



BIDDER: _____

**ATLANTIC COUNTY UTILITIES AUTHORITY
INSTRUCTIONS TO BIDDERS
AND TECHNICAL SPECIFICATIONS**

**RICHARD S. DOVEY, PRESIDENT
OREN R. THOMAS, IV, RPPO, QPA, PURCHASING MANAGER**

BID NUMBER: 2023-WW-01

BID TITLE: PURCHASE OF ELECTRIC GENERATION SERVICE

BID RELEASE DATE: FEBRUARY 13, 2023

**BID OPENING DATE: MARCH 15, 2023
11:00 A.M., LOCAL TIME**

**Atlantic County Utilities Authority
6700 Delilah Road
Egg Harbor Township, NJ 08234-5623
Phone (609) 272-6950
Fax (609) 272-7333**

**MAILING ADDRESS:
Atlantic County Utilities Authority
P. O. Box 996
Pleasantville, NJ 08232-0996
www.acua.com**

THE ATLANTIC COUNTY UTILITIES AUTHORITY IS RESPONSIBLE FOR ENHANCING THE QUALITY OF LIFE THROUGH THE PROTECTION OF WATERS AND LANDS FROM POLLUTION BY PROVIDING RESPONSIBLE WASTE MANAGEMENT SERVICES. THE AUTHORITY IS AN ENVIRONMENTAL LEADER AND WILL CONTINUE TO USE NEW TECHNOLOGIES, INNOVATIONS AND EMPLOYEE IDEAS TO PROVIDE THE HIGHEST QUALITY AND MOST COST EFFECTIVE ENVIRONMENTAL SERVICES.

ATLANTIC COUNTY UTILITIES AUTHORITY

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ATLANTIC COUNTY UTILITIES AUTHORITY

NOTICE TO BIDDERS

PLEASE TAKE NOTICE that the Atlantic County Utilities Authority will receive Bid Proposals pursuant to the Local Public Contracts Law of the State of New Jersey, N.J.S.A. 40A: 11-1 et seq. via electronic means at the following URL of its energy agent: <https://www.publicbiddingsystem.com/>.

BID NO. 2023-WW-01

SUBJECT: PURCHASE OF ELECTRIC GENERATION SERVICE

**DATE AND TIME OF BID OPENING: WEDNESDAY, MARCH 15, 2023
11:00 A.M., LOCAL TIME**

The Atlantic County Utilities Authority (ACUA) has released a Request for Bids (RFB) for Electric Generation Service for its pumpstations, metering stations and wastewater treatment plant electric accounts, which currently receive delivery service from Atlantic City Electric (ACE), for service beginning with May 2023 meter read dates for all accounts.

The ACUA's electric accounts consume approximately 11 million kilowatt-hours ("Kwh") annually.

The RFB can be downloaded at: <http://acua.com/bids.aspx>.

The RFB can also be obtained from the Authority's energy agent, Gabel Associates, located at 417 Denison St., Highland Park, NJ, by calling Michaela Gasbarro at (732) 296-0770 x222 or submitting a request via email to: Procurement@gabelassociates.com.

Important dates associated with the RFB include:

March 2, 2023 @ 4 p.m.: Deadline for Submission of Questions

March 2, 2023 @ 4 p.m.: Deadline for Submission of Qualifications

C.O.B March 7, 2023: ACUA Responses to Supplier Questions and Addendum

11:00 a.m. March 15, 2023: Deadline for submission of Price Bids

Bid Prices are being received electronically, per the instructions in the bid specifications.

ATLANTIC COUNTY UTILITIES AUTHORITY
RICHARD S. DOVEY, PRESIDENT
BY: OREN R. THOMAS, IV, RPPO, QPA, PURCHASING MANAGER

**ATLANTIC COUNTY UTILITIES AUTHORITY
INSTRUCTIONS AND INFORMATION FOR BIDDERS**

1. All questions relating to technical aspects of the bid are to be directed in writing to the Authority Purchasing Manager unless specifically directed otherwise in the Specifications. **NO QUESTIONS WILL BE ANSWERED OVER THE PHONE.** Questions should be asked in consecutive order, from beginning to end, following the organization of the bid document. Each question should begin by referencing the page number and section number to which it relates. Bidders are advised that any questions related to substantive aspects of the bid, to the extent that the answer affects all bidders' ability to compete equally, may be distributed to all bidders who have picked up specifications. Any questions received (10) days prior to the bid due date cannot be answered.
2. Bidders shall use the forms provided by the Authority or true copies thereof. Substitute forms will not be considered conforming.
3. **All bids are to be submitted in duplicate.** All forms required in the Proposal must be completed and furnished as part of the Proposal, and may not be supplied, changed or supplemented after opening of bids. One copy of the Proposal shall contain all original signatures and the word "original" shall be written on the cover sheet of that copy. The word "duplicate" shall be written on the cover sheet of the duplicate copy. Where a document is required to be notarized, the original shall contain the notary's raised seal.
4. Bidders are required to complete the checklist and certification of proposal included as a part of this bid package. Completion and signature of this checklist indicates that the bidder acknowledges that the bid may be rejected for failure to complete any item except for those specifically indicated on the checklist as not required. If any item is designated "N/A" in the Checklist, that item is not required. If no such designation is present, the item is a required part of the bid package.
5. Bids must be received in a sealed envelope at the place for opening of bids before the designated time. Bids received after the indicated time will be returned unopened. No exceptions can be made for any reason, including failure of the Postal Service or of any carrier to make timely delivery of any bid package. Bids transmitted by any process that does not guarantee the integrity of the bid package (e.g. telefax or similar means that does not involve the use of a sealed envelope) cannot be accepted. **Mail is brought to the ACUA at approximately 12:00 pm daily and then sorted by department. Please take this into consideration when mailing bids via USPS.**
5. Prices and terms shall not be subject to adjustment or supplementation for any reason after opening of bids.
6. All prices shall be F.O.B. Destination, freight prepaid, delivered to the Atlantic County Utilities Authority at 1801 Absecon Boulevard, Atlantic City, NJ 08401-1712 and/or 6700 Delilah Road, Egg Harbor Township, NJ 08234-5623 unless otherwise stated in the specifications.

7. No bid shall provide for State or Federal taxes of any kind or for interest on any amount due from the Authority to any bidder unless expressly permitted by the specifications. The Authority's normal practice is to make payment within 30 days of receipt of a properly certified and tabulated invoice and voucher. Sales made to any contractor of materials, supplies or services for exclusive use in the performance of this contract are generally exempt from the New Jersey Sales and Use Tax, N.J.S.A. 54:32B-8.22. Payment will be made only to the contractor.

8. The proposal amount shall be stated in both numerals and words (e.g. \$25,417.77 Twenty-Five Thousand Four Hundred Seventeen and 77/100 Dollars). In case of a discrepancy between the prices written in words and those written in figures, the written words shall govern.

10. All proposals must be signed in ink by a responsible officer of the bidder with authority to make a legally binding commitment on the bidder's behalf. All corrections or erasures must be initialed by the bidder. By submitting a bid the bidder is binding itself to enter into a contract on award by the Authority and may not expressly, impliedly or by conduct reserve any right to withdraw any bid or to refuse for any reason to enter into an awarded contract.

11. The submission of a bid by any corporation shall constitute a warranty by the corporation to the Authority that it is authorized to do business in the State of New Jersey, that its corporate charter is in good standing, and that the persons executing bid documents have full authority to do so on the corporation's behalf.

12. All prices quoted shall be firm from the time of bid opening through the life of the contract and shall not be subject to increase for any reason during the contract term. Should the bidder reduce its prices for the bid item or items generally during the contract term, the price provided to the Authority shall reflect the price as reduced.

13. The Authority will assume, and by bidding the bidder warrants, that all items proposed meet all specifications unless the bidder takes specific written exception in its proposal. Where a delivery date is stated in the specifications, the bidder will be presumed to have agreed to provide the specified goods or services by that date unless explicitly stated otherwise in its proposal.

14. Bid bonds may be submitted either as surety bonds or as a *certified or cashier's check* for 10% of the amount bid, but not to exceed \$20,000. For purposes of contracts that contain multi-year terms or alternates, the bid bond shall be calculated on the highest amount bid, assuming that any extended or alternate term will be awarded. For example, the "amount bid" on specifications that allow the award of a two-year contract is the highest total that is bid for both years on any alternate, notwithstanding any reservation by the Authority of the right to award a one-year contract. Similarly, any performance security must be offered with reference to the highest amount bid. All sureties shall be licensed to do business in New Jersey. All checks shall have set forth as payee, and all sureties shall run in favor of, the "Atlantic County Utilities Authority." In the event that a certified or cashier's check is provided the bidder shall

execute the form of guarantee included with this package. By submitting a bid, the bidder acknowledges that in the event he fails to enter into a contract upon an award of same, the entire amount of the check or bid bond shall be forfeited to the Authority as liquidated damages.

15. Bidders are required to use the prescribed forms for bid bond and consent of surety, which are provided as a part of this package. Substitute forms will not be accepted. Bidders are strongly advised to notify their bonding agents of this requirement. The issuing surety company shall supply with the bond a current Power of Attorney for its signatory on the bond. If the specifications do not call for the provision of performance and/or payment bonds on the part of the contractor, then the Consent of Surety portions of the combined bid bond/consent of surety form shall be of no effect.

16. The Authority's standard form of contract is attached. Bidders will be required to execute this form of contract upon award. If any exception is taken to the form of contract, all such exception(s) shall be set forth in writing in the proposal. The Authority will evaluate whether exceptions taken are sufficiently material as to make the bid nonconforming. Contract language will not be negotiated after opening of bids.

The bidder to whom the award is made will be required to execute a written contract with the Owner and to furnish appropriate surety bonds as specified within ten (10) days after notification of the award of contract. The contract shall be in the form included in the Contract Documents. If the bidder shall fail or refuse to sign a contract and provide necessary bonds within ten (10) days of the notification of award of contract and request therefore by Owner, the Owner may execute upon the bid bond or take possession of the funds otherwise provided as bid security. In the event that a contract is signed and all specified bonds are supplied, the bid bond or check shall be returned to the bidder.

17. In the event that changes are to be made to any specification before the date for opening of bids, the Authority will publish an Addendum, as required by law, in the *Atlantic City Press* and will also provide copies of that Addendum to all prospective bidders by facsimile or certified mail. Bidders are encouraged to provide a fax number to the Authority if possible in order to further expedite the distribution process.

18. Bidders will not be permitted to supplement or amend bids after submission. Bidders may, however, withdraw and replace their original bid by physically collecting the bid(s) from the Authority, and substituting a complete new bid package, not later than 4:30 p.m. on the business day proceeding the time for opening of bids. Any representative of a bidder picking up a bid for purposes of withdrawal and replacement shall present proof of authority, on the bidder's letterhead, to do so. The substituted bid shall, in and of itself, conform to all bid requirements and shall have marked clearly on the outside the words "**Substitute Bid--Original Bid Withdrawn**" in order to avoid potential confusion. It is the bidder's responsibility to ensure that the first bid document has been completely withdrawn. Bidders in this situation are urged to attend the bid opening to ensure that the correct bid is opened. Materials from the first bid (e.g. bid bonds and required forms) will not under any

circumstances be considered part of the substituted bid unless they are physically made a part of the substituted bid.

19. The original of all documents calling for signatures shall bear original signatures. Photocopied or otherwise non-original signatures will not be accepted, except that a Power of Attorney may contain the reproduced signatures of the authorizing officers of the surety company.

20. In the event of inclement weather or other emergent circumstances which may prevent the opening of bids at the scheduled date and time, the Authority will attempt to notify prospective bidders of the fact of rescheduling and as to any rescheduled time. In the event that the Atlantic County civil courts in Atlantic City are closed or if their opening is delayed (as announced on local radio stations), bidders may assume that all bid openings for that date have been postponed, notwithstanding the fact that the time for opening of bids may be after the delayed court opening time. If practicable, the Authority will post a sign at the entrance to its Administration and GEO Buildings announcing that the bid opening has been postponed and stating the rescheduled date and time. In the event of rescheduling the Authority shall retain all bids, unopened, for opening at the rescheduled date and/or time. The Authority will take such steps as it shall consider appropriate to notify all bidders of the rescheduled date and/or time.

21. The Authority cannot provide legal advice to bidders, nor are any of its officers or agents empowered to waive or modify any legal requirement either verbally or in writing. The New Jersey bidding statutes are contained at N.J.S.A. 40A:11-1 et seq., and regulations adopted thereunder, and bidders are presumed to be familiar with their requirements. We have attempted to make these specifications comply with the Local Public Contracts Law in all respects. In the event of a conflict between the terms of these specifications and relevant statutes, the statutes shall control in all cases. Bidders with questions regarding legal requirements are strongly advised to consult their own counsel.

22. In the event that the goods or services to be purchased require that the provider possess any license(s) issued by the State of New Jersey or any other governmental body, the bidder warrants by the submission of a bid that it possesses all such licenses.

23. Pursuant to C.40A:11-13, any prospective bidder who wishes to challenge a bid specification shall file such challenges in writing with the ACUA no less than three (3) business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the ACUA, or the award of a contract.

24. Bid openings and results can be accessed on the ACUA webpage at www.acua.com/bids.

25. Pursuant to C.40A:11-24, the contracting unit shall award the contract or reject all bids within such time as may be specified in the invitation to bid, but in no case more than 60 days, except that the bids of any bidders who consent thereto may, at the request of the contracting unit, be held for consideration for such longer period as may be agreed.

26. Subsequent to bid opening, all information submitted by bidders in response to the bid solicitation is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A- et seq., and the common law.

A bidder may designate specific information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The Authority reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter. The Authority will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.

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.

When a specification uses "brand name or equivalent," the listed brand name shall serve as a reference or point of comparison for the functional or operational characteristic desired for the good or service being requested. Where a bidder submits an equivalent, it shall be the responsibility of the bidder to document the equivalence claim. Failure to submit such documentation shall be grounds for rejection of the claim of equivalence.

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 Authority harmless from any damages resulting from such infringement.

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.

MANDATORY AFFIRMATIVE ACTION CERTIFICATION

No firm may be issued a contract unless it complies with the affirmative action provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1 et seq. as administered by the Division of Purchase & Property Contract Compliance and Audit Unit (Division) and provided below. The contract will include the language included as Attachment A in this specification.

1. Goods, Professional Services and General Service Contracts

Each 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:

i. A 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 must be provided by the vendor to the Public Agency and the Division. This approval letter is valid for one year from the date of issuance.

ii. A Certificate of Employee Information Report (hereafter "Certificate"), issued in accordance with N.J.A.C. 17:27 et seq. The vendor must provide a copy of the Certificate to the Public Agency 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.

iii. The successful bidder shall complete an Initial Employee Report, Form AA-302 and submit it to the Division with a check or money order for \$150.00 made payable to "Treasurer, State of NJ" and forward a copy of the Form to the Public Agency. Upon submission and review by the Division, the Report shall constitute evidence of compliance with the regulations

NEW JERSEY ANTI-DISCRIMINATION

The contract for this bid shall require that the contractor agrees not to discriminate in employment and agrees to abide by all anti-discrimination laws including but not limited to N.J.S.A. 10:2-1 as included in Attachment B of this document.

AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. If awarded the contract, the contractor is required to comply with requirements related to the Americans with Disabilities Act as provided in this specification as Attachment C. The contractor is obligated to comply with the Act and to hold the Authority harmless for any violations committed under the contract.

STATEMENT OF OWNERSHIP

N.J.S.A. 52:25-24.2 provide that no business organization, regardless of form of ownership 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 business organization, bidders shall submit a statement setting forth the names and addresses of all persons and entities that own ten percent or more of its stock or interest of any type at all levels of ownership. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the ten percent ownership, has been listed.

The included Statement of Ownership shall be completed and attached to the bid proposal. This requirement applies to all forms of business organizations, including, but not limited to, corporations and partnerships, publicly-owned corporations, limited partnerships, limited liability corporations, limited liability partnerships, sole proprietorship, and Subchapter S

corporations. Failure to submit a disclosure document shall result in rejection of the bid as it cannot be remedied after bids have been opened.

Not-for-profit entities should fill in their name, check the not-for-profit box, and certify the form. No other information is necessary.

PROOF OF BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the Atlantic County Utilities Authority (“Contracting Agency”) is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the contractor shall provide the Contracting Agency with its proof of business registration and that of any named subcontractor(s). Subcontractors named in a bid or other proposal shall provide proof of business registration to the bidder, who in turn, shall provide it to the Contracting Agency prior to the time a contract, purchase order, or other contracting document is awarded or authorized.

During the course of contract performance:

- (1) the contractor shall not enter into a contract with a subcontractor unless the subcontractor first provides the contractor with a valid proof of business registration.
- (2) the contractor shall maintain and submit to the Contracting Agency a list of subcontractors and their addresses that may be updated from time to time.
- (3) the contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury, 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 the State. Any questions in this regard can be directed to the Division of Taxation at (609) 292-6400. Form NJ-REG can be filed online at www.state.nj.us/treasury/revenue/busregcert.shtml.

Before final payment is made under the contract, the contractor shall submit to the Contracting Agency a complete and accurate list of all subcontractors used and their addresses.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000, for each proof of business registration not properly provided under a contract with a contracting agency. Information on how a business can obtain a certificate can be obtained on the Internet at www.nj.gov/njbgs or by phone at (609) 292-1730.

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Pursuant to Public Law 2012, c.25, any person, or entity that submits a bid, or proposal or otherwise proposes to enter into, or renew a contract, must complete the Disclosure of Investment Activities in Iran Form contained herein.

CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-60.1, et seq. (P.L. 2022, c.3) any person or entity (hereinafter "Vendor") that seeks to enter into or renew a contract with a State agency for the provision of goods or services, or the purchase of bonds or other obligations, must complete the certification below indicating whether or not the Vendor is engaged in prohibited activities in Russia or Belarus.

AMERICAN GOODS AND PRODUCTS TO BE USED WHERE POSSIBLE

Only manufactured and farm products of the United States, wherever available, shall be used pursuant to N.J.S.A. 40A:11-18.

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. In the event it is found that any worker, employed by the contractor or any subcontractor has been paid a rate of wages less than the prevailing wage required to be paid, the owner may terminate the contractor's or subcontractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages and prosecute the work to completion.

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 http://lwd.dol.state.nj.us/labor/wagehour/wagerate/pwr_construction.html

PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The Public Works Contractor Registration Act (PWCRA) requires that all Contractors, including named Subcontractors, register with the Department of Labor prior to submitting price proposals or engaging on certain public works contracts that exceed the prevailing wage threshold. The prevailing wage threshold is \$2,000 for all non-municipal entities. No Contractor shall bid on any contract for public work as defined in section 2 of P.L.1963, c.

150 (C.34:11-56.26) unless the Contractor is registered pursuant to this act. No Contractor shall list a Subcontractor in a bid proposal for the contract unless the Subcontractor is registered pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) at the time the bid is made. The law requires that Contractors submit certificates after a bid proposal is received and prior to the award of the contract (N.J.S.A. 34:11-56.55).

Additional information on the PWCRA can be obtained from the:

Contractor Registration Unit	Telephone: 609-292-9464
Division of Wage and Hour Compliance	Fax: 609-633-8591
New Jersey Department of Labor	E-mail: contreg@dol.state.nj.us
PO Box 389	Website: www.nj.gov/labor/lsse/lspubcon.html
Trenton, New Jersey 08625-0389	

The web site has links to the PWCRA Registration Form, Listing of Contractors, Prevailing Wages and other useful information.

Contact the Division of Local Government Services at (609) 292-7842, by fax at (609) 633-6243 or by e-mail at lpcl@dca.state.nj.us for assistance in the application of the Local Public Contracts Law or related PWCRA issues. As specific situations are presented to the contracting unit, local legal advisors should review this guidance as to its applicability.

If the ACUA has requested prevailing wage rates for this project the appropriate rates for Atlantic County will be included in this bid package.

NEW JERSEY RIGHT TO KNOW

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. 34:5A-1 et seq., and N.J.A.C 8:59-1.1 et seq.). 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) pursuant to N.J.A.C. 8:59-5. "Container" means a receptacle used to hold a liquid, solid or gaseous substance such as bottles, bags, barrels, cans, cylinders, drums and cartons. (N.J.A.C. 8:59-1.3). Further, all applicable Material Safety Data Sheets (MSDS) - hazardous substance fact sheet - must be furnished. All containers which are stored at an owner's facilities by the contractor or subcontractors shall display RTK labeling. Vendors with questions concerning labeling should contact the New Jersey Department of Health and Senior Services Right to Know Program for assistance in developing proper labels. www.nj.gov/health/workplacehealthandsafety/right-to-know/

DISCLOSURE OF CONTRIBUTIONS TO ELEC

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.

MAINTENANCE OF RECORDS

The Contractor shall maintain records for products and/ or services delivered against the contract for a period of five (5) years from the date of final payment. Such records shall be made available to the ACUA and/ or the New Jersey Office of the State Comptroller upon request for purposes of conducting an audit, or for ascertaining information regarding dollar volume or number of transactions.

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 Termination of Contract [below], for additional information.

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

The form of contract shall be submitted by the Authority to the successful bidder. Terms of the specifications/bid package prevail. Bidder exceptions must be formally accepted by the Authority; material exceptions shall not be approved.

Successful bidder/respondent shall complete W-9 Form and submit to the Authority prior to contract award. The form is available at the following link: www.irs.gov/pub/irs-pdf/fw9.pdf

CAUSES FOR REJECTING BIDS

Bids may be rejected for any of the following reasons:

- All bids pursuant to N.J.S.A. 40A:11-13.2;
- If more than one bid is received from an individual, firm or partnership, corporation or association under the same name;
- Multiple bids from an agent representing competing bidders;
- The bid is inappropriately unbalanced;

- The bidder is determined to possess, pursuant to N.J.S.A. 40A:11-4b, Prior Negative Experience; or,
- If the successful bidder fails to enter into a contract within 21 days, Sundays and holidays excepted, or as otherwise agreed upon by the parties to the contract. In this case at its option, the Authority may accept the bid of the next lowest responsible bidder. (N.J.S.A. 40A:11-24b)

TERMINATION OF CONTRACT

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 Authority 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 Authority of any obligation for balances to the contractor of any sum or sums set forth in the contract. The Authority will pay only for goods and services accepted prior to termination.

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

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

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

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 Authority reserves the right to cancel the contract.

It is understood by all parties that if, during the life of the contract, the contractor disposes of his/her business concern by acquisition, novation, 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 owner(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 Authority.

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 Authority.

For contracts that exceed one year, each fiscal year payment obligation of the Authority is conditioned upon the availability of Authority funds appropriated or allocated for the payment of such an obligation. If funds are not allocated and available for the continuance of any services performed by the bidder awarded the contract (contractor) hereunder, whether in whole or in part, the Authority at the end of any particular fiscal year may terminate such services. The Authority will notify the contractor in writing immediately of any services that will be affected by a shortage of appropriated funds. This provision shall not be construed so as to permit the Authority to terminate the contract during the term, or any service hereunder, merely in order to acquire identical services from another contractor.

Neither party shall be responsible for any resulting loss or obligation to fulfill duties as specified in any of the terms or provisions of a contract if the fulfillment of any term or provision of the contract is delayed or prevented by any revolutions, insurrections, riots, wars, acts of enemies, national emergencies, strikes, floods, fires, acts of God, or by any cause not within the control of the party whose performance is interfered with which by the exercise of reasonable diligence such party is unable to prevent. Additionally, if the fulfillment of any of the terms and provisions of the contract is delayed or prevented by any court order, or action or injunction or other such agreement, the contract shall become voidable by the Authority by notice to the parties.

ATLANTIC COUNTY UTILITIES AUTHORITY PAYMENT CYCLE

As established by Board Resolution 06-12-232, the payment cycle at the Atlantic County Utilities Authority shall be as follows:

1. Invoices and all other documentation required for approval of payment must be received by the Authority on or before the first Friday of a month for payment in that month's payment cycle.
2. Invoices received by the first Friday of any given month will be submitted to the Board of Commissioners at their regularly scheduled meeting, which occurs on the third Thursday of every month.
3. The approval of said payments by the Board of Commissioners is subject to a veto of the minutes by the County Executive pursuant to statute, which either occurs within ten days or is waived.
4. Payments will be issued by the Authority within five working days of formal notification by the County Executive that the minutes are approved or within five working days of the failure to the County Executive to act within ten days of receipt of the minutes.

SPECIMEN - DO NOT EXECUTE

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2023_____
between the ATLANTIC COUNTY UTILITIES AUTHORITY, a body corporate and politic
with principal offices located at 6700 Delilah Road, Egg Harbor Township, New Jersey
08234-5623 (hereafter, ACUA), and _____.

FEDERAL TAX I.D. NUMBER: _____

(hereafter, Contractor)

WITNESSETH:

1. Contractor agrees to furnish, deliver, and install in accordance with the Specifications, its Proposal, the Notice to Bidders, Instructions to Bidders, and the General and Supplemental Conditions upon which Contractor submitted a bid and was awarded a contract for the aforementioned goods and services, all of which documents are incorporated herein by reference as though set forth at length. If the term "contract documents" is defined in the General Conditions, the Contractor shall perform its work in strict accordance with all requirements of the Contract Documents as said term is used therein.

2. Incorporated by reference herein is the performance security and proof of insurance coverage of Contractor as and if called for in the Specifications, Instructions to Bidders, and General and Supplemental Conditions, as may be applicable. Contractor, by its signature on this Agreement, specifically warrants that said security and insurance coverage's shall remain in force throughout the term of this Agreement.

3. Contractor further specifically agrees, as and if called for in the Specifications, Instructions to Bidders, and General and Supplemental Conditions, as may be applicable, to extend any and all required warranties and guarantees against defects in materials and workmanship to ACUA as set forth therein.

4. This Agreement shall run until the delivery and acceptance of the goods or services contracted for hereunder, or for a period of one year (whichever period is shorter), unless provided otherwise in the specs or the award of bids; provided, however, that for any period extending beyond the current fiscal year and in accordance with N.J.A.C. 5:34-5.3(d) (2), this contract shall be subject to the annual availability and appropriation of sufficient funds. If this contract has been awarded under an alternate that provides for the exercise by the Authority of an option to renew, the terms of said option shall be as set forth in the bidding documents.

5. Contractor further agrees that, in the event of breach of any condition of this Agreement by Contractor, ACUA may obtain substitute goods and services under such terms and conditions as ACUA may find advisable under the circumstances, and may recover from Contractor, in addition to any other remedies provided by law, any and all expenses incurred in obtaining such substitute goods and the difference between the cost of said substitute goods and the amount of ACUA's obligation to Contractor hereunder.

6. In the event that this Agreement, or any part hereof, is governed by the New Jersey Prevailing Wage Act, P.L. 1963, c. 150, contractor agrees to fully comply with said Act in addition to all other covenants set forth in this Agreement. By his signature hereon, contractor warrants that neither he nor any subcontractor employed to perform any work hereunder is on record with the New Jersey Department of Labor as having previously failed to pay prevailing wages in accordance with said Act.

7. The ACUA shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

8. Upon execution and submission of a properly executed Voucher, the faithful performance of this Contract and all covenants and agreements made herein, and the acceptance of the goods and/or services described herein by ACUA, ACUA agrees to pay to Contractor in accordance with the terms of the documents referenced in Paragraph 1. hereof, the sum of

_____ Dollars) upon the formal approval of said payment by the members of ACUA.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first set forth above.

ATTEST:

ATLANTIC COUNTY UTILITIES AUTHORITY

BRIAN LEFKE, SECRETARY

BY: RICHARD S. DOVEY, PRESIDENT

ATTEST:

CONTRACTOR:

(ATTACH CORPORATE SEAL IF CORPORATION)

BY:

**PAYMENT AND PERFORMANCE BOND
(P.L. 1996, c. 81)
(REQUIRED STATUTORY FORM)**

(DO NOT EXECUTE UNTIL AFTER CONTRACT AWARD)

Know all men by these presents, that we, the undersigned

As **PRINCIPAL** and

Name

Address

as **SURETY(IES)**, are hereby held and firmly bound unto the **ATLANTIC COUNTY UTILITIES AUTHORITY(OBLIGEE)** in the penal sum of

_____ dollars, for the payment of which well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed this day of _____, 20_____

The condition of the above obligation is such that whereas, the above named **PRINCIPAL** did on the _____ day of _____, 20_____

enter into a contract with the **ATLANTIC COUNTY UTILITIES AUTHORITY** which contract is for and is known as

which said contract is made a part of this the bond the same as though set forth herein;

Now, if the said PRINCIPAL shall well and faithfully do and perform the things agreed by to be done and performed according to the terms of said contract, and shall pay all lawful claims of beneficiaries as defined by N.J.S. 2A:44-143 for labor performed or materials, provisions, provender or other supplies forward, performing or completing of said contract, we agreeing and assenting that this undertaking shall be for the benefit of any beneficiary as defined in N.J.S. 2A:44-143 having a just claim, as well as for the OBLIGEE herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the SURETY(IES) for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

The said SURETY hereby stipulates and agrees that no modifications, omissions or additions in or to the terms of the said contract or in or to the plans or specifications therefore shall in anywise affect the obligation of said SURETY on its bond.

IN WITNESS WHEREOF, the PRINCIPAL and SURETY have executed this instrument under their several seals the day and date set forth above, the name and corporate seal of each corporate party being hereunto affixed and these presents duly signed by its proper officers, pursuant to authority of its governing body, and the SURETY has complied with all applicable requirements of law with respect to the Surety Disclosure Statement and Certification which is attached hereto and made a part hereof.

ON BEHALF OF INDIVIDUAL OR PARTNERSHIP

(Individual or General Partner)

(Address)

(Individual or General Partner)

(Address)

ON BEHALF OF CORPORATION

(Authorized Signatory - affix corporate seal)

Attest:_____

ON BEHALF OF SURETY

(Authorized Signatory - affix seal and attach valid,
original Power of Attorney and
Surety Disclosure Statement and Certification)

**ATLANTIC COUNTY UTILITIES AUTHORITY
GENERAL INSURANCE AND INDEMNITY REQUIREMENTS**

INSURANCE: (Review this section carefully with your insurance agent prior to bid or proposal submissions. See “Insurance Check List” for specific coverages applicable to this contract.

1. General Insurance Requirements

1.1 The Contractor shall not start Work until the Contractor has obtained at the Contractor's own expense all of the insurance as required hereunder and such insurance has been approved by the Authority; nor shall the Contractor allow any Subcontractor to start work on any subcontract until all insurance required of the Subcontractor has been so obtained and approved by the Contractor. Approval of insurance required of the Contractor and subcontractors will be granted only after submission to the Authority of original, certificates of insurance signed by authorized representatives of the insurers, policy endorsements as specified or, at the Authority's request, certified copies of the required insurance policies

1.2 Insurance as required hereunder shall be in force throughout the term of the Contract and for two years after final acceptance of the work by the Authority in accordance with 2.1.1 iv. Certificates of Insurance with endorsements shall be maintained with the Authority throughout the term of the Contract and for two years after final acceptance.

1.3 The Contractor shall require all Subcontractors to maintain during the term of the Contract commercial general liability insurance, business auto liability insurance, and worker's compensation and employer's liability insurance to the same extent required of the Contractor in 2.1 unless any such requirement is expressly waived or amended by the Authority in writing. The Contractor shall furnish Subcontractors' certificates of insurance to the Authority immediately upon request.

1.4 All insurance policies shall be endorsed to provide that the policy is not subject to cancellation, non-renewal or material reduction in coverage until thirty (30) days prior written notice has been given to the Authority. A copy of the endorsement shall be furnished to the Authority.

1.5 No acceptance and/or approval of any insurance by the Authority shall be construed as relieving or excusing the Contractor or the Contractor's Surety from any liability or obligation imposed upon either or both of them by the provisions of this Contract.

1.6 If the Contractor does not meet the insurance requirements of the specifications, alternate insurance coverage, satisfactory to the Authority, may be considered. Written requests for consideration of alternate coverages must be received by the Authority at least ten working days prior to the date set for receipt of bids or proposals; if a deadline for submission of questions or interpretations is set forth in the Instructions to Bidders, requests must be received by that deadline. If the Authority denies the request for alternate coverages, the specified coverages will be required to be submitted. If the Authority permits alternate coverage, an amendment to the Insurance Requirements will be prepared and distributed as an addendum prior to the time and date set for receipt of bids or proposals.

1.7 All required insurance coverages must be underwritten by insurers allowed to do business in the State of New Jersey and acceptable to the Authority. The insurers must also

have a policyholders' rating of "A-" or better, and a financial size of "Class VII" or better in the latest evaluation by A. M. Best Company, unless the Authority grants specific approval for an exception as described above.

1.8 Any insurance deductibles or retentions in excess of \$10,000 shall be disclosed by the Contractor, and are subject to the Authority's written approval. Any deductible or retention amounts elected by the Contractor or imposed by the Contractor's insurer(s) shall be the sole responsibility of the Contractor.

1.9 The Contractor shall provide insurance as specified in the "Insurance Coverage Check List" attached to this section.

1.10 If the Authority is damaged by the failure or neglect of the Contractor to purchase and maintain insurance as described and required herein, without so notifying the Authority, then the Contractor shall bear all reasonable costs properly attributable thereto.

1.11 The Contractor covenants to save, defend, keep harmless and indemnify the Authority and all of its elected or appointed officials, agents and employees (collectively the "Authority") from and against any and all claims, loss, damage, injury, cost (including court costs and attorney's fees), charge, liability or exposure, however caused, resulting from or arising out of or in any way connected with the Contractor's performance or non-performance of the terms of the Contract Documents or its obligations under the Contract. This indemnification shall continue in full force and effect until the Contractor completes all of the work required under the Contract, except that indemnification shall continue for all claims involving completed operations after completion of the work by the Contractor for which the Authority gives notice to the Contractor after the completion of the work.

1.12 The Contractor shall be responsible for the work performed under the Contract Documents and every part thereof, and for all materials, tools, equipment, appliances, and property of any and all description used in connection with the work, subject to Builder's Risk or Installation Floater insurance requirements, if any, contained in these documents. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work, until final completion of the work by the Contractor.

1.13 Insurance coverage required in the Contract Documents shall be in force throughout the contract term. Should the Contractor fail to provide acceptable evidence of current insurance within seven (7) days of written request from the Authority at any time during the contract term, the Authority shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the Authority for the entire additional cost of procuring performance and the cost of performing the uncompleted portion of the Contract at time of termination.

1.14 Nothing contained in the Contract Documents shall be construed as creating any contractual relationship between any subcontractor and the Authority. The Contractor shall be as fully responsible to the Authority for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

1.15 All precautions shall be exercised by the contractor at all times for the protection of persons, (including employees) and property., All existing structures, utilities, roads, services, trees, and shrubbery shall be protected against damage or interruption of service at all times by the Contractor and its subcontractors during the term of the contract, and the Contractor shall be held responsible for any damage to property and utility service interruption expenses occurring by reason of its operation on the Authority's property.

2. Contractor's Insurance

2.1 The Contractor shall purchase and maintain the following insurance coverages which shall be written for not less than the limits specified in the "Insurance Check List" or required by law, whichever is greater.

2.1.1 Commercial general liability insurance or its equivalent for bodily injury, personal injury and property damage including loss of use.

This insurance shall include coverage for all of the following:

- i. General aggregate limit applying on a per project basis;
- ii. Liability arising from premises and operations;
- iii. Liability arising from the actions of independent contractors;
- iv. Liability arising from products and completed operations with such coverage to be maintained for two years after completion of the Work;
- v. Contractual liability including protection for the Contractor from bodily injury and property damage claims arising out of liability assumed under this Contract; and
- vi. Liability arising from the explosion, collapse, or underground (XCU) hazards.

2.1.2 Business auto liability insurance or its equivalent including coverage for the following:

- i. Liability arising out of the ownership, maintenance or use of any auto (or hired and non-owned autos only if no owned autos);
- ii. Automobile contractual liability;
- iii. Motor Carrier Act endorsement, if applicable.

2.1.3 Workers compensation insurance with statutory benefits as required by any state or Federal law, or as required by union labor agreements, including standard "other states" coverage; employer's liability insurance.

2.1.4 Umbrella excess liability or excess liability insurance or its equivalent including all of the following coverages as underlying insurance:

- i. Commercial general liability;
- ii. Business auto liability; and

iii. Employers liability.

2.1.5 By endorsement, the Authority and Authority's elected and appointed officials, agents and employees shall be named as additional insureds on the Contractor's commercial general liability insurance, and umbrella excess or excess liability insurance if required, with respect to liability arising out of the Contractor's products, installation, and/or services provided under this Contract.

2.1.6 Insurance provided to the Authority and Authority's elected and appointed officials, agents and employees under the Contractor's liability insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of insurance. (Any cross suits or cross liability exclusion shall be deleted from Contractor's liability insurance policies required herein.)

2.1.7 Insurance provided to the Authority and Authority's elected and appointed officials, agents and employees as specified herein shall be primary, and any other insurance, self-insurance, coverage or indemnity available to the Authority and its elected and appointed officials, agents and employees shall be excess of and non-contributory with insurance as specified herein.

2.2 If any liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions:

2.2.1 The Contractor shall agree to provide certificates of insurance evidencing the above coverages for a period of two years after final payment for the Contract. Such certificates shall evidence a retroactive date no later than the beginning of the Work under this Contract; or

2.2.2 The Contractor shall purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force as of the date of final acceptance and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. Such certificate or copy of the endorsement shall evidence a retroactive date no later than the beginning of the Work under this Contract.

INSURANCE COVERAGE CHECK LIST

REQUIRED FOR ALL BIDS:

1. Thirty (30) Days Cancellation, non-renewal, material change or coverage reduction endorsement required.
2. Best's Rating for all carriers: "A-" VII or better, or its equivalent
3. Certificate must state bid number and bid title
4. ACUA and its officials, agents and employees named as additional insureds on other than W/C and auto. This coverage is primary to all other insurance and/or self-insurance available to ACUA.
5. Workers' Compensation & Employers' Liability: New Jersey statutory limits, employers' liability coverage minimum \$100,000 accident, \$100,000 disease, \$500,000 policy limit disease;
6. USL&H Employment: Statutory - if applicable to the project; and
7. CGL general aggregate is to apply per project. Items marked "X" are required to be provided if award is made to your firm.

INSURANCE COVERAGE CHECK LIST (Continued)

<u>Coverage Required</u>	<u>Limits (Figures Denote Minimums)</u>
<u> X </u> 1. Worker's Compensation	Statutory limits of New Jersey
<u> X </u> 2. Employers Liability	\$100,000 accident; \$100,00 disease each employee \$500,000 policy limit
_____ 3. USL&H Endorsement	Statutory
<u> X </u> 4. Commercial General Liability	Item Nos: 4, 5, 6, 8 & 10 require: <u>\$1,000,000.00</u> combined single limit for bodily injury and property damage each occurrence with <u>\$1,000,000.00</u> general aggregate per project
_____ 5. Premises/ Operations	
_____ 6. Independent Contractors	
_____ 7. Products/Completed Operations	Two (2) year(s) \$1,000,000.00 aggregate
_____ 8. Contractual Liability	
_____ 9. Personal Injury Liability	\$1,000,000.00 each offense
_____ 10. XCU Coverage	
<u> X </u> 11. Automobile Liability	\$1,000,000.00 Bodily injury and Property
<u> X </u> 12. Owned, Hired & Non-Owned	Damage each incident (Items 11 & 12)
_____ 13. Motor Carrier Act End.	
<u> X </u> 14. Umbrella Liability	\$1,000,000.00 BI & PD & PERS Injury Unless other limits stated below \$ _____ BI & PD & Personal Injury
_____ 15. Other Insurance Required	\$ _____ \$ _____

The Authority and its officials, agents and employees are to be named as additional insureds on Commercial General Liability, and Umbrella if applicable. This coverage is primary to all other coverage the Authority may possess.

INSURANCE AGENT'S STATEMENT

I CERTIFY that I have reviewed the insurance coverage requirements with the bidder named below and that the bidder can comply with all of those insurance requirements.

Name(s) and address(es) of bonding company(ies) or bank(s) submitting letter of credit, if applicable.

The policy(ies) carry the following deductibles:

Liability policies are (indicate):

Occurrence []

Claims Made []

NAME OF INSURANCE AGENT

SIGNATURE

Date _____, 20__

BIDDER'S STATEMENT

I HEREBY CERTIFY the Insurance Coverage Requirements of these specifications and agree to comply in full if awarded this contract.

NAME OF BIDDER

SIGNATURE

Date _____, 20__

(REVISED 4/10)

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 et seq.

GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES 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, affection-al 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 apprentice-ship. 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 will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter 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 meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

EXHIBIT A (Cont)

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, 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, race, 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; or

Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at: http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program 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 Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

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

The contractor and the Atlantic County Utilities Authority, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. §121 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 owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner 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 owner 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 owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

**APPENDIX B – NEW JERSEY ANTI-DISCRIMINATION PROVISIONS
N.J.S.A. 10:2-1 ET SEQ.**

Pursuant to N.J.S.A. 10:2-1, if awarded a contract, the contractor agrees that:

a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

No provision in this section shall be construed to prevent a board of education from designating that a contract, subcontract or other means of procurement of goods, services, equipment or construction shall be awarded to a small business enterprise, minority business enterprise or a women's business enterprise pursuant to P.L.1985, c.490 (C.18A:18A-51 et seq.).

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN, RUSSIA AND BELARUS

N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4) and N.J.S.A. 52:32-60.1

Pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4) and N.J.S.A. 52:32-60.1 any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must certify that neither the person nor entity, nor any of its parents, subsidiaries, or affiliates, is identified on the New Jersey Department of the Treasury’s Chapter 25 List as a person or entity engaged in investment activities in Iran, Russia or Belarus. The Chapter 25 list is found on the Division’s website at <https://www.state.nj.us/treasury/purchase/>. Vendors/Bidders must review this list prior to completing the below certification. If the Qualified Purchasing Agent of the Atlantic County Utilities Authority finds a person or entity to be in violation of the law, he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

CHECK THE APPROPRIATE BOX

I certify, pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4), and N.J.S.A. 52:32-60.1 that neither the Vendor/Bidder listed above nor any of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury’s Chapter 25 List of entities determined to be engaged in prohibited activities in Iran, Russia or Belarus.

OR

I am unable to certify as above because the Vendor/Bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury’s Chapter 25 List. I will provide a detailed, accurate and precise description of the activities of the Vendor/Bidder, or one of its parents, subsidiaries or affiliates, has engaged in regarding investment activities in Iran by completing the information requested below.

Entity Engaged in Investment Activities _____

Relationship to Vendor/ Bidder _____

Description of Activities _____

Duration of Engagement _____

Anticipated Cessation Date _____

Attach Additional Sheets If Necessary.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the ACUA is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the ACUA to notify the Qualified Purchasing Agent in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the ACUA, I am permitting the ACUA to declare any contract(s) resulting from this certification void and unenforceable.

Printed Name of Authorized Agent

Signature of Authorized Agent

Title

Date

Company Name



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF ADMINISTRATION

FROM: Amanda Truppa
Director, Division of Administration

**SUBJECT: Entities Engaged in Prohibited Activities Under C.52:32-60.1
Updated as of: December 8, 2022**

In accordance with C. 52:32-60.1, the following companies are prohibited from:

- (1) entering into or renewing a contract with a State agency, local contracting unit, boards of education, State college or county college for the provision of goods or services or the purchase of bonds or other obligations;
- (2) filing or renewing a Public Works Contractor Registration with the Department of Labor and Workforce Development;
- (3) being approved for or continuing to receive an economic development subsidy from the Economic Development Authority in but not of the Department of the Treasury, being awarded a municipal property tax abatement, or making or entering into a payment in lieu of property tax agreement;
- (4) applying for or receiving a tax clearance certificate from the Director of the Division of Taxation in the Department of the Treasury;
- (5) being certified by the Department of Community Affairs as an urban renewal entity for purposes of the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et seq.); and
- (6) being designated as a redeveloper by a public agency for the purpose of planning, replanning, construction, or undertaking of any project or redevelopment work in accordance with the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.).
- (7) being invested in directly or indirectly through the funds under the management of the Division of Investment; and
- (8) banking with, having or holding stock, debt, or other equity investments of, or maintaining insurance coverage through a policy issued by a financial institution.

If State agencies have questions about whether the company they wish to do business with is the same as what appears on this list, please contact Administration.Email@treas.nj.gov. This list will be updated on a rolling basis as needed.

Bolded entries indicate new additions to the list since the previous publishing.



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF ADMINISTRATION

- **1C Company (Technology)**
- A1 [Belarus] (Telecommunications)
- **Aeroflot (Consumer Services)**
- **Akella (Technology)**
- **Alfa Group (Conglomerate)**
- Aliasworlds Entertainment (Technology)
- **Almaz-Antey (Industrials)**
- ALROSA (Basic Materials)
- ASCON (Technology)
- **AST (Consumer Services)**
- **Atomenergoprom (Utilities)**
- Aurus Motors (Consumer Goods)
- Aviakor (Industrials)
- **Baltika Breweries (Consumer Goods)**
- **Bank Rossiya (Financials)**
- **Bank Saint Petersburg (Financials)**
- **Basic Element Company (Conglomerate)**
- BelaPAN (Consumer Services)
- Belarus High Technologies Park (Financials)
- **Belarusbank (Financials)**
- Belarusian Railway (Industrials)
- Belaruskali (Industrials)
- Belavia (Consumer Services)
- **BelAZ (Industrials)**
- **Belkommunmash (Industrials)**
- **Bolshevichka (Consumer Goods)**
- **Bryansk Automobile Plant (Industrials)**
- **Channel One (Consumer Services)**
- **Chelyabinsk Pipe Rolling Plant (Basic Materials)**
- **Chelyabinsk Tractor Plant (Industrials)**
- **Cherkizovo (Consumer Goods)**
- **Concern Radio-Electronic Technologies (Industrials)**
- **Concern Tractor Plants (Industrials)**
- **CTC Media (Consumer Services)**
- **Dalsvyaz (Telecommunications)**
- **Eksmo (Consumer Services)**
- En+ Group (Utilities)
- **Enel Russia (Utilities)**
- Energia [corporation] (Industrials)
- **ER-Telecom (Telecommunications)**
- Eurocement Group (Industrials)
- **Euroset (Telecommunications)**
- Evalar (Health Care)
- **GAZ Group (Industrials)**
- **Gazprom (Oil/Gas)**
- **Gazprom Media (Consumer Services)**
- **Gazprom Neft (Oil/Gas)**
- **Gazprombank (Financials)**
- Gorky Film Studio (Consumer Services)
- High Precision Systems (Industrials)
- I-Fly (Consumer Services)
- i-Free (Technology)
- Ingosstrakh (Financials)
- Inter RAO (Utilities)
- Interfax (Consumer Services)
- International Industrial Bank (Financials)
- **Intourist (Consumer Services)**
- **Irkutskenergo (Utilities)**
- **Irmash (Industrials)**
- Izhevsk Mechanical Plant (Industrials)
- Kalashnikov Concern (Industrials)
- **Kamaz (Industrials)**
- Kaspersky Lab (Technology)
- Kirov Plant (Industrials)
- Komus (Consumer Services)
- KrioRus (Technology)
- Lavochkin (Industrials)
- Lenfilm (Consumer Services)



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF ADMINISTRATION

- LOMO (Industrials)
- LUKoil (Oil/Gas)
- **M.video (Consumer Services)**
- Magnit (Consumer Goods)
- Magnitogorsk Iron and Steel Works (Basic Materials)
- Mail.Ru Group (Technology)
- Makeyev Rocket Design Bureau (Industrials)
- Marussia Motors (Consumer Goods)
- Mechel (Basic Materials)
- MegaFon (Telecommunications)
- Melodiya (Consumer Services)
- **Metalloinvest (Basic Materials)**
- **Military Industrial Company (Industrials)**
- **Minsk Tractor Works (Industrials)**
- Molodaya Gvardiya (Consumer Services)
- Moscow City Telephone Network (Telecommunications)
- Mosfilm (Consumer Services)
- Motovilikha Plants (Industrials)
- **Mobile TeleSystems-MTS (Telecommunications)**
- **Naftan Oil Refinery (Oil/Gas)**
- **NAMI (State Scientific Center of the Russian Federation)**
- **Nizhnekamskneftekhim (Oil/Gas)**
- **Norilsk Nickel (Basic Materials)**
- **Okko (Consumer Services)**
- **Olivaria Brewery (Consumer Goods)**
- **OMZ (Industrials)**
- **Ozon (Consumer Services)**
- **PC Transport Systems (Industrials)**
- **Petrodvorets Watch Factory (Consumer Goods)**
- **Pharmstandard (Health Care)**
- **PIK Group (Financials)**
- **Polyus Gold (Basic Materials)**
- **Power Machines (Industrials)**
- **Progress Rocket Space Centre (Industrials)**
- PROMT (Technology)
- **Rambler (Technology)**
- RBC Group (Media Group)
- REGNUM (Consumer Services)
- **Rolf (Consumer Services)**
- Roscosmos (Industrials)
- Rosenergomash (Industrials)
- **Rosgosstrakh (Industrials)**
- Rosneft (Oil/Gas)
- Rostelecom (Telecommunications)
- Rostselmash (Industrials)
- RUSAL (Basic Materials)
- Ruselectronics (Industrials)
- Russian Helicopters (Industrials)
- **Russian Machines (Industrials)**
- Russian Railways (Transportation)
- Sberbank of Russia (Financials)
- Severstal (Basic Materials)
- **Shvabe Holding (Industrials)**
- Siberian Coal Energy Company (Basic Materials)
- Sibirtelecom (Telecommunications)
- **Sinar (Consumer Goods)**
- **Sinara Group (Conglomerate)**
- **Sitronics (Industrials)**
- **Sollers JSC (Automotive)**
- **Sovcomflot (Transportation)**
- **Sozvezdie (Industrials)**
- **Speech Technology Center (Technology)**
- **Stankoprom (Industrials)**



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF ADMINISTRATION

- **Start Streaming Service (Consumer Services)**
- **Surgutneftegas (Oil/Gas)**
- **Svyazinvest (Telecommunications)**
- **Svyaznoy (Consumer Services)**
- Synqera (Technology)
- Tactical Missiles Corporation (Industrials)
- Tasma (Basic Materials)
- Tatneft (Oil/Gas)
- Tecmash [Holding company for Rostec] (Industrials)
- TogliattiAzot (Basic Materials)
- T-Platforms (Technology)
- **TransAVIAexport Airlines (Industrials)**
- Transmashholding (Industrials)
- Transneft (Oil/Gas)
- TsUM Trading House (Consumer Services)
- Tver Carriage Works (Industrials)
- UTair Aviation (Consumer Services)
- Volchok (Consumer Goods)
- Volgabus (Industrials)
- VSMPO-AVISMA (Basic Materials)
- VTB Bank (Financials)
- Vysheysha shklola (Consumer Services)
- X5 Retail Group (Consumer Services)
- Yandex (Technology)
- ZiL (Industrials)

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

Part I Check the box that represents the type of business organization:

- Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- For-Profit Corporation (any type) Limited Liability Company (LLC)
- Partnership Limited Partnership Limited Liability Partnership (LLP)
- Other (be specific): _____

Part II

- The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

- No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address

Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

Part IV CERTIFICATION

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **Atlantic County Utilities Authority** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **ACUA** to notify the **ACUA** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **ACUA** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):		Title:	
Signature:		Date:	

**To be completed and signed below.
with bid.**

Return

ACKNOWLEDGEMENT OF ADDENDA

The Respondent acknowledges receipt of the hereinafter enumerated Addenda which have been issued during period of bidding and agrees that said Addenda shall become a part of this contract. The Respondent shall list below the numbers and issuing dates of the Addenda.

ADDENDA NO.

ISSUING DATES

No Addenda Received

Name of Company _____

Address _____ P.O. Box _____

City, State, Zip Code _____

Name of Authorized Representative _____

Signature _____ **Date** _____

**ATLANTIC COUNTY UTILITIES AUTHORITY
BID CHECKLIST AND CERTIFICATION PAGE**

PLEASE VERIFY THAT THE LISTED ITEMS ARE SUPPLIED AND HAVE BEEN FULLY AND PROPERLY EXECUTED AND, ON MAKING THAT VERIFICATION, CHECK OFF EACH ITEM:

1. **PROPOSAL (Attachment 3 Transmittal Letter) – (SIGNED)** _____
2. REQUIRED ELEMENTS AS LISTED IN TECHNICAL SPECIFICATIONS _____
3. **IRAN/RUSSIA/BELARUS DISCLOSURE FORM (SIGNED)** _____
4. **CHECKLIST AND CERTIFICATION FORM(S) - (SIGNED)** _____
5. **DISCLOSURE OF OWNERSHIP (SIGNED)** _____
6. BID BOND/CONSENT OF SURETY ON REQUIRED ACUA FORM
(FULLY EXECUTED WITH POWER OF ATTORNEY) _____ N/A
7. CHECK, IF SUPPLIED IN LIEU OF SURETY BID BOND
(CERTIFIED OR CASHIER'S CHECK) _____ N/A
8. IF CHECK IS SUPPLIED, BID GUARANTEE **(SIGNED)** _____ N/A
9. **RECEIPT OF ADDENDA FORM (Attachment 3 Transmittal Letter) (SIGNED)** _____
10. BUSINESS REGISTRATION CERTIFICATE
(Not required with bid submittal) _____
11. PUBLIC WORKS REGISTRATION CERTIFICATE _____ N/A
(Not required with bid submittal – REQUIRED BEFORE CONTRACT AWARD)
12. ALL APPLICABLE WARRANTIES _____

***ITEMS IN BOLD MUST BE INCLUDED WITH BID PACKAGE. FAILURE TO DO SO WILL RESULT IN BID BEING REJECTED.**

**ATLANTIC COUNTY UTILITIES AUTHORITY
BID CHECKLIST AND CERTIFICATION PAGE**

CERTIFICATION

1. I hereby state that the goods or services offered by this bid shall be provided exactly as set forth in the specifications, without exception of any kind, unless said exception is specifically stated in writing as a part of this bid. With respect to any such exception, I recognize that the Authority reserves the right to reject any bid which, by reason of exceptions taken, is in the Authority's judgment nonconforming to the specifications.

2. I hereby certify that I have read the Proposal submitted herewith and that I am authorized to make this proposal on behalf of the business entity whose name appears in it. I further certify that all items listed and all computations are accurate and have been verified.

3. The required bid bond has been executed in favor of the Atlantic County Utilities Authority. I acknowledge, on behalf of the business entity submitting this proposal, that should the proposer fail to enter into a contract after award of same the bid bond or check submitted herewith shall be forfeited. I further state that I am authorized to execute this Proposal on behalf of my principal.

I hereby certify that the foregoing statements made by me are true and recognize that if any statement made herein is willfully false I am subject to punishment.

SIGNATURE OF BIDDER: _____ DATE: _____

NAME AND TITLE (PRINT OR TYPE): _____

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

PHONE NO.: _____

EMAIL: _____

FED ID NO.: _____

Technical Specifications

Atlantic County Utilities Authority

Solicitation for Bids

Purchase of Electric Generation and Related Services

BID # 2023-WW-01

Technical Specifications

Atlantic County Utilities Authority

Solicitation for Bids

Purchase of Electric Generation Service and Related Services

ATLANTIC COUNTY UTILITIES AUTHORITY

ANY MATERIAL DEVIATION FROM THESE SPECIFICATIONS CONTAINED IN A BID SUBMITTED IN RESPONSE TO THIS SOLICITATION FOR BIDS WILL RESULT IN THE REJECTION OF THE BID.

1. TECHNICAL SPECIFICATIONS

1.1. INTENT AND BACKGROUND

The Atlantic County Utilities Authority (ACUA) intends to solicit and accept bids from duly-licensed electric power suppliers to provide electric generation service to twenty-three (23) electric accounts including: in Bid Group 1: twenty-two (22) accounts consuming approximately 5.4 million kilowatt-hours (kWh) annually, consisting of twenty pumping stations and two metering stations; and Bid Group 2: one account for its wastewater treatment plant facility, which consumes approximately 6 million kwh annually from the grid (net of on-site renewable energy production).

Announcement of this bid opportunity has been advertised by the ACUA in the newspaper of record. Pursuant to N.J.S.A. 48:3-78 only entities that have received and hold a valid electric power supplier license issued by the BPU may provide electric generation service directly to retail customers in New Jersey; as such, only those entities licensed by the BPU to provide electric generation service in the ACE service territory are eligible to participate in this bidding process.

The ACUA operates solid waste and wastewater treatment facilities located in Atlantic County, New Jersey. The ACUA's wastewater treatment plant located in Atlantic City, New Jersey takes delivery service from Atlantic City Electric (ACE) at sub-transmission voltage; the electric is equipped with an interval meter and is eligible for the Basic Generation Service - Commercial and Industrial Pricing (BGS-CIEP) power supply tariff. This account receives electric generation service under a third-party supplier (TPS) contract scheduled to expire concurrent with the May 2023 meter read date. The ACUA also operates a number of pumping and metering stations located throughout its wastewater conveyance system in the County, which take delivery service from ACE at secondary voltage under the utility's MGS-Secondary or AGS-Secondary tariffs, and receive electric generation service under a third-party supplier (TPS) contract scheduled to expire concurrent with the May 2023 meter read dates (MRDs) for each account (these accounts are otherwise eligible to take power supply service from ACE under its Basic Generation Service – Residential and Commercial Pricing or 'BGS-RSCP' tariffs). The purpose of this bid solicitation is to secure new electric power supply contracts to meet the requirements of the ACUA's 23 accounts, effective with the May 2023 MRDs.

In order to better manage its electric utility expenses at its wastewater treatment plant, the ACUA has developed a plan which includes the implementation of energy savings

measures along with the purchase and/or generation of renewable energy to meet most or all of its wastewater treatment plant electric requirements. The ACUA is currently operating two renewable energy systems on its wastewater treatment facility site, a 7.5 MW (max) wind turbine system hosted on its site and a 500KW DC solar PV generation system owned by the ACUA. Electric output from these renewable energy facilities is utilized to offset the electric consumption of the ACUA's wastewater treatment plant, and the ACUA currently receives residual power supply requirements (net of on-site renewable energy) for the treatment plant from ACE under the utility's TGS-sub-transmission delivery tariff. At times when the renewable energy systems are operating at or near full capacity, hourly residual WWTF account loads to the grid will be zero. At certain times renewable energy output is minimal, and all or most of the WWTF load is served from the grid. The ACUA is including the wastewater treatment facility (WWTF) electric account in this bid, as a separate bid group, to solicit pricing from third party suppliers to serve these residual load requirements

Based upon the bids received, the ACUA may award a contract for both (pump stations and treatment plant) bid groups, for one of the bid groups, or none of the bid groups.

The Atlantic County Utilities Authority intends to award a contract for the PURCHASE OF ELECTRIC GENERATION AND RELATED SERVICES (Bid # 2023-WW-01).

The ACUA will entertain questions and statements of areas of concern regarding the bid specifications and proposed form of supply contract up until **5 p.m. on March 2, 2023**. Responses to questions and any necessary addenda will be issued by no later than close of business on **March 7, 2023**.

Electronic bids will be received no later than March 15, 2023 at 11:00 am prevailing time, by the ACUA's energy agent, Gabel Associates, in accordance with the instructions in Section 1.3 of this Bid.

All Mandatory Documents and Legal Forms, set forth in Section 1.3, must be must be completed and submitted by no later 4:00 p.m. on March 2, 2023. It is the intent to award the contract to the lowest responsive, responsible bidder and to approve the contract no later than 2:00pm on March 15, 2023. Any prospective bidder that does not submit all Mandatory Documents and Legal Forms in a timely manner will be deemed non-responsive, and will not be considered qualified to submit a price bid(s).

1.2. OVERVIEW

The Atlantic County Utilities Authority is responsible for enhancing the quality of life through the protection of waters and lands from pollution by providing responsible waste management services. The Authority is an environmental leader and will continue to use new technologies, innovations and employee ideas to provide the highest quality and most cost-effective environmental services.

The Atlantic County Utilities Authority (ACUA) operates two divisions: a wastewater division (WW) and a solid waste division (SW). The ACUA Regional Wastewater Treatment Plant collects raw wastewater from local sewage systems for treatment. It is the designated disposal location for septage generated in Atlantic County. Along with septage, the facility also accepts liquid and dewatered sludge/biosolids from customers outside of Atlantic County. The WW division serves fourteen municipalities including the casino district of Atlantic City.

The SW division is the designated solid waste disposal facility for Atlantic County. It operates a collection fleet, recycling center, transfer station, landfill and compost site, in addition to other operations. The SW division is not part of this bid.

Two renewable energy projects have been constructed at the ACUA's main wastewater treatment plant: (1) a 7.5 MW wind turbine system and (2) a 500KW DC solar PV system. These renewable energy resources have been in operation since 2006 and they provide a substantial portion of the ACUA's energy requirements. At times the total output of the renewable energy projects exceeds on-site demand, resulting in sale of electricity back to the grid, but at other times on-site load exceeds on-site renewable energy output. The ACUA has also recently installed a battery storage system at the WWTF site and is seeking to use the system to manage capacity and transmission obligations by discharging and thereby reducing net loads during anticipated PJM peak hours.

The 22 BGS-RSCP electric accounts included in this bid currently receive delivery service via ACE's MGS-Sec or AGS-Sec tariffs. The ACUA is seeking bids for a third-party supply contract for these accounts, with the express intent of obtaining cost savings over the contract term relative to the costs that would be incurred if the accounts were to remain on the BGS-RSCP tariff. The ACUA is seeking bids for a twenty-four (24) month term, commencing with the first available meter read date occurring on or after May 1, 2023.

The ACUA will award a single contract to one supplier with the lowest responsible bid to serve all BGS-RSCP accounts (Bid Group 1) for the indicated contract term, and will award a single contract to one supplier with the lowest responsible bid to serve the BGS-CIEP account in Bid Group 2 for the indicated contract term. Based upon the bids received, the ACUA may award a contract to both (pump stations and treatment plant) bid groups, for one of the bid groups, or none of the bid groups.

This bidding process is being conducted in accordance with the "Electric Discount and Energy Competition Act," P.L. 1999, c. 23, ("EDECA"); "Local Public Contracts Law," (N.J.S.A 40A:11-1 et seq.); Local Unit Electronic Procurement Act P.L. 2018, c.156; and all applicable regulations and standards promulgated thereunder. Gabel Associates, an energy agent duly registered with the New Jersey Board of Public Utilities ("BPU") since 1999, has been appointed as the ACUA's energy agent and in that capacity will be administering the implementation of this RFB process on behalf of the ACUA. Bid prices shall be submitted through the bid platform of the ACUA's energy agent at the following URL: <https://www.publicbiddingsystem.com/>. Specific instructions and credentials will be provided to suppliers once all compliant qualifications documents have been submitted.

Below are the specifications for the PURCHASE OF ELECTRIC GENERATION AND RELATED SERVICES.

1.3 BID PROCESS

a) Stage 1a) Questions and/or Concerns

Prospective bidders are being provided an opportunity to review the bid specifications and to submit questions they may have regarding the bid specifications, including the form of supply contract, in order to be able to bid responsibly and knowledgeably. Suppliers are encouraged to submit questions as soon as possible; however, the deadline for submission of questions is 4:00 p.m. prevailing Eastern Time on **Thursday March 2, 2023**. Prospective bidders should submit all questions to Rick Thomas of the ACUA via e-mail by that date and time, with copies provided to Loren Altshuler and Michaela Gasbarro of the Authority's energy agent, Gabel Associates.

Below are the applicable e-mailing addresses:

ACUA: Purchasing@ACUA.com
Gabel Associates: Procurement@gabelassociates.com; or uploaded to <https://www.publicbiddingsystem.com/>

Responses to all questions including any necessary addenda will be e-mailed to all electric power suppliers on the Bid Distribution List. The ACUA will distribute responses to questions and any necessary addendum by no later than close of business on **Tuesday, March 7, 2023**.

b) Stage 1b) Mandatory Documents and Legal Forms.

The following Mandatory Documents and Legal Forms must be completed by bidders and submitted in electronic format by no later than 4:00 p.m. prevailing Eastern Time on **Thursday, March 2, 2023**. Prospective bidders should submit the Mandatory Documents and Legal Forms via e-mail to the ACUA by that date and time, with copies provided to the Authority's energy agent, Gabel Associates. Below are the applicable e-mailing addresses:

ACUA: Purchasing@ACUA.com
Gabel Associates: Procurement@gabelassociates.com; or uploaded to <https://www.publicbiddingsystem.com/>

All Blank forms to be used are provided as part of these specifications.

- i) Bidder Information/Notice of Intent to Bid (NOI)** - including the bidder's name, address, contact information, NJBPU-issued electric power supplier license number; headquarters location, local office, telephone and fax numbers, and e-mail address(es). (**standard form in Attachment 5**)
- ii) Disclosure of Investment Activities In Iran, Russia and Belarus**
- iii) Disclosure of Ownership**
- iv) Affirmative Action Employee Information Report**
- v) Copy of New Jersey Business Registration Certificate**
- vi) Copy of valid New Jersey Board of Public Utilities retail supplier license number or demonstration that expired license still valid pending NJBPU approval of license renewal**
- vii) THERE IS NO REQUIREMENT FOR BID BOND OR CONSENT OF SURETY FOR THIS PROJECT**

The Notice of Intent to Bid, while a mandatory document, represents a non-binding expression of interest to bid. In other words, while the timely submission of a completed NOI is a requirement to bid, the submission of a NOI does not bind the supplier to submit a bid price(s). Submission of a completed NOI will place a supplier on the Bid Distribution List. While the deadline for the submission of the NOI is 4:00 p.m. prevailing Eastern Time on Tuesday, March 2, 2023, i.e. the same as for all other Mandatory Documents and Legal Forms, prospective bidders are encouraged to submit a completed NOI as soon as possible in order to be eligible to receive the account usage information.

The ACUA and its Energy Agent will review the Mandatory Documents and Legal Forms for conformity with this RFP, and will notify each submitting supplier of any deficiencies by no later than close of business on **March 7, 2023**. Where deficiencies are identified, the submitting supplier will have until 5:00 pm prevailing Eastern Time on **March 10, 2023** to submit revised, compliant documents. The ACUA, or its energy agent, will advise each submitting supplier by no later than close of business **March 13, 2023** whether the documents are deemed complete and compliant. All prospective bidders who have submitted a NOI, complete and compliant qualifications documents will be deemed as qualified to submit a bid price(s).

Bidders are advised that failure to provide the above-listed information or to meet these established minimum bidder qualifications will result in automatic disqualification of their proposal.

c) Stage 2 - Submission of Bid Prices

The Bid Price Form (Attachment 2) and Transmittal Letter (Attachment 3) will be provided in electronic format to qualified suppliers prior to the date of bid submission. Completed Bid Price Forms and Transmittal Letters must be submitted *in electronic format* through the bid platform of the ACUA's energy agent at the following URL: <https://www.publicbiddingsystem.com/> by no later than **11:00 a.m. prevailing Eastern Time on March 15 2023**. Specific instructions and credentials will be provided to suppliers once all compliant qualifications documents have been submitted.

1.4 FORM OF SUPPLY CONTRACT

The ACUA will utilize the attached model form of supply contract (Attachment 4) as the basis for the supply agreement with the selected Supplier. The ACUA will entertain inquiries or questions with regard to the model contract that are submitted by the Stage 1a deadline set forth in Section 1.3 above. The ACUA will provide timely responses thereto to all suppliers on the Bid Distribution List, and post these responses on the bid webpage, prior to the deadline for bid submission. Subject to any clarifications to contract terms or other addenda issued by the ACUA in response to Supplier questions, the ACUA will not entertain or accept any exceptions to the terms of the model contract submitted with Price Bids, and will consider any such Bids non-conforming. This contract is referred to herein as the Form of Supply Contract.

1.5 DESCRIPTION OF ACUA'S ELECTRIC GENERATION SERVICES

1. *Electric Generation Service Requirements*

The ACUA has a total of twenty-three (23) electric accounts with Atlantic City Electric, including the WWTF account. Of these, there are twenty-two (22) secondary voltage accounts (falling under the MGS and AGS-Secondary delivery tariffs of the EDC) listed in Attachment 1 that are included in this bid as Bid Group 1. As described above, the WWTF account, which is served under a sub-transmission voltage delivery service tariff, is being included in this bid as a separate bid group (Bid Group 2). The ACUA has also eliminated from this Bid a number of its smallest secondary voltage accounts.

The ACUA has executed a Letter of Authorization (LOA) in favor of its energy agent, Gabel Associates, which authorizes Gabel Associates to access account usage information. The account and usage information in electronic format (Attachment 1) will be provided by the ACUA's energy agent to prospective bidders, submission of a completed Notice of Intent to Bid (NOI) and a request to the ACUA's energy agent at the following email address: Procurement@gabelassociates.com or uploaded to <https://www.publicbiddingsystem.com/>

If desired, Prospective bidders are hereby authorized to request and obtain a copy of the LOA from Gabel Associates, and to utilize same to request the ACUA's account usage data directly from Atlantic City Electric, for the sole purpose of preparing a response to this Bid. Such requests shall be submitted to the energy agent's email addresses listed in the preceding paragraph of this Bid.

Firm Supply Requirements

The supply requirement for the ACUA is firm, non-interruptible electric generation supply. The ACUA operates back up generation at its plants exclusively for the purposes of responding to an emergency outage.

Load Response

During the term of this Agreement, the ACUA may at its sole option participate in PJM ISO markets with a Curtailment Service Provider of its choice for its Load Response. Other than an obligation on the part of the ACUA to provide notification to the selected supplier upon enrollment of one or more accounts under the power supply contract in the PJM Load Response Program, there will be no restrictions or penalties assessed by the TPS for the ACUA's participation in PJM ISO Load Response Programs.

1.6 TERM OF AGREEMENT

The term of contract executed in accordance with these Specifications shall be effective upon Award by the ACUA and shall terminate upon expiration of the Delivery Period or as otherwise provided for in this Agreement. The ACUA is seeking bids for a term of 24-months. The TPS shall make the necessary Applications to the EDC to ensure timely EDI enrollment in the EDC's Customer Choice program. Contingent upon a contract award by the ACUA on March 15, 2023, the awarded supplier is expected to enroll the awarded accounts in a timely manner to meet the TPS' obligation to provide Electric Generation Service effective with the first available meter read date occurring on or after May 1, 2023. To the extent that the ACUA makes its award on March 15, 2023, and the TPS enrollment is delayed such that the service commencement is delayed past the May 2023 MRD, and such delay is due to non-action or error on the part of the winning bidder and results in service commencing on some date later than the May 2023 meter read date, the TPS shall pay to the ACUA a penalty equal to the difference between the Contract Unit Price and

the EDC cost for Actual Usage during the period that the account switch is delayed. If such delay is due to error or inaction on the part of the EDC or the ACUA, no such penalty shall apply.

A maximum one-year extension at the same or lower price, and other terms and conditions as defined herein, will be offered and accepted only at the mutual agreement of both parties. Either party to the contract which desires to renew the contract at the same or lower price and other contract terms and conditions shall deliver a proposal to renew at least sixty (60) days prior to the expiration of the current term. The party receiving the proposal shall respond to it in writing within thirty (30) days, indicating its acceptance or rejection of the proposal. Failure to respond shall be deemed a rejection of the proposal. Absent the affirmative consent of an extension by both Parties, the contract shall terminate at the end of the initial term and it will be the supplier's responsibility to drop the ACUA accounts to ensure a timely return to utility Basic Generation Service at contract end.

1.7 PRICING PRODUCTS AND PAYMENT

ACUA is soliciting and will be accepting bid prices for one specific pricing product for accounts in Bid Group 1 (see subsection 1.7.1 below) and for two specific pricing products for the WWTF account in Bid Group 2 (see subsections 1.7.2 and 1.7.3 below):

- 1.7.1 For Bid Group 1 (BGS-RSCP pump and metering station accounts), the ACUA is accepting pricing for an All-In Fixed Price product which, as defined in the Form of Supply Contract, is a Fixed Price per kwh inclusive of all Electric Generation Service costs including hedged Energy Charges for delivery to the applicable Transmission Zone; Line Losses; Capacity Charges, Transmission Charges, Ancillary Charges, Renewable Portfolio Standards (RPS) compliance costs; supplier margin and all applicable taxes (including 6.625% State Sales and Use Tax).
- 1.7.2 For Bid Group 2 (WWTF BGS-CIEP account) the ACUA is accepting bids for an unbundled, partial pass-through pricing product, referred to as ***Fixed Price, Pass Through Capacity and Transmission***, with the following price components: a) capacity costs passed-through for each account on a monthly basis based upon actual capacity obligations (kw) applied to actual capacity prices (\$/kw) assessed by the PJM regional transmission organization; b) transmission costs passed-through for each account on a monthly basis based upon actual transmission obligations (kw) applied to actual transmission prices (\$/kw); and c) a bid Fixed Energy Charge (\$/kwh) applied to metered energy usage (residual, metered hourly energy usage representing site consumption net of on-site, behind-the-meter renewable energy generation for the billing period), that must cover all other supplier costs not recovered via a) and b), including energy, ancillary services, operating reserves, balancing, FTR, ARR, Line Losses, RPS compliance costs, Energy Agent Fee, supplier margin etc. and any other applicable taxes including 6.625% State Sales and Use Tax.
- 1.7.3 For Bid Group 2 (WWTF BGS-CIEP account) the ACUA is accepting bids for an unbundled, full pass-through pricing product, referred to as an ***All Pass Through Product***, with the following price components: a) capacity costs passed-through for each account on a monthly basis based upon actual capacity obligations (kw) applied to actual capacity prices (\$/kw) assessed by the PJM regional transmission organization; b) transmission costs passed-through for each account on

a monthly basis based upon actual transmission obligations (kw) applied to actual transmission prices (\$/kw); and c) actual AECO Zone Locational Marginal Pricing energy charges (\$/kwh), both forecasted and settled in the Day Ahead Market, which are applied to metered energy usage (residual, metered hourly energy usage representing site consumption net of on-site, behind-the-meter renewable energy generation for the billing period) plus loss volumes, and d) a fixed adder that must cover all other supplier costs not recovered via a), b) and c), including ancillary services, operating reserves, balancing, FTR, ARR, Line Losses, RPS compliance costs, supplier margin etc. and any other applicable taxes including 6.625% State Sales and Use Tax.

More specifically with respect to the capacity and transmission cost pass-throughs under the *Fixed Price, Pass through Capacity and Transmission* and *All Pass Through Product* pricing products:

Capacity Costs: Pass-through of actual capacity costs which shall not include any profit, markup or service fee for each account shall equal the capacity obligation (kw) assigned to the account by the EDC, adjusted for any applicable PJM-assessed multiplier and/or scaling factor, multiplied by the Final Zonal Net Load Capacity Price in \$/MW-day (converted to per kw/day) for the applicable EDC Zone, multiplied by the number of days in the billing period and grossed up for NJ State Sales and Use Tax.

Transmission Costs: Pass-through of actual transmission costs which shall not include any profit, markup or service fee for each account shall equal the transmission obligation (kw) assigned to the account by the EDC, adjusted for any applicable PJM-assessed multiplier and/or scaling factor, multiplied by the sum of Transmission costs to be passed-through monthly at actual cost (grossed-up for NJ State Sales and Use Tax) including: the currently-effective Network Integration Transmission Service (NITS) charges for the applicable month(s) for the PSEG transmission zone as set forth in the files under ‘Network Integration Transmission Service Revenue Requirements & Rates’ at <https://www.pjm.com/markets-and-operations/billing-settlements-and-credit.aspx>; the currently-effective Transmission Enhancement charges and credits assessed by the PJM regional transmission organization for the applicable month(s) for the PSEG transmission zone as set forth in the ‘Transmission Enhancement Worksheets’ at <https://www.pjm.com/markets-and-operations/billing-settlements-and-credit.aspx>; and the currently-effective FERC 494 / EL05-121 / Transmission Enhancement Blackbox / Reallocation / Settlement charges for the applicable month(s) for the PSEG transmission zone and Reliability Must Run “RMR”.

Unbundled Pricing Back-up, Support and Verification:

Supplier shall be required to provide monthly reports to the ACUA and/or its energy agent providing back-up and support, in a format acceptable to ACUA and/or its energy agent, for the capacity charges, transmission charges and energy charges (applicable to the *All Pass Through Product*) being passed-through for the WWTF account, including specific references to authoritative PJM Regional Transmission Organization sources, to enable the ACUA and/or its energy agent to verify the accuracy and appropriateness of these charges.

Since the Capacity Charge and Transmission Charge components of the *Unbundled, Partial Pass-Through Price* Pricing Product are being passed-through at actual cost each month and will not include any profit, markup or service fee, suppliers are being requested to submit bids for the Fixed Energy Charge only.

For the All Pass Through Product, since the Capacity Charge, Transmission Charge and energy charge components are being passed-through at actual cost each month and will not include any profit, markup or service fee, suppliers are being requested to submit bids for the Fixed Adder charge only. As well, for the *All Pass Through Product* wherein energy charges are passed-through and therefore unhedged, ACUA shall have the ability during the term of the contract to convert unhedged energy to a partially or fully-hedged energy position consistent with then-prevailing market conditions, subject to the mutual written agreement of ACUA and the selected supplier as to the hedged energy price.

- 1.7.4 The invoice shall provide an itemized accounting of charges.
- 1.7.5 The quantities of electricity set forth in the EDC bills applicable to any EDC Billing Period shall be final and conclusive for purposes of computing payments to the TPS by ACUA pursuant to this Section.
- 1.7.6 ACUA shall remit payment to the TPS within forty-five (45) days of the receipt of invoice for the applicable EDC Billing Period, subject to the invoice being received according to the ACUA's requirements. The payment obligation of the ACUA pursuant to this subsection shall survive the expiration of the Term.
- 1.7.7 The TPS must provide an invoice for electric generation service, separate from the EDC invoice, for the applicable EDC Billing period.

1.8 SELECTION PROCESS

The ACUA reserves the right to reject any and all Bids in its sole discretion, and to award a contract for both, one or neither of the bid groups. If a contract award is made for one or both bid groups, the contract award shall be made to the lowest, qualified bidder for the contract length and pricing product deemed, in ACUA's sole discretion, most beneficial to the ACUA. The ACUA is not obligated to enter into an Agreement with any Bidder, and also reserves the right to waive any informalities or omissions in any Bid.

The ACUA intends to pass a resolution prior to the date for acceptance of bid prices authorizing a designated representative of the ACUA to issue a Notice of Intent to Award Contract letter on behalf of the ACUA, which Notice of Intent to Award Contract letter shall be binding on both the ACUA and the selected supplier. The ACUA intends to notify the winning Bidder of the bid award (if any) by no later than 2:00 p.m. on March 15, the day of bid submission., Such bid award shall be implemented through the issuance of a written Notice of Intent to Award Contract by the designated representative of the ACUA. The Notice of Intent to Award Contract letter signed by the designated ACUA representative will be a binding commitment on the part of the ACUA to execute the Form of Supply Contract, provided that the supplier provides hardcopy originals of all Mandatory Documents and Legal Forms to the ACUA as provided for below. The

winning Bidder will be expected to honor the Bid Price(s) so long as the Notice of Intent to Award Contract is issued to the selected Bidder by 2:00 p.m. on the date of bid submission.

Hardcopies originals of certain Qualifications documents as set forth in Section 1.3 b) above must be received by the ACUA from the winning bidder, if any, no later than close of business on March 23, 2023 at the following address¹:

Mailing Address:
ACUA
PO Box 996
Pleasantville, NJ 08232

Physical Address:
6700 Delilah Rd
Egg Harbor Township, NJ 08234

ATTENTION: Oren Thomas, QPA

Once the ACUA has received the hardcopy originals of all Mandatory Documents and Legal Forms, it will execute the Form of Supply Contract.

Attachments:

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- Attachment 1 LIST OF ACCOUNTS AND HISTORICAL USAGE
- Attachment 2 BID PRICE FORMS
- Attachment 3 TRANSMITTAL LETTER
- Attachment 4 FORM OF SUPPLY CONTRACT
- Attachment 5 NOTICE OF INTENT TO BID (NOI)

¹ Bidders are encouraged, but not required, to submit qualifications documents in advance of March 2, 2023 in order to allow time for review by the ACUA, identification by the ACUA of any deficiencies, and the potential opportunity to cure deficiencies. The ACUA in its sole discretion will determine if any deficiency is 'curable' or will render the bidder 'unqualified.'

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ATTACHMENT 1

LIST OF ACCOUNTS AND HISTORICAL USAGE

(To be provided in electronic format to licensed suppliers that submit an executed NOI)

ATTACHMENT 2

BID PRICE FORM

(To be provided in electronic format prior to the Bid to pre-qualified suppliers)

ACUA

Attachment 2: Bid Price Form for Electric Generation Service RFB
Issued February 13, 2023 (Bid No. 2023-WW-01) Contract
Start: May 2023 MRD

3/15/2023

Supplier Name

Supplier Name Here

Pricing Product 1 - All-In Fixed Price Product

Bid Group	Utility	Rate Class	Bid Price Component	24 Month Term \$/kWh
Bid Group 1 (Pump Stations)	ACE	AGSsecondary MGSsecondary	All-In Fixed Price	\$0.00000

Pricing Product 2 - Fixed Price, Pass Through Capacity and Transmission Product

Bid Group	Utility	Rate Class	Bid Price Component	24 Month Term \$/kWh
Bid Group 2 (WWTF)	ACE	TGS-subtrans	Fixed Energy Charge	\$0.00000

Pricing Product 3 - All Pass Through Product

Bid Group	Utility	Rate Class	Price Component	24 Month Term \$/kWh
Bid Group 2 (WWTF)	ACE	TGS-subtrans	Fixed Adder	\$0.00000

Notes:

- * Note 1: For any Bid Group for which a Bid is not being submitted, please type 'NO BID' in appropriate cell
- * Note 2: For detailed description of Bid Groups and Pricing Products and Bid Price components refer to section 1.7 of RFB
- * Note 3: Please be sure to include 6.625% State sales and use tax, in all Bid Prices

ATTACHMENT 3
TRANSMITTAL LETTER

Bid # 2023-WW-01
PROVIDE ELECTRIC GENERATION SERVICE TO THE ACUA
FOR A TERM OF 24-MONTHS BEGINNING MAY 2023

TRANSMITTAL LETTER

(To be typed on Bidder's Letterhead)

DATE: March 15, 2023
Gabel Associates - ACUA Energy Agent
417 Denison Street
Highland Park, NJ 08904

Dear Gabel Associates:

_____ (the "Bidder") hereby submits its bid (the "Bid") in response to the Request for Bids for Natural Gas Supply Service issued by the Atlantic County Utilities Authority ("ACUA") on February 13, 2023.

As a duly authorized representative of the Bidder, I hereby certify, represent and warrant as follows in connection with the Bid:

1. The Bidder acknowledges receipt of the RFB and the following addenda:

Addendum No. 1 Receipt Date: _____

2. The submittal of the Bid has been duly authorized by, and in all respects is binding upon, the Bidder, subject to the terms of the RFB (and any addenda thereto issued by the ACUA, listed above).

3. Bidder agrees that, if it is selected as the winning bidder, it will submit hardcopy, original versions of the Mandatory Documents and Legal Forms, identified in section 1.3 (b) of the RFB, within five (5) working days of the issuance by the ACUA of the Award Letter.

4. Bidder agrees that, if it is selected as the winning bidder, it will execute the Form of Supply Contract set forth in the Bid (subject to any addenda thereto issued by the ACUA, listed above).

SIGNATURE: The undersigned hereby acknowledges and has submitted the above listed requirements. This sheet must be submitted with the bid documents.

Name of Bidder: (Company Name) _____

By Authorized Representative: _____

Signature: _____

Print Name and Title: _____ Date: _____

ATTACHMENT 4

**ELECTRIC GENERATION SERVICE AGREEMENT
BETWEEN**

ATLANTIC COUNTY UTILITIES AUTHORITY,

AND

DATED

_____, 2023

**ELECTRIC GENERATION SERVICE AGREEMENT
BETWEEN**

ATLANTIC COUNTY UTILITIES AUTHORITY

AND

RETAIL ELECTRIC POWER SUPPLIER _____

DATED _____, **2023**

This Electric Generation Service Agreement ("Contract" or "Agreement") is made effective _____, 2023, by and between _____ ("**Supplier**") and the Atlantic County Utilities Authority ("Customer" or "ACUA") also referenced herein as "Party" or collectively as "Parties." This Contract incorporates all transaction-specific Award Letters, and the Request for Bids for Electric Supply Service ("Request for Bid" or "RFB") issued by the Atlantic County Utilities Authority ("ACUA") on February 13, 2023 and designated as Bid No. 2023-XX-XX.

Definitions:

"All-In Fixed Price" means a pricing product with a price per Kwh defined in section 1.7.1 of the Technical Specifications of the RFB intended to cover all costs associated with providing Electric Generation Service, including energy, Line Losses, capacity, transmission, ancillary services, RPS requirements, supplier margin and applicable taxes including State sales and use tax, that is fixed for the duration of the contract term, except as provided for in section 5 of this agreement.

"All Pass-Through Product" means a pricing product defined in section 1.7.3 of the Technical Specifications of the RFB whereby Capacity Costs are passed-through by Supplier at cost, Transmission Costs are passed through by Supplier at cost, Energy Costs are passed-through by Supplier at cost, and there is a Fixed Adder per Kwh to cover all other costs associated with providing Electric Generation Service, including FTR, ARR, Line Losses ancillary services, RPS requirements and supplier margin.

"ARR" means auction revenue rights administered by PJM.

"Award Letter" means the letter dated March 15, 2023, executed by the authorized representative of Customer, notifying Supplier of the bid award resulting from the RFB and memorializing the Contract Price and Contract Term as provided for in Supplier's Bid submitted to the ACUA.

"Delivery Point" means a point where the PJM transmission grid meets the EDC delivery system.

"EDC" means the electric distribution company, otherwise referred to as the electric utility, in whose service territory Customer's accounts served under this Contract are located. For purposes of this Agreement the EDC is Atlantic City Electric or "ACE."

"Energy Agent" shall mean Gabel Associates, Inc.

"FERC" means the Federal Energy Regulatory Commission.

"Fixed Price, Pass Through Capacity and Transmission" means a pricing product defined in section 1.7.2 of the Technical Specifications of the RFB whereby Capacity Costs are passed-through by Supplier at cost, Transmission Costs are passed through by Supplier at cost, and there is a Fixed Energy Charge per Kwh to cover all other costs associated with providing Electric Generation Service, including energy, FTR, ARR, Line Losses, ancillary services, RPS requirements and supplier margin.

"FTR" means firm transmission rights administered by PJM.

“Kwh” means a kilowatt-hour, which is a standard measurement of electric energy consumption or production.

“Line Losses” means distribution system line loss factor for the applicable rate class and/or voltage level as defined in the EDC tariff, adjusted to remove the mean hourly PJM marginal losses reflected in the applicable PJM Locational Marginal Price.

“LMP” means the Locational Marginal Price which is the spot market energy price established by PJM for the applicable transmission zone.

“NITS” means Network Integration Transmission Service tariffs approved by the FERC and implemented and assessed by PJM on load in the applicable EDC transmission zone, including any applicable PJM transmission enhancement surcharges or credits.

“NJBPU” means the New Jersey Board of Public Utilities.

“PJM” means the PJM Interconnection, which is a regional transmission organization or “RTO” that coordinates the movement of electricity in all or parts of thirteen states in the Mid-Atlantic and surrounding regions and the District of Columbia.

“RPM” means the Reliability Pricing Model established and implemented by PJM to establish market prices for generation capacity.

“Renewable Portfolio Standards” or “RPS” means minimum percentages of various forms renewable energy required to be included in each Electric Power Supplier’s energy portfolio pursuant to New Jersey State law and NJBPU regulations.

1. **Nature of Transaction:** Customer and **Supplier** respectively agree to purchase and sell the full electric generation service requirements for the accounts listed in Appendix A. **Supplier** will provide electric generation service to Customer in accordance with the policies and procedures of Customer's electric distribution company ("EDC") and perform necessary supply coordination functions, including, but not limited to, nominating, scheduling and balancing. Customer will utilize **Supplier** as its sole electricity Supplier for all metered electrical requirements, net of any on-site, behind-the-meter renewable energy project generation, during the term of this Contract for the accounts listed in Appendix A.

2. **Contract Term and Sales Period(s):** The effective term of this Contract shall commence with the May 2023 meter reading date for each account listed in Appendix A, and shall continue until the May 2025 meter reading date (24-month Contract term, hereinafter referred to as the “Sales Period”). This Contract shall remain effective for the duration of any and all Sales Period(s) specified in the Award Letter(s). Moreover, the term may be extended for a term of up to twelve (12) additional months, by the mutual, written consent of both parties, at a Contract Price to be agreed upon by the Parties, memorialized in a supplemental confirmation and established in accordance with applicable law. Any such extension(s) shall be executed no less than twenty (20) days before the termination date. If no such extension is executed the Contract shall termination at the end of its initial term and Supplier shall initiate a drop of accounts to be effective at the end of the initial term.

3. **Quantity:** **Supplier** shall tender for delivery to Customer, and Customer must accept for receipt from **Supplier**, the Customer's full power usage requirements, net of any on-site, behind-the-meter renewable energy project generation, for the accounts listed on the Award Letter(s).

4. **Contract Price:** Contract Price for an All-In Fixed Price product shall be as memorialized in the Award Letter attached hereto and as defined herein and in section 1.7.1 of the Technical Specifications of the RFB shall, and shall be applied to each kilowatt-hour (“kWh”) of power delivered to and measured at the Customer meter. Contract Price for a Fixed Price, Pass Through Capacity and Transmission product shall be as memorialized in the Award Letter attached hereto and as defined herein and in section 1.7.2 of the Technical Specifications of the RFB, and shall be the sum of the Fixed Energy Charge, passed-through capacity charges and passed-through transmission charges, whereby the Fixed Energy Charge shall be applied to each kWh of power delivered to and measured at the Customer meter, actual monthly capacity charges in \$/kW shall be applied to the actual capacity obligation in kW assigned to an account, and actual monthly transmission charges in \$/kW shall be applied to the actual transmission obligation in kW assigned to an account.

Contract Price for a All Pass-Through product shall be as memorialized in the Award Letter attached hereto and as defined herein and in section 1.7.3 of the Technical Specifications of the RFB, and shall be the sum of the Fixed Adder, passed-through capacity charges, passed-through transmission charges and passed-through energy charges, whereby the Fixed Adder shall be applied to each kWh of power delivered to and measured at the Customer meter, actual monthly capacity charges in \$/kW shall be applied to the actual capacity obligation in kW assigned to an account, actual monthly transmission charges in \$/kW shall be applied to the actual transmission obligation in kW assigned to an account, and actual energy charges in \$/kWh shall be applied to each kWh of power delivered to and measured at the Customer meter. The Contract Price includes all charges, fees and taxes that are imposed on the power prior to its delivery to Customer's EDC. Unless otherwise specified in the Award Letter, all taxes applicable to such power for which the taxable incident arises upon or after the Delivery Point, including but not limited to sales, use, transfer, gross receipts or energy taxes will also be included in the Contract Price.

5. **Adjustments to Contract Price:** An adjustment to the Contract Price shall be permitted under the following circumstances:

a) A legislated change in the current 6.625% State Sales and Use Tax ("SUT"), in which case the price adjustment shall reflect the difference between newly-enacted SUT rate and the 6.625% SUT rate in effect at the time Supplier submitted its Bid;

b) For an All-In Fixed Price, in the event of a change of greater than 20% in the aggregate monthly Kwh usage of the Customer accounts receiving service under the Agreement, in which case Seller may adjust the price to reflect the incremental cost of purchasing energy in excess of the 120% bandwidth at market, or any incremental loss incurred by Supplier in re-selling unused energy below the 80% bandwidth at market. This provision shall also apply, for an All-In Fixed Price product only, to the incremental cost incurred by Supplier in the event the aggregate capacity obligation nor transmission obligation of Customer accounts changes by an amount greater than 20%; or

c) A FERC-approved change in transmission NITS charges implemented after the Effective Date of the Agreement. In such instance Supplier may adjust the Contract Price by a percentage amount up to the percentage change in Supplier's net, total cost to provide Electric Generation Service to Customer directly caused by the change in FERC-approved transmission NIT charges.

d) A change in law implemented after the date hereof that has a material impact on the cost to Electric Power Suppliers and Basic Generation Service suppliers of providing Electric Generation Service to retail customers in the applicable EDC transmission zone(s) in which Customer's accounts are located. For this purpose a material impact shall be an increase in cost of no less than \$0.0001/kwh. In such instance Supplier may adjust the Contract Price by a percentage amount up to the percentage change in Supplier's direct total cost to provide Electric Generation Service to Customer directly caused by the change in law.

e) Supplier shall, upon request of Customer or its designated agent, provide reasonable documentation to support adjustments to the Contract Price implemented pursuant to this Section 5 of the Agreement.

6. **Title, Possession and Control:** Supplier shall deliver Customer's electricity requirements to a "Delivery Point". The Delivery Point shall be on the EDC transmission system and will be determined by **Supplier** at the time of scheduling. Title and risk of loss shall pass to Customer at the Delivery Point, and Customer shall be responsible for obtaining delivery service to its facility from the Delivery Point under the applicable New Jersey Board of Public Utilities-regulated tariffs of Customer's EDC. Customer is responsible for all distribution and service charges imposed by Customer's EDC relative to the delivery of power to Customer's facility. Customer shall be responsible for, and shall cooperate with **Supplier** in obtaining from its EDC metering and historical load information reasonably necessary to record values of consumed kW and kWh on a continuous basis necessary to allow for proper billing. Supplier shall not be responsible for any variation in the quality, including zero voltage, of the electric service provided by the EDC to Customer.

7. **Transportation Balancing and Overruns:** **Supplier** will be responsible for any and all charges or penalties imposed by Customer's EDC for failing to deliver Customer's power usage requirements to the Delivery Point on the EDC transmission system.

8. **Billing and Payment:** During the term of this Contract, **Supplier** shall bill Customer on a monthly basis based on the prior month's delivery of electricity. The monthly billing periods shall correspond to the meter read dates of Customer's EDC. All amounts due hereunder shall be paid within forty-five (45) days of the date of the invoice except, in the event that Customer is billed through the EDC's consolidated billing program, payment is due in accordance with the EDC's rules. Seller may assess late fees on payments received after the due date, at a rate not to exceed 1% per month. If an amount due is not received from Customer when due, **Supplier** may issue written notice to Customer, and Customer shall have a ten (10) business days cure period from date of receipt of such notice. Upon completion of the 10 business day cure period, if payment of overdue amounts is not made by Customer, Supplier may suspend deliveries, terminate this agreement, and liquidate any power purchased for delivery to Customer during future periods. Notwithstanding the foregoing deliveries shall not be curtailed and interest shall not be accrued, and the Agreement shall not be terminated, where Customer provides written evidence of a good faith billing dispute and pays the undisputed amount. Customer agrees to reimburse **Supplier** for all reasonable cost that **Supplier** incurs, including reasonable attorneys' fees, in any attempt to collect undisputed past due amounts from Customer.

9. **Credit:** If, at any time, Customer does not meet **Supplier's** commercially reasonable creditworthiness standards, **Supplier** may require Customer to provide credit assurance in a form and amount reasonably acceptable to **Supplier**, such as a letter of credit, third-party guarantee, deposit or prepayment. Evidence of such credit assurance shall be provided by Customer within ten (10) working days of receipt of written notice from Supplier.

10. **Force Majeure:** Neither Party shall be liable for failure of performance due to causes beyond its reasonable control (force majeure), such as: failure of transmission grid or EDC distribution facilities; acts of God; fire; civil disturbances; terrorist acts or threats; labor dispute; labor or material shortage; sabotage; action or restraint by court order or public or governmental authority (so long as the Claiming Party has not applied for or assisted in the application for such government action). A Party claiming inability to perform due to force majeure must provide the other Party with prompt notice stating the reason for its inability, and must make reasonable efforts to promptly resolve such inability to perform. Economic hardship, including, without limitation, **Supplier's** ability to sell power at a higher or more advantageous price than the Contract Price or Customer's ability to purchase power at a lower or more advantageous price than the Contract Price, shall not excuse a party's obligation to perform under this Contract. A Force Majeure does not excuse obligations to pay for Electric Generation Service that has been delivered to and consumed by Customer.

11. **Failure to Perform - Exclusive Remedy:** If for an unexcused reason either Party fails to perform its obligations hereunder, the other Party shall have the right to issue written notice demanding performance. The non-performing Party shall have a ten (10) business days from the receipt of such written notice to cure the non-performance. In the event that the non-performing Party does not cure the non-performance within this cure period, the other Party may declare a default and terminate this Agreement. The exclusive remedy for damages in the event of such default and termination shall be a) in the case of **Supplier** failure to perform, the positive difference, if any, between the price Customer, acting in a commercially reasonable manner, paid for replacement supplies, including administrative fees, brokerage fees and other similar costs, and the Contract Price, multiplied by the quantity of power **Supplier** failed to deliver over the remaining term of the Agreement; or b) in the case of Customer's failure to perform, the positive difference, if any, between the Contract Price and the price **Supplier**, acting in a commercially reasonable manner, obtained from a replacement market, multiplied by the quantity of power not accepted by Customer over the remaining term of the Agreement. A Party shall act reasonably to minimize its damages, which shall include but not be limited to reasonable efforts to obtain replacement supplies or a replacement market, where applicable. In the event that such reasonable efforts are unsuccessful or only partly successful, the Party failing to perform shall be responsible for an amount calculated by multiplying the Contract Price times the quantity of power for which the other Party failed to obtain a replacement supply or replacement market, whichever applicable, in addition to any amounts calculated with respect to replacement supplies or replacement market(s). In calculating damages owed under this Section, Supplier shall net or aggregate, as appropriate: (i) any and all amounts owing between the parties under the Contract; (ii) any amount owed to Customer against any margin or other collateral provided by Customer and held by Supplier relating to the Contract; and (iii) any amount payable to Customer against any amount(s) payable by the Customer to Supplier under any other agreement or arrangement between the parties, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other.

LIMITATION OF DAMAGES: IN NO INSTANCE AND FOR NO PURPOSE SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, REGARDLESS OF WHETHER A CLAIM IS MADE OR REMEDY IS SOUGHT IN CONTRACT, TORT, OR OTHERWISE.

12. **Bankruptcy:** The Parties specifically agree that this Contract and all Transactions pursuant hereto are "Forward Contracts" as such term is defined in the United States Bankruptcy Code, 11 U.S.C., Section 101(25). If either Party becomes subject to Bankruptcy Code proceedings, it is understood and agreed that the other Party shall be entitled to exercise its right to liquidate this Contract as a "Forward Contract Merchant" under Section 556 of the U.S. Bankruptcy Code.

13. **Notices:** Notice(s) required hereunder shall be deemed properly made if telecopied, delivered personally or sent by regular or certified mail to the following addresses or facsimile.

Customer Representative:

Supplier Representative:

14. **Miscellaneous:** This Contract shall be construed in accordance with the laws of the State of New Jersey, without recourse to provisions governing choice of law. Any action brought in law or equity with respect to this Contract shall only be filed in the Superior Court of New Jersey, regardless of federal question, citizenship or amount in controversy. Venue shall be laid in the county of the Customer. Prior to the institution of such action, the parties shall agree to the Alternate Dispute Resolution procedure of mediation under the auspices of the American Arbitration Association, or such other agency upon which the parties may agree. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withheld or delayed; provided, however, that (i) Supplier may, without the consent of Customer, transfer, sell, pledge, encumber or assign this Contract or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, and (ii) either party may, upon notice to the other, transfer or assign this Contract to an affiliate, which affiliate's creditworthiness is comparable to or higher than that of such party, or transfer or assign this Contract to any person or entity succeeding to all or substantially all of the assets of such party provided such entity is of equal or greater creditworthiness of such party.

EACH PARTY HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER. SELLER HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE ELECTRICITY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

EACH PARTY HERETO KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING HERETO.

AGREED AND ACCEPTED

AGREED AND ACCEPTED

CUSTOMER: _____

SUPPLIER: _____

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

**ATTACHMENT 5
NOTICE OF INTENT TO BID
BID # 2023-WW-01**

**ATLANTIC COUNTY UTILITIES
AUTHORITY**

RFB TO PROVIDE ELECTRIC GENERATION SERVICE TO
THE ACUA
FOR A TERM OF 24-MONTHS BEGINNING MAY 2023

(Note: submission of this form indicates a non-binding expression of interest in responding to the ACUA Bid for Electric Generation Service – Request for Bids dated February 13, 2023 – “RFB”)

Supplier Contact Information:

Name of Supplier: _____

NJBPU Electric Power Supplier License No.: _____

Supplier Representative/Contact for RFB:

Name/Title: _____

Address: _____

Phone: _____

FAX No.: _____

Email: _____

Signature: _____

Date: _____

- *Submission of this Notice of Intent to Bid (“NOI”) will place the Supplier Representative indicated above on the Bid Distribution List for the RFB. Submission of this NOI indicates an expression of interest in responding to the RFB, but does not bind the Supplier to respond to the Bid. However, submission of this NOI, by no later than 4:00 p.m. on March 2, 2023 (the Stage 1 Qualification document deadline), along with other required Stage 1 Mandatory Documents and Legal Forms set forth in section 1.3 (b) of the RFB, is required in order for a Supplier to be eligible to submit Stage 2 bid pricing.*

To All Respondents:

REMINDER!

Did you sign all of the bid documents?

All bid documents returned to the ACUA should be signed with original signatures.

Failure to sign all bid documents may be cause for disqualification and rejection of the bid.

Oren R. Thomas, IV
Purchasing Manager, QPA

