _____

COMPANY: _____

Executive Order 99-1

WHEREAS, the county regularly undertakes significant construction projects for the good and betterment of the citizens of this county; and

WHEREAS, the larger construction projects undertaken by the county are usually performed by contractors awarded bids under the local public contracts law; and

WHEREAS, it is desirable public policy that all workers involved in the construction of significant county projects receive health insurance coverage for themselves and their families and that they have the ability to plan for their future retirement through a pension; and

WHEREAS, it is desirable public policy that employees performing work on behalf of the county derive reasonable benefits;

NOW THEREFORE, BE IT RESOLVED, that it is the policy of the county that contractors awarded bid for significant construction projects provide approved health and hospital insurance plans, approved pension plans, and apprenticeship training programs for all covered workers and that the following guidelines, criteria and procedures are adopted:

1. Bid packages for significant construction projects undertaken by the county shall contain the following provision:

a. All labor shall be covered by an approved health and hospital insurance plan, an approved pension plan and an apprenticeship training program pursuant to standards established under the Department of Labor and Industry of 1948 (N.J.S.A.34:1A-34 *et seq.*). A statement of employees benefits must be completed and made part of the bid in order for the bid to be accepted.

1.The county, at its discretion, may refuse to award a contract request for proposal upon filing of false information or the failure to file information required by this order. Upon awarding of bid or request for proposal, the county may require further proof of compliance with the standards listed in Section 1.a. Upon request, the contractor will make all relevant records available to the county or its designee.

I have read Executive Order 99-1 and agree to comply with its requirements and provide proof of compliance.

DATE: _____

SIGNED: _____

POSITION: _____

COMPANY: _____

AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the County of Mercer, (hereafter "County") do hereby agree that the provisions of Title II of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 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 there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the County 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 County in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the County, 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 County's grievance procedure, the contractor agrees to abide by any decision of the County which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the County, or if the County incurs 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 County shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim, If any action or administrative proceeding is brought against the County or any of its agents, servants, and employees, the *County shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the County or its representatives.

It is expressly agreed and understood that any approval by the County 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 County pursuant to this paragraph.

It is further agreed and understood that the County 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 contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the County from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

EXCERPTS FROM THE EEOC SEXUAL HARASSMENT GUIDELINES

PART 1604 -- GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

1604.11 Sexual Harassment

(a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII (of the Civil Rights Act of 1964). Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, The Commission (EEOC) will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and whether the employer knew or should have known of their occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can be show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility, which the employer may have with respect to the conduct of such non-employees.

MERCER COUNTY'S POLICY ON SEXUAL HARASSMENT

The County of Mercer is committed to the principle that sexual harassment of employees is an abuse of authority and constitutes prohibited, unprofessional and unacceptable conduct. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- A.) Submission to such conduct is explicitly or implicitly made a term or condition of an individual's employment, or
- B.) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- C.) Such conduct has the purpose or effect of interfering unreasonably with an individual's performance or creating an intimidating, hostile or offensive environment.

The County of Mercer is committed to maintaining a working environment that does not condone acts of sexual harassment. Immediate and corrective action will be taken when case of sexual harassment are identified in the workplace.

I have read the above and will comply with the County's policy.

NAME _____ TITLE _____

COMPANY _____

ADDRESS _____

TELEPHONE _____

INSURANCE AND INDEMNIFICATION REQUIREMENTS

The contractor covenants and agrees that at least twenty-one (21) days prior to the beginning of this operation, it will produce and deliver to the County certificates of insurance (if required) written with an insurance company currently admitted in New Jersey, insuring the contractor and stating that the County of Mercer is an “**ADDITIONAL NAMED INSURED**”, insuring against Bodily Injury and Property Damages in the amount of \$1,000,000.00 combined single limit and \$2,000,000.00 aggregate, and Automobile Insurance in the amount of \$1,000,000.00 combined single limit shall be maintained in force during the life of this contract.

Said liability insurance shall be the **Comprehensive General Liability** form and may required **Premises Operations** and include **Independent Contractors, Products/Complete Operations, Explosion, Collapse and Underground Hazard, Broad Form Property Damage and Blanket Contractual as required by the Division of Insurance and Property Management.** Workers Compensation insurance shall be maintained in full force during the life of the contract, covering all employees engaged in performance of the contract.

If applicable, the Contractor or the subcontractor engaged in work involving hazardous substances, as defined in Section 3 of PL 1993, c.139 (C.13:1K-8), or hazardous waste, as defined in Sect. 1 of PL 1976, c.99 (C.13:1E-38), shall procure and maintain pollution liability insurance, also known as "environmental impairment liability insurance".

In all cases, where a Certificate of Insurance is required, the County is to be named as an additional insured. Vendors are responsible to provide updated certifications as policies renew.

INDEMNIFICATION AND HOLD HARMLESS CLAUSE

Contractor shall indemnify, defend and save harmless the County from and against any and all loss cost (including attorneys' fees), damages, expenses and liability (including statutory liability and liability under Workers' Compensation Laws) in connection with claims for damages as a result of injury or death of any person or property damage to any property sustained by contractor or all other persons which arise from or in any manner grow out of any act or neglect on or about the said premises by the contractor, their partners, agents, employees, customers, invitees, contractors, subcontractors, sub-subcontractors and vendors. This indemnification clause shall also include any and all claims and costs of same against the County, involving environmental impairment.

WAIVER OF SUBROGATION CLAUSE

Contractor, as a material part of the consideration to be rendered to the County, hereby waives all claims against the County for damages to the goods, wares and merchandise in, upon or about said premises, and contractor will hold the County exempt and harmless from any damage and injury to any such person or to the goods, wares or merchandise of any such person, arising from the use of the premises by the contractor or from failure of the contractor to keep the premises in good condition and repair as herein provided.

PROPERTY DAMAGE CLAUSE

Contractor agrees to indemnify the County of Mercer for any and all costs for the repair or replacement to County Property, including but not limited to, Buildings and Roads, which arise from or in any manner grow out of any act or neglect on or about said premises by the contractor, partners, agents, employees, invitees, vendors, subcontractors and sub-subcontractors.

SIGNED

DATE

NON-COLLUSION AFFIDAVIT

State of New Jersey
County of _____

ss:

I, _____ residing in _____
(name of affiant) (name of municipality)
in the County of _____ and State of _____ of full age,
being duly sworn according to law on my oath depose and say that:

I am _____ of the firm of _____
(title or position) (name of firm)

_____ the bidder making this Proposal for the bid

entitled _____, and that I executed the said proposal with
(title of bid proposal)

full authority to do so that said bidder has not, 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 the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the _____
_____ relies upon the truth of the statements contained in said Proposal
(name of contracting unit)

and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by _____.

Subscribed and sworn to

before me this day

Signature

_____, 2_____

(Type or print name of affiant under signature)

Notary public of

My Commission expires _____

(Seal)

BACKGROUND INFORMATION FORM

The following information is used by Mercer County in the compilation of reports and research. The provision of this information will not affect the determination of this contract/agreement.

Name of Company

Address

Telephone

Nature of Business

The ownership of the above referenced business is considered:

- | | | | |
|--------------------|--------------------------|-------------------|--------------------------|
| 1. Black | <input type="checkbox"/> | 2. Caucasian | <input type="checkbox"/> |
| 3. Hispanic | <input type="checkbox"/> | 4. Asian American | <input type="checkbox"/> |
| 5. American Indian | <input type="checkbox"/> | 6. Indian | <input type="checkbox"/> |
| 7. Female | <input type="checkbox"/> | 8. Other | <input type="checkbox"/> |

51% of the business must be owned and controlled by the ethnic group claimed.

Signed _____ Title _____ Date _____

MERCER COUNTY IS AN EQUAL OPPORTUNITY EMPLOYER

EEO/AFFIRMATIVE ACTION COMPLIANCE NOTICE
N.J.S.A. 10:5-31 and N.J.A.C. 17:27
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

All successful bidders are required to submit evidence of appropriate affirmative action compliance to the County and Division of Public Contracts Equal Employment Opportunity Compliance. During a review, Division representatives will review the County files to determine whether the affirmative action evidence has been submitted by the vendor/contractor. Specifically, each vendor/contractor shall submit to the County, prior to execution of the contract, one of the following documents:

Goods and General Service Vendors

1. Letter of Federal Approval indicating that the vendor is under an existing Federally approved or sanctioned affirmative action program. A copy of the approval letter is to be provided by the vendor to the County and the Division. This approval letter is valid for one year from the date of issuance.

Do you have a federally-approved or sanctioned EEO/AA program? Yes No
If yes, please submit a photostatic copy of such approval.

2. A Certificate of Employee Information Report (hereafter "Certificate"), issued in accordance with N.J.A.C. 17:27-1.1 et seq. The vendor must provide a copy of the Certificate to the County as evidence of its compliance with the regulations. The Certificate represents the review and approval of the vendor's Employee Information Report, Form AA-302 by the Division. The period of validity of the Certificate is indicated on its face. Certificates must be renewed prior to their expiration date in order to remain valid.

Do you have a State Certificate of Employee Information Report Approval? Yes No
If yes, please submit a photostatic copy of such approval.

3. The successful vendor shall complete an Initial Employee Report, Form AA-302 and submit it to the Division with \$150.00 Fee and forward a copy of the Form to the County. Upon submission and review by the Division, this report shall constitute evidence of compliance with the regulations. Prior to execution of the contract, the EEO/AA evidence must be submitted.

The successful vendor may obtain the Affirmative Action Employee Information Report (AA302) on the Division website www.state.nj.us/treasury/contract_compliance.

The successful vendor(s) must submit the AA302 Report to the Division of Public Contracts Equal Employment Opportunity Compliance, with a copy to Public Agency.

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 and agrees to furnish the required forms of evidence.

The undersigned vendor further understands that his/her bid shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

COMPANY: _____ SIGNATURE: _____

PRINT NAME: _____ TITLE: _____

DATE: _____

(REVISED 10/08)

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

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 any regulations promulgated by the Treasurer pursuant to **N.J.S.A. 10:5-31 et seq.**, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with **N.J.A.C. 17:27-5.2**, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to **N.J.A.C. 17:27-5.2**.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, 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.

In conforming with the targeted employment goals, 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, affectional or sexual orientation,

gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance 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 Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

AFFIRMATIVE ACTION COMPLIANCE NOTICE
N.J.S.A. 10:5-31 and N.J.A.C. 17:27
CONSTRUCTION CONTRACTS

Upon award of a construction contract, the contractor must access Form AA-201, the Initial Project Workforce Report. The Division of Public Contracts Equal Employment Opportunity Compliance has web-enabled Form AA-202, Monthly Project Workforce Report for Construction Contractors. Vendors and contractors may obtain these forms directly from the Division by accessing the following: www.state.nj.us/treasury/contract_compliance. Contractors and vendors are responsible for sending copies of the forms to the County.

Proper completion and submission of these reports shall constitute evidence of the contractor's compliance with the regulations. Failure to submit these forms may result in the contract being terminated. The contractor also agrees to submit a copy of the Monthly Project Workforce Report, Form AA-202 once a month thereafter for the duration of the contract to the Division and to the County Compliance Officer. After notification of award, but prior to signing a construction contract the EEO/AA evidence must be submitted. The County shall retain the Affirmative Action evidence in the bid file for review by the Division.

All successful Construction Contractors must submit the following as evidence:

1. Complete Form AA-201 (Initial Project Workforce Report).
2. This report must be submitted to the Department of Purchasing after notification of award but prior to signing a contract.
3. The contractor shall submit Form AA-202 (Monthly Project Workforce Report) to the County and to the Division of Public Contracts Equal Employment Opportunity Compliance once a month thereafter for the duration of the contract.

The undersigned contractor further understands that his/her bid shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.

COMPANY: _____ SIGNATURE: _____

PRINT NAME: _____ TITLE: _____

DATE: _____

(REVISED 10/08)
EXHIBIT B
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)
N.J.A.C. 17:27
CONSTRUCTION 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up-grading, 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, 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 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 any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Division 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 Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2.

The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) 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 business 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 rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's 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 sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor 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:

(1) To notify the public agency compliance officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience

recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(ii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in paragraph (i) above, whenever vacancies occur. At the request of the Division, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iii) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and 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. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Division an initial project workforce report (Form AA 201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division 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/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division 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

Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (NJAC 17:27)**.

“ADVISORY” FROM THE DIVISION OF CONTRACT COMPLIANCE AND EQUAL EMPLOYMENT OPPORTUNITY IN PUBLIC CONTRACTING FORMERLY REFERRED TO AS “AFFIRMATIVE ACTION”

N.J.S.A. 10:5-31 et seq. & N.J.A.C. 17:27 et. seq.

- Name Change to “Division of Contract Compliance and Equal Employment Opportunity in Public Contracting”
- Further clarify and define standards necessary to implement the law
- Changes that strengthen Department’s enforcement powers
- Shift in focus from Affirmative Action to EEO in public contracting (requires insertion of “EEO” whenever “AA” appears in mandated language) advertisements, specifications and contracts
- Defines affirmative action good faith steps to ensure EEO, not quotas
- A plan that complies with N.J.A.C. 17:27, affirmative action plan
Program Monitoring Unit means Construction, Procurement or Public Agency units
“demolition” included in “construction contract” and “construction project”
Both goods & services and public works contract language amended to include “gender identity or expression, disability and nationality to protected classes “goods & services contractor” deleted (G&S used in LPC) “vendor” clarified to include goods & services contractor & professional services
- New 17:27-3.2 – sets forth requirements for public agencies to comply, cooperate with Division mandatory language, provide vendors and construction contractors with copies of law and rules as requested etc.
- Contractors and sub-contractors must provide the Division with evidence of good faith efforts on request
- \$150 fee for vendors for initial issuance & renewal of Certificate of Employee Information Report to offset Divisions operating Costs; 50+ workers every three years; less than 50 every seven years
17:27-5.5 – Additional criteria for determining good faith efforts
- 7.2 currently reserved – in process of amendment to provide that the Division will discuss the construction contractor’s responsibilities, the targeted employment goals and good faith criteria at either:
 - A preconstruction meeting
 - Initial job meeting
 - During the first site monitoring visit
- 7.3 new-construction contractor & sub-contractors compliance obligation
- 7.4 financing of minority & women worker outreach & training has been repealed
- Public Agency has 30 days from receipt of a letter advisement to correct the violation
- Construction contractor, vendor or public agency – fines & penalties up to \$1,000 per day (1st -\$250; 2nd \$500 and 3rd \$1,000) according to size of vendor’s/contractor’s business or population of the public agency
- Factors in assessing a fine or penalty
- Use of the term “targeted” in conjunction with employment goals

All Engineering personnel and related professionals dealing with construction contracts are advised to read the entire rule changes for Contractor and Subcontractor Compliance Obligations beginning at 17:27-7.3

**STOCKHOLDER DISCLOSURE CERTIFICATION
FAILURE TO SUBMIT AND SIGN THIS FORM IS CAUSE FOR AUTOMATIC
REJECTION**

- I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.
- OR**
- I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

- | | | |
|---|--|--|
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Corporation | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Subchapter S Corporation | <input type="checkbox"/> Non-Profit Corporation | <input type="checkbox"/> Other _____ |

COMPLETE IF THE BIDDER IS ONE OF THE FOUR TYPES OF CORPORATIONS:

DATE OF INCORPORATION: _____

STATE OF INCORPORATION: _____

BUSINESS ADDRESS: _____

Stockholders:

Name: _____

Name: _____

Address: _____

Address: _____

LEGAL NAME OF BIDDER: _____

Signature _____ Date _____

Printed Name & Title _____

THIS FORM MUST BE SIGNED.

ALERT
FAILURE TO INCLUDE A COPY OF YOUR
NEW JERSEY BUSINESS REGISTRATION CERTIFICATE
IS CAUSE FOR REJECTION OF YOUR BID

Contract Language for BRC Compliance

Goods and Services Contracts (including purchase orders)


** Construction Contracts (including public works related purchase orders)*


N.J.S.A. 52:32-44 imposes the following requirements on contractors and all subcontractors that **knowingly** provide goods or perform services for a contractor fulfilling this contract:

- 1) The contractor shall provide written notice to its subcontractors and suppliers to submit proof of business registration to the contractor;
- 2) Subcontractors through all tiers of a project must provide written notice to their subcontractors and suppliers to submit proof of business registration and subcontractors shall collect such proofs of business registration and maintain them on file;
- 3) Prior to receipt of final payment from a contracting agency, a contractor must submit to the contracting agency an accurate list of all subcontractors and suppliers* or attest that none was used; and,
- 4) During the term of this contract, the contractor and its affiliates shall collect and remit, and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into this State.

A contractor, subcontractor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency. Information on the law and its requirements is available by calling (609) 292-9292.

**SAMPLE OF THE NEW JERSEY BUSINESS REGISTRATION CERTIFICATE
ACCEPTABLE BY THE COUNTY OF MERCER**

STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE FOR STATE AGENCY AND CASINO SERVICE CONTRACTORS		DEPARTMENT OF TREASURY DIVISION OF REVENUE PO BOX 252 TRENTON, N J 08646-0252
TAXPAYER NAME: TAX REGISTRATION TEST ACCOUNT	TRADE NAME: CLIENT REGISTRATION	
TAXPAYER IDENTIFICATION#: 970-097-382/500	SEQUENCE NUMBER: 0107330	
ADDRESS: 847 ROEBLING AVE TRENTON NJ 08611	ISSUANCE DATE: 07/14/04	
EFFECTIVE DATE: 01/01/01	 <small>Acting Director</small>	
FORM-BRC(08-01)	<small>This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.</small>	

	STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE
Taxpayer Name:	TAX REG TEST ACCOUNT
Trade Name:	
Address:	847 ROEBLING AVE TRENTON, NJ 08611
Certificate Number:	1093907
Date of Issuance:	October 14, 2004
For Office Use Only:	
20041014112823533	

(SAMPLE CONTRACT)

THIS AGREEMENT, made _____th, in the year of Two Thousand _____, BETWEEN the COUNTY OF MERCER, a body politic of the State of New Jersey, having its principal office located at 640 South Broad Street, in the City of Trenton, County of Mercer and State of New Jersey, hereinafter called the "COUNTY", AND, _____ for a period beginning _____, 200_ and ending _____, 200_.

IN CONSIDERATION of the mutual promises herein contained and intending to be legally bound hereby, the parties hereto have mutually agreed as follows:

(AB2009-21)

It IS further understood that the County of Mercer shall have the right to request mediation if services provided are deemed deficient in any way. An impartial mediator shall be selected by the COUNTY.

In compliance with N.J.S.A. 2A:30A-1 et seq., the County of Mercer shall impose the following payment process: PROMPT PAYMENT OF CONSTRUCTION CONTRACTS P.L. 2006, c. 96 The County of Mercer shall pay the submitted bill not more than 30 calendar days after the receipt of the bill by the County if the vendor has performed in accordance with the contract and the work has been approved and certified by the County. The billing shall be deemed "approved" and "certified" 20 calendar days after the owner receives it, unless the County provides, before the end of the 20-day period, a written statement of the amount withheld and the reason for withholding payment.

THE COUNTY reserves the right, at its option to terminate this contract upon giving thirty (30) days written notice to the CONTRACTOR.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ATTEST:

COUNTY OF MERCER

BY: _____

BY: _____

Jerlene H. Worthy, Clerk
Board of Chosen Freeholders

Brian M. Hughes
County Executive

WITNESS:

CONTRACTOR NAME

BY: _____

BY: _____

BY: _____
COUNTY COUNSEL

EQUIPMENT CERTIFICATION

STATUTORY REFERENCE: N.J.S.A. 40A:11-20

The Contractor is certifying the availability of the appropriate equipment to provide the specified services from any bidder submitting a bid on public work showing that he owns, leases or controls all the necessary equipment required by the plans and specifications.

The undersigned Bidder hereby certifies as follows:

Name of Bidder: _____

By: _____
(signature)

Name of above: _____

Title: _____

Date: _____

EQUIPMENT CERTIFICATION

The undersigned Bidder hereby certifies as follow:

1. The number and type of (*Type of Equipment or Vehicle, etc.*) intended to be used to fulfill all requirements of the Contract Documents with respect to the (*Scope of Work/Services*) are listed Table 1 and 2 and attached hereto.

Note: If the Bidder **owns or controls** all the necessary equipment required, complete Paragraph 2 below. If the Bidder **does not own or control** all the necessary equipment required, complete Paragraph 3 below.

2. The bidder owns or controls all the necessary equipment shown in Table 1 and required to accomplish the work described in the Contract Documents during the Contract Term.

Name of Bidder: _____ By: _____

(Signature)

Name: _____ Title: _____

3. The Bidder does not own or control all the necessary equipment required to accomplish the Work described in the Contract Documents during the Contract Term. The equipment actually owned or controlled by the Bidder is identified in Table 1.

The remaining equipment required to perform the Work described is noted in Table 2 together with the certification of the owner or person in control of such equipment.

Name of Bidder: _____ By: _____

(Signature)

Name: _____ Title: _____

(Type or print name of individual beneath signature – affix corporate seal if appropriate)

TABLE 1
LIST OF EQUIPMENT
OWNED OR CONTROLLED BY BIDDER

<u>Type of Equipment</u> <u>Vehicle, Pump, Etc.)</u>	<u>Number</u>	<u>Make</u>	<u>Equipment</u> <u>Model</u>	<u>Age</u>
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(Attach additional sheets if necessary)

TABLE 2

**CERTIFICATION OF OWNER OR CONTROLLER OF EQUIPMENT
NOT OWNED OR CONTROLLED BY BIDDER**

This is to certify that I, the undersigned, own or control the equipment required and noted below and definitely grant the Bidder named below the control of said equipment during such time as may be required for that portion of the Work described in the Contract Documents for which said equipment is necessary for the term of the contract.

(Name of Bidder)

(Name of Owner or Controller)

Name of Bidder: _____

By: _____

(Signature)

Name: _____

Title: _____

Type of Equipment
Vehicle, Pump, Etc.)

Number

Make

Equipment
Model

Age

(Attach additional sheets if necessary)

PLEASE PROVIDE TWO REFERENCES OF PROJECTS IN SIMILAR SCOPE AND COST

PROJECT NAME _____
ADDRESS _____
CITY, STATE, ZIP _____
CONTACT _____
TELEPHONE NUMBER _____

PROJECT NAME _____
ADDRESS _____
CITY, STATE, ZIP _____
CONTACT _____
TELEPHONE NUMBER _____

PROPOSAL

The undersigned bidder declares that he/she has read the Notice to Bidders, Instructions to Bidders, Affidavits, Specifications and Drawings and that he/she has determined the conditions affecting the bid agrees, if this proposal is accepted, to furnish and deliver the following:

**REPLACEMENT DOORS AT THE MERCER COUNTY PARK MARINA
FOR THE MERCER COUNTY PARK COMMISSION
334 SOUTH POST ROAD
WEST WINDSOR, NEW JERSEY 08550**

(SIGNATURE OF AUTHORIZED REPRESENTATIVE)

BIDDER AGREES TO COMPLETE WITHIN _____ DAYS FROM NOTICE TO PROCEED.

COST FOR FRONT ENTRANCE AND REAR DECK ENTRANCE TO BULIDING (TWO (2) PAIR DOUBLE ENTRY DOORS)

\$ _____

TOTAL IN THE WRITTEN WORD

COST FOR KITCHEN ENTRANCE: (ONE (1) SINGLE ENTRY DOOR)

\$ _____

TOTAL IN THE WRITTEN WORD

COST FOR INTERIOR DOORS: HALLWAY ENTRANCE AND BALLROOM ENTRANCE (TWO (2) PAIR DOUBLE ENTRY DOORS)

\$ _____

TOTAL IN THE WRITTEN WORD

GRAND TOTAL FOR REPLACEMENT DOORS

\$ _____

GRAND TOTAL IN THE WRITTEN WORD

The undersigned is a Corporation, Partnership or Individual under the laws of the State of

_____ having its principal office at _____

COMPANY _____

ADDRESS _____

ADDRESS _____

FED. ID # _____

NAME _____

TELEPHONE _____

FAX _____

E-MAIL _____

DATE _____

BID ACCEPTANCE

If written notice of the acceptance of Bid is mailed, telegraphed or delivered to the undersigned, or public award of contract is made, whichever is earlier within sixty (60) days after the date of the opening of the Bids, or any time thereafter before Bids are withdrawn, the undersigned will, within (10) days after the date of such mailing, telegraphing or delivering of such notice or public award, execute and deliver a contract and provide the required Performance and Payment bond in accordance with the Specification and Bid as accepted.

We understand that, upon written request, any Bid may be withdrawn at any time prior to the scheduled time for the opening of Bids or any authorized postponement thereof.

Name of Contractor: _____

By: _____
(Signature) (Title)

Business Address: _____

Date: _____

Witness: _____
(Signature) (Type Name)

Dated: _____
(State of Incorporation)

If Bidder is a corporation, write State of Incorporation above;

If a partnership, give full names of all partners.

The Undersigned is (a Partnership) under the laws of the State of _____ ,

having principal offices at _____.

FIRM

ADDRESS

ADDRESS

SIGNATURE OF AGENT

TYPE OR PRINT NAME

ALTERNATIVE DISPUTE RESOLUTION PROCESS

Claims and Dispute Resolution Procedures

1. NOTICE: All claims, disputes, issues, clarifications, and other matters questioned by the Contractor, arising out of, or relating to the Contract Documents, Work, or Project, or which may effect the Contract Time or Contract Price, shall be submitted orally or in writing by the Contractor to the County by the end of the next business day after the event in question, and prior to disturbance of the conditions, unless relating to the safety of person or property. The initial notice shall be confirmed in writing to the County within three (3) calendar days of initial notice. The Contractor shall submit, as part of its written confirmation, pertinent information and documentation so the County can evaluate same. The failure to submit such information and documentation shall constitute the Contractor's waiver of any right to seek an adjustment of the Contract Time or Contract Price as a result of such event.

2. PROJECT SITE RESOLUTION: The County shall review the information and documentation furnished by Contractor, and shall issue a reasoned written response within seven (7) calendar days of receipt of the written confirmation. The Contractor shall undertake compliance with the County's written decision. If the Contractor believes the County's decision (i) will be the basis for an adjustment to the Contract Price or Contract Time, (ii) is impossible, or (iii) will adversely effect the integrity of or safety on the Project, it shall have the right to contest the County's decision by a written submission to the Owner within three (3) calendar days of its receipt. The Contractor shall submit its original submission and any newly discovered or additional information, for review. Within three (3) calendar days of receipt, the Owner shall have the right to (i) modify the County's decision in writing; (ii) reject the Contractor's request; or (iii) not respond, in which case, the County's decision will stand. The Contractor shall take all reasonable precautions to safeguard the Work and Project while this process takes place, and shall continue performance of the Work, in other locations, so as not to jeopardize the integrity of the Project, Work, Contract Time, Completion, or Safety. Any extraordinary additional costs incurred by either Party may become part of the related claim.

3. MEDIATION: The procedures set forth in Articles 1 and 2 are conditions precedent to the Contractor's instituting any other procedures for the resolution of any claim or dispute. Thereafter, all claims, disputes and other matters in question between the Owner and Contractor, arising out of, or relating to, this Contract or any breach thereof, including, but not limited to contract interpretations, changes, contract modifications, and events that effect the Contract Time or Contract Price, shall be submitted by Contractor or Owner, pursuant to a Notice of Claim duly certified by an authorized officer of Contractor or Owner, to mandatory mediation within seven (7) calendar days (i) after the Owner to the Contractor's submission pursuant to Article 2, or (ii) of any other event which might not be subject to Article 2. The Notice of Claim shall be submitted to all other mediation parties, any pre-designated Mediator, and any pre-designated mediation administrator.

The Notice of Claim shall state facts, reasons and circumstances for the claim and shall, to the best of the Contractor's and Owner's abilities, itemize the additional incurred and anticipated costs and time relating thereto. All parties receiving the Notice of Claim, shall respond with a similar document within five (5) calendar days of its receipt. The Notice of Claim will permit further investigation and evaluation by the Contractor, Owner and Mediator toward a resolution, prior to or during the mediation. The mediator selection process shall commence within three calendar (3) days of receipt of the first

Notice of Claim. The Mediator shall be selected by (i) designation in Contract Documents, (ii) mutual agreement between Contractor and Owner, or (iii) American Arbitration Association, in order of priority. The Mediation shall be administered by the American Arbitration Association, if the parties had not previously otherwise agreed. The Mediation hearing shall commence within ten (10) calendar days of the selection of the Mediator. Work on the Project shall not be interrupted, delayed or hindered during the Mediation process, unless agreed to in writing by the Owner. The hearing date shall not be canceled unless by consent of all parties, or with the Mediator's consent, or by the Mediator. Mediation shall be conducted at the Project site, or as the parties agree. The cost of the Mediator and the administration of the Mediation shall be deducted from any specific allowance that may be so designated in the Contract Documents, or shall be equally borne by the parties. The Mediation shall be attended by an executive officer of the Contractor who shall have full authority to act for and bind the Contractor, and by a duly authorized officer or executive of the Owner. The Mediation shall be subject to Owner's right to have joined in that Mediation all other parties as permitted by N.J.S.A. 40A:11-50. Full compliance with this Mediation process shall be a condition precedent to utilizing Articles 4 through 7.

4. **ARBITRATION:** Any claims not settled in accord with Articles 1 through 3, shall be decided by Arbitration in accordance with the Construction Industry Arbitration. Rules of the American Arbitration Association and applicable Laws that govern the Project, Work, and Parties. It shall be the obligation of the alleging party to specifically delineate each and every Law that it deems applicable and to specify how each impacts on the issues presented to the Arbitrator(s). The Arbitrator(s)' Award shall include (i) a concise written breakdown and itemization of all damages, remedies and relief being awarded for and against each party and their representatives, and (ii) a written opinion and explanation as to basis for awarding the items referenced in the preceding item (i). The Arbitrator(s)' shall take due consideration of all Laws raised in the hearings, as referenced above. There shall be a separate itemization for any legal fees that might be awarded by the Arbitrator(s), who shall specifically reference the provision within the Contract Documents or Laws permitting the Award of same. An Arbitrator(s)' Award shall be final and binding, and judgement may be entered upon it in accordance with applicable Laws in any court having jurisdiction thereof.
5. **ARBITRATION DEMAND:** Notice of the Demand for Arbitration shall be filed in writing with the other party to this Contract, the County, and the American Arbitration Association. The Demand for Arbitration shall be made within a reasonable time after the Mediation has been concluded, but in no event after the date when institution of legal or equitable proceeding based on such claim, dispute or other matter in question would be barred by applicable statute of limitations or other Laws relating to the Owner.
6. **JOINDER AND CONSOLIDATION:** Any Arbitration between the Owner and any other party subject to consolidation or joinder as provided in N.J.S.A. 40A:11-50, or by separate contract provision with either Contractor or Owner may be so consolidated or joined, at the option of the Contractor or Owner, who is a party to said contract, subject to the Arbitrator(s) consent or as otherwise determined by the Arbitrator(s), and provided same has a common subject matter or issue. The Owner shall have the right to join the County as a party to the Arbitration with the Contractor at any reasonable time.
7. **CONTINUATION OF CONTRACT:** Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any Mediation or Arbitration, and Owner shall continue to make payments to the Contractor in accordance with the applicable provisions of the Contract Documents. The Mediation and Arbitration process

shall not effect the Owner's right to exercise its rights and remedies in accord with the Contract Documents; and otherwise act in the public interest.

8. **FRIVOLOUS CLAIMS:** If it is determined by the Arbitrator(s) that (i) the Contractor or Owner's Notice of Claim was willfully exaggerated and submitted in bad faith; (ii) the Contractor or Owner intentionally and in bad faith failed to comply with the Mediation provisions and process of this contract; (iii) the Contractor or Owner presented a frivolous claim or defense, as defined in N.J.S.A. 2A:15-59.1, in whole or part, in the Arbitration; or (iv) the Contractor or Owner acted in an intentionally arbitrary and capricious manner and failing to comply with the provisions of the Contract Documents, then the Arbitrator(s) shall have the cost authority to award the prevailing party reasonable legal fees and collection costs, incurred as a direct result of such frivolous act or omission. This aspect of an Award shall be separately identified and quantified.

9. **THIRD PARTY CLAIMS:** The Arbitration provisions of this Article shall not restrict Owner's or Contractor's right to proceed against the other in any judicial forum where a claim, suit, fine, violation, or proceeding has been instituted or filed by a Third Party against either the Owner or Contractor, provided said issues were not specifically included within any previous Arbitration.