

CONTRACT

THIS AGREEMENT made this day of , 20xx, between the COUNTY OF ATLANTIC a body corporate and politic of the State of New Jersey with offices located at 1333 Atlantic Avenue, Atlantic City, NJ 08401 (the "County" hereinafter), and with offices located at , hereinafter referred to as "Contractor".

WITNESSETH:

WHEREAS, the County desires to engage the services of the Contractor to provide all goods and services necessary to perform the Work described in more detail in the County's Invitation to Bid/RFP (Exhibit A) attached herewith; and

WHEREAS, the Contractor has represented that it is qualified by training and experience to perform the required services in the manner and on the terms and conditions set forth herein.

WHEREAS, execution of this contract has been authorized by the Board of Chosen Freeholders of Atlantic County pursuant to Atlantic County Resolution # on

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES AND CONTRACT DOCUMENTS.

The Contractor shall provide to the County the following services:

2. CONSIDERATION.

A. In accordance with the authorization for this Contract granted by Atlantic County Board of Chosen Freeholders Resolution # adopted on , the Contractor shall be compensated in an amount not to exceed \$ in full consideration for performance of the Project, in accordance with the requirements of the Contract Documents.

B. The time and rate of compensation shall be as set forth in the County Invitation to Bid /RFP (Exhibit A) and the Contractor's Proposal, (Exhibit B), for all materials and services satisfactorily provided hereunder, subject to all of the terms, conditions and requirements of the Contract Documents. The Price stated in the Contract Documents constitutes the total compensation (subject to adjustments explicitly authorized by the Contract Documents) payable to Contractor for performing all of the duties, responsibilities and obligations assigned to or

undertaken by Contractor and shall be performed at the Contractor's expense, without change in the Contract Price.

C. Even if the Agreement calls for the provision of services on an hourly rate or other unit price basis or if the Agreement allows for payment of specified reimbursable expenses, Contractor understands that Contractor shall not be entitled to payment for any level of services rendered in excess of the maximum compensation specified in 2.A unless additional compensation is expressly authorized by the County.

D. Any changes to the maximum compensation or scope of work specified or otherwise required by the Contract Documents shall only be effective if such additional compensation or modification is expressly authorized by an amendatory resolution duly adopted by the Atlantic County Board of Chosen Freeholders.

E. Any claim by Contractor for an adjustment in the Contract Price shall be based on written notice delivered by Contractor promptly (but in no event later than seven days) after the start of the occurrence or event giving rise to the claim and stating the general nature of the claim. Contractor shall provide complete supporting data with respect to the claim, including all claims for equitable adjustment, not later than thirty (30) days after the start of such occurrence. All claims for adjustment in the Contract Price shall be determined by the County, in the event that the County and Contractor cannot otherwise agree on the amount involved. No claim of any kind for an adjustment in the Contract Price will be valid if it is not submitted in accordance with this procedure, and Contractor waives all rights to recovery for any claim as to which this procedure is not followed.

F. It is the exclusive right of the County to determine that services have been performed in a proper and satisfactory manner in accordance with the terms and conditions set forth herein prior to approval and payment of invoice submitted by Contractor.

G. Payment shall be made only upon submission by the Contractor of the required executed standard County invoice, a bill on Contractor's letterhead and any other documents deemed necessary by the County.

H. Contractor agrees to maintain financial records, books and documents plus any evidence necessary to reflect all direct and indirect costs incurred during this Agreement in an auditable format. Contractor agrees to keep complete and accurate records with respect to the computation of all billing, including receipts for any reimbursable expenses and time records for all persons billed on an hourly rate basis. The Contractor also agrees to submit all documents and records necessary to assure compliance and completion of this Agreement. Contractor

agrees that all financial records required to be kept be made available for inspection during normal business hours by representatives of the County. Said records shall be kept for a minimum of five (5) years after expiration of the Contract Term.

3. TERM.

A. Upon its authorization and execution this Agreement shall be effective for the term
commencing _____ to _____.

B. The Contractor acknowledges it shall complete the performance of services under this Agreement in accordance with the time limits specified in the Contract Documents.

C. The County Executive or his designee may extend the time for completion specified by Article III (B). Such extensions shall only be effective if in writing and shall not extend the Agreement term beyond the term specified in the authorizing resolution. In the event that the time for completion is extended, all of the original terms and conditions will remain in effect for the extended period.

D. The County Executive may terminate this Agreement at any time, as a consequence of a default by the Contractor, or, to the extent permitted or required by law, for the convenience of the County, by giving written Notice of Termination sent to the Contractor in the address set forth in Article IX. In the event of termination of this Agreement, the Contractor shall furnish to the County such reports or documents that the County may require based upon work completed under the provisions of this Agreement. The Contractor shall be compensated in the amount determined by the County Executive to be commensurate with the work performed at the time of termination and upon acceptance of said payment Contractor shall have no further rights against the County.

4. TIME OF THE ESSENCE.

All time limits for the performance and completion of Work, as stated in the Contract Documents, are of the essence of this Contract. Expeditious performance and completion of this Contract are essential for the express purpose of enabling the County to maintain in public service an important transportation facility, in accordance with a predetermined program of funding and construction. The Contractor shall begin the Work promptly on the date of commencement and he shall carry the Work forward expeditiously with adequate forces and shall achieve completion at the earliest possible date within the Contract Time.

5. CONTRACTOR'S WORKFORCE.

The Contractor hereby agrees that it shall provide the necessary workforce to accomplish the Project as set forth in the Contract Documents, and if necessary, to increase said workforce to complete the Project within the time schedule and performance requirements set forth in the Contract Documents.. The Contractor shall furnish all materials, tools, equipment, transportation, supervision, and perform all labor and services necessary and incidental to the satisfactory completion of the Work in a proper workmanlike manner within the time stipulated as set forth in the specifications.

6. CONTRACT DOCUMENTS.

The County Invitation to Bid/RFP (Exhibit A) and the Contractor's Proposal (Exhibit B) along with all attachments herewith are incorporated by reference and comprise the "Contract Documents". In the event of any dispute or inconsistency, the documents shall have the following priority:

A. The requirements, terms and conditions set forth in the Invitation to Bid/RFP, including the terms of this Contract, including Appendix I and II attached herewith.

B. The Contractor's Proposal (Exhibit B).

In addition to the Exhibits and submissions listed above, the Appendices to the Contract Documents shall additionally constitute integral parts of this Contract and are hereby incorporated herein in their entirety:

7. RELIANCE UPON DRAWINGS, PLANS, AND OTHER INFORMATION PROVIDED BY THE COUNTY.

All information provided by the County to the Contractor is only offered to show conditions that are believed to exist, but it is not intended to be inferred that the conditions as shown thereon constitute a true and accurate representation by or on behalf of the County that such conditions actually exist. The Contractor shall be solely responsible to inspect the job site prior to commencement of the Work, and shall accept full responsibility for any loss sustained by it as a result of any variances between the conditions as shown in drawings and plans, if any, and any other information provided by the County to the Contractor and the actual conditions revealed during the progress of the Work or otherwise.

8. PERFORMANCE BOND.

Upon execution of this agreement, and in no event later than 20 days after award of a contract by the County, the Contractor shall provide a Performance Bond in an amount equal to the proposed costs of all materials and installation work required to perform the Work, as set forth

in the Contract Documents, in a form acceptable to the County, by company that is duly authorized to issue such obligations in New Jersey. The obligations imposed upon the Contractor by this contract shall be obligations in addition to all other terms, covenants and conditions of said Bond to the same effect as though they had been incorporated in said Bond.

This Bond shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations. All Bonds signed by an agent must be accompanied by appropriate power of attorney and surety disclosure statements

If the surety on any Bond furnished by Contractor is declared a bankrupt or becomes insolvent or its right to do business is terminated or suspended in the State of New Jersey or otherwise ceases to meet the requirements of the Contract Documents, Contractor shall within ten days thereafter substitute another Bond and surety, both of which must be acceptable to the County.

9. WARRANTIES

Without limitation upon any other warranty, representation warranty or duty imposed upon or made by the Contractor in the Contract Documents, the Contract hereby warrants:

A. that this Contractor has not been solicited or secured, directly or indirectly, in a manner contrary to the laws of the State of New Jersey and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of this Contract by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any County, employee, officer or officials.

B. that the Contractor, for itself and its subcontractors, is qualified by training and experience to perform the services in accordance with all of the terms, conditions and requirements of the Contract Documents .

C. that the Contractor is ready, willing and able to perform all services in the timeframe and as required by this Contract, and that he and/or his subcontractors performing the work presently hold in good standing any and all necessary licenses for the lawful performance of the Project within the State of New Jersey.

10. WARRANTY AGAINST DEFECTS.

In addition to any other warranty, the Contractor further agrees to extend to the County a one year warranty against defects in material and workmanship of the materials and equipment herein provided to the County, which shall commence upon expiration of the Contact Term.

11. CONTINUITY OF COUNTY OPERATIONS AND SERVICES.

The Contractor shall perform all of its work required by the Contract Documents in a manner that shall not interfere with or disrupt routine operations and services that occur or are provided at County Facilities, and shall conduct its work in a manner that shall preserve continuity of all County operations and services that may be affected by the Contractor's operations, unless such interference is approved by the County, in advance and in writing in accordance with the Contract Documents.

12. COMPLETION AND ACCEPTANCE OF INSTALLATION WORK.

The Work to be performed by the Contractor shall be deemed complete when all of the following have been satisfied by the Contractor to the County:

- A. The Work has been satisfactorily completed in all respects as required by the Contract Documents;
- B. The Contractor has, to the County's satisfaction, executed and delivered to the County or its designated representative all documents, permits, certificates, proofs of compliance and any other documents the County deems mandatory to assure compliance with this RFP.

13. DEFECTIVE OR UNAUTHORIZED WORK.

All Work and materials which do not conform to the requirements of the Contract Documents, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, shall be considered as Defective Work.

14. REMOVAL AND CORRECTION OF DEFECTIVE OR UNAUTHORIZED WORK.

Any

Defective or Unauthorized Work performed by the Contractor, regardless of whether observed before or after completion of the Work and whether or not fabricated, installed or completed, shall be removed immediately and replaced by the Contractor with Work and materials which shall conform to the specifications, or shall be otherwise corrected and remedied in an acceptable manner authorized by the County or its designee. The Contractor shall bear all costs of correcting, removing or replacing such defective or unauthorized Work, including compensation to the County for the County's additional costs made necessary thereby.

If, within one (1) year after the date of completion of the Work or designated portion thereof, or within such longer period of time as may be prescribed by law or by the terms of any applicable warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the County to do so unless the County has previously given the Contractor

a specific written acceptance of such defective or non-conforming work. This obligation shall survive termination or expiration of the Contract.

Upon failure of the Contractor to immediately correct, remove or replace defective, non-conforming or other unauthorized work, or to immediately comply with any order of the County made under the provisions of this Section, the County shall have authority to cause such defective, non-conforming or other unauthorized work to be corrected or removed and replaced, and the costs thereof, as well as those incurred in storing any rejected materials, shall be deducted from any monies due or to become due the Contractor. If the payments then or thereafter due the Contractor are not sufficient to cover such costs, the Contractor shall pay the difference to the County. The County reserves the right, should Defective or Unauthorized Work or materials used by or on the part of the Contractor be discovered, either before or after the Project has been accepted, or even after Final Payment has been made, to claim and recover by process of law such sums as may be sufficient to correct, remove or replace the Defective or Unauthorized Work or materials.

15. PUBLIC CONVENIENCE AND SAFETY.

The safety, protection and convenience of the public and adjacent residents are of primary importance and shall be provided for by the Contractor in an adequate and satisfactory manner.

A. Precautions shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, rules and regulations, building and construction codes, shall be observed. Machinery, equipment and other hazards of any character shall be guarded in accordance with the safety provisions of the current "Manual of Accident Prevention in Construction," published by the Associated General Contractors of America, to the extent that such provisions are not inconsistent with applicable Federal, State and local laws and regulations.

B. If any operation, practice or condition during the course of the Work is unsafe or is deemed by the County to be unsafe, the Contractor shall immediately take corrective action. Where any operation, practice or condition endangers persons or property, it shall be immediately discontinued by the Contractor and adequate remedial action taken before the affected part of the Work is resumed.

16. COUNTY NOT RESPONSIBLE FOR CONTROL OF CONTRACTORS, FOR CONSTRUCTION MEANS AND METHODS.

The County shall not be responsible for and shall not have control or charge of construction means, methods, techniques, sequences or procedures, or the safety precautions and programs in connection with the Work, and the County shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Further, the County shall not be

responsible in any way for the acts or omissions of the Contractor, and any Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

17. INDEPENDENT CONTRACTOR.

The Contractor shall be deemed and considered an Independent Contractor in respect to the Work covered by this Contract, and shall assume all responsibility and expense for the Work, for risks and casualties of every description arising out of erection equipment, and shall bear the name and seal of a registered Professional Engineer responsible for the design thereof.

18. CONTRACTOR'S DUTY TO PERFORM.

The Contractor's obligation to perform and complete the Work shall be absolute. None of the following will constitute an acceptance of Work or any portion thereof that is not in accordance with the Contract Documents, or as a waiver or release of Contractor's obligation to perform the Work and provide Services in accordance with the Contract Documents: observations made by the County, recommendation of any progress or final payment by the County, any determination that work is substantially completed or any payment by County to Contractor under the Contract Documents; any Use of or reliance upon the Work or Services any part thereof by the County, any acceptance by the County any failure to do so, any review and approval of a Shop Drawing, sample, submittal, substitution, or the issuance of a notice of acceptability, any inspection, test or approval by others, or any correction of defective Work by the County, any limitations of any Subcontractor's or Supplier's warranty, or similar actions or omissions by the County.

19. INDEMNIFICATION.

A. Contractor agrees to protect, defend, indemnify and save harmless the County and its officers, directors, employees, agents, and other Proposers of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of resulting from any and all losses, claims, actions, costs, expenses, judgment, subrogation or other expenses by reason of any real or alleged injury or damage to the person or property of others arising out of or incidental to the performance of the terms of this contract.

B. If it becomes necessary for the Contractor, either as principal or by agent or employee, to enter upon the premises or property of the County, in order to perform any portion of the Work, the Contractor hereby covenants and agrees to take, use, provide and make all proper, necessary and sufficient precautions, safeguards and protections against the occurrence of happenings of any accidents, injuries, damages or hurt to any person or property during the

progress of the work herein covered, and to be responsible for, and to the indemnify and save harmless the County from the payment of all sums of money by reason of all, or any, such accidents, injuries, damages or claims that may happen or occur upon or about such Work and all fines, penalties and loss incurred for or by reason of the violation of any municipal or County ordinance, regulations, or the laws of the State, or the United States, while the said Work is in progress.

C. The Contractor shall indemnify and save harmless the County against any and all claims for royalty, patent infringements or suits for information thereon which may be involved in the manufacture or use of the item to be furnished herein.

D. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and Services and termination or completion of this Contract.

20. ASSIGNMENT OR SUBLET OF CONTRACT.

The Contractor shall be the party solely and fully responsible to the County for the performance of all requirements of the Contract documents, at all times and in all respects. The Contractor shall not sell, transfer, assign, subcontract or otherwise dispose of his obligations to the County, or of any payment or payments which may accrue hereunder, without first securing written approval of the County, which shall be based upon the Contractor's written request for such approval accompanied by the Contractor's submission of proof, to the County's satisfaction, that the proposed assignment. Subcontract or other transfer shall not result in an impairment or reduction in services provided to the County, and that the assignee, purchaser, successor or subcontractor meets or exceeds all requirements and qualifications set forth in the Contract Documents. No assignment or subcontract will be effective or deemed permitted without the prior written consent of the County as set forth herein. If a subcontract or other assignment is authorized by the County, the assignee or subcontractor shall enter into an agreement affirming that it shall be bound by all of the terms, conditions and requirements set forth in the Contract Documents.

21. DEFAULT.

Default by the Contractor shall include the following:

- A. Failure by the Contractor to begin work under the Contract within the time specified in the Notice to Proceed, or otherwise according to the Contract;

- B. Failure by the contractor to perform the Work with sufficient workmen, equipment or materials to insure completion of the Work in accordance with the Contract;
- C. Violation by the Contractor of any of the conditions or covenants of the Contract, the Documents, or any order of the County authorized therein, and failure to execute the same in good faith or in accordance with the terms thereof;
- D. Unnecessary, unreasonable or negligent delay by the Contractor in performance of the Contract;
- E. Abandonment or discontinuation by the Contractor of performance of the Work without approval of the County, or failure to resume Work which has been discontinued within a reasonable time after notice to do so;
- F. Failure or refusal by the Contractor to remove materials or perform anew any Work rejected as defective or unsatisfactory;
- G. Failure by the Contractor to complete the Work within the time specified in the Contract, or within the extended time as otherwise provided according to the Contract;
- H. Insolvency or bankruptcy of the Contractor, or commission by him of any act of insolvency or bankruptcy;
- I. Failure by the Contractor to protect, repair or make good any damage or injury to property;
- J. Failure by the Contractor, for any cause whatsoever, to carry on the Work in an acceptable manner;
- K. Conviction of any principal of Contractor of any crime under the laws of the State of New Jersey which, if committed by a public official, would disqualify that person from public employment;
- L. Failure of Contractor to pay its subcontractors and/or suppliers, or any governmental authority any sums that are legally due and owing that are related to provision of goods or services related to this project.
- M. Assignment or subcontracting of the work or any part thereof or any monies due hereunder that is not authorized as set forth in this Contract.
- N. If the Contractor becomes in Default and fails, refuses or is otherwise unable to cure such default within a time frame that ensures continuous and uninterrupted provisions of the Work as set forth in the Contract Documents, or shall otherwise fail to comply with any of the terms, conditions, provisions or stipulations of this Contract according to the intent and meaning thereof, then the County shall be permitted to pursue any or all remedies that may be available at law or in equity, including but not limited to an action for specific performance, termination of the contract, or any action for damages arising from the Contractor's default.

Should the County fail to make any payment when such payment is due in accordance with the Contract Documents, or otherwise fail to perform any material duty or obligation imposed upon the County by the Contract Documents. the Contractor shall be permitted to proceed with all remedies that may be available at law or in equity, provided that Contractor shall first provide the County with written notice of the circumstances that are alleged to constitute a default and a 30 day opportunity to cure.

The commencement of one or more remedy shall not preclude the County from pursuit of any other available remedy.

21. CONTINUING THE WORK.

During the pendency of any dispute or disagreement, the Contractor shall carry on the Work and adhere to the progress schedule, and shall not abandon, slow down or terminate its work. Work shall not be delayed or postponed pending resolution of any disputes or disagreements, unless this Agreement is Terminated or such deviation from the Work or Work Schedule is directed by the County.

22. LIQUIDATED DAMAGES.

All amounts set forth in the Contract Documents as liquidated damages shall be a per day charge for every calendar day that the Contractor is in default in completing the Work or any designated portion thereof in excess of the number of days prescribed. The daily sums herein contracted to be paid by the Contractor to the County for any default or delay in the completion of this Work or portions of Services are stipulated to be not a penalty, but rather, liquidated compensation for damages which the County will suffer by reason of such default, loss of use of property, interest on monies borrowed, increased administrative and engineering costs, and other tangible and intangible losses.

The County may deduct the sum of liquidated damages from any monies due or that become due the Contractor under the Contract. If such monies are insufficient, the Contractor or his surety or sureties shall pay to the County any deficiency in such monies within thirty (30) calendar days. Assessment of Liquidated Damages are not intended and shall not be an exclusive, and are in addition to any other rights and remedies provided by law or under this Contract.

23. FORCE MAJEURE.

Neither the County nor Contractor shall be held responsible for delays or default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract. The party asserting that its default or delay is excusable due to a Force Majeure event shall have the burden to demonstrate how such event caused the delay or default, and shall further demonstrate that no reasonable alternatives were available to mitigate or avoid the default or delay.

24. ADDRESS FOR NOTICE.

The address given below shall be the address of the representatives parties to which all notices and reports required by this Agreement shall be sent by mail:

To the County of Atlantic:

To the Contractor:

County Executive

1333 Atlantic Avenue

County Office Building

Atlantic City, NJ 08401

Copy to County Counsel

1333 Atlantic Avenue

County Office Building

Atlantic City, NJ 08401

Any notice or statement by any party shall be deemed to be sufficiently given when sent by prepaid certified mail return receipt requested, to any party at its address set forth hereinabove. This address shall remain in effect unless another address is substituted by written notice.

IN WITNESS WHEREOF, the parties have set their hand and seal effective as of the date forth above.

ATTEST

COUNTY OF ATLANTIC

SONYA G. HARRIS, Clerk

DENNIS LEVINSON

Board of Chosen Freeholders

County Executive
Approved as to form on behalf of
Atlantic County

JAMES F. FERGUSON
County Counsel

ATTEST:

CONTRACTOR:

Corporate Officer
applicable

APPENDIX I

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

N.J.A.C. 17:27

CONSTRUCTION CONTRACTS

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor 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 or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

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

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

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

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

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

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

(i) The contractor or subcontractor shall interview the referred minority or women worker.

(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

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

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

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

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

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

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (NJAC 17:27)**.

APPENDIX 2

INSURANCE REQUIREMENTS

A. GENERAL REQUIREMENTS

1. The Contractor shall provide and pay for insurance coverage of such type and in such amounts as will completely protect the Contractor and the County, its elected officials, officers, agents, servants, employees and assigns against any and all risks of loss (including costs of defense) or liability arising out of this contract.

2. The insurance shall be furnished by insurance companies with and "A-VII" (Excellent) or better Rating as published in the most recent editions of Best Insurance Key Rating and shall be authorized to conduct business in the State of New Jersey. Certificates showing insurance companies with A.M. Best rates which have been reduced below the County Required "A:VII" WILL NOT BE ACCEPTED.

3. Prior to submitting a Certificate of Insurance to the County, prospective bidders are advised to check with their insurance agent to assure that the Insurance Company shown on their certificate has a proper spread of risk, soundness of reinsurance, quality of assets, adequacy of loss reserves and experience of management which qualifies it to receive the "A-VII" (Excellent) or better Rating.

4. It is recognized that in some instances that insurance may be acceptable which is underwritten by an insurance company that is not reported in the BEST GUIDE, or the coverage is extended under a self insured program. This insurance, or self insurance, must be in conformity with the rules and regulations of the Commissioner of Insurance of the State of New Jersey. Any insurance or self insurance of this type is subject to the review and acceptance by the County Counsel. Furthermore written proof of acceptability by the Office of the Commissioner of Insurance may be necessary.

5. The Contractor shall furnish the County with Certificates of Insurance, naming the County as an additional insured, as respects ongoing completed operations (Additional Insured Endorsement CG 20 10 10 93), is required. The Certificate shall set out the types of coverage, the limits of liability, describe the operation by reference to this contract and provide for (30 days) written notice to the County of cancellation or non-renewal. All deductibles and retention's shall be the sole risk of the Contractor.

6. The policies and specified limits of coverage must be effective prior to the commencement of work and must remain in force until final acceptance of the work under the contract. Contracts that involve construction, installation, or maintenance repair must maintain

completed operations insurance. In the event of interruption of any coverage for any reason, all work under the Contract shall cease and shall not resume until coverage has been restored.

7. The Contractor shall insure that any subcontractor(s) or sub subcontractors have in force during the term of this contract insurance equal to the coverage as herein set forth, or any subcontractor(s) shall be included under the contractor's policy.

8. The Certificate and endorsements are to be signed by a person authorized by the insuring company(s) to bind coverage on it's behalf. Neither approval by the County nor failure to disapprove Certificates of Insurance furnished by the Contractor shall release the Contractor from full responsibility for all liability including costs of defense. Insurance is required as a measure of protection and the Contractor's liability is not limited thereby.

9. The Certificate shall be subject to the review and approval of the County Counsel.

10. If at any time during the term of this contract or any extension thereof, if any of the required policies of insurance should expire, change or be canceled, it will be the responsibility of the Contractor to furnish to the County a Certificate of Insurance indicating renewal or an acceptable replacement of the policy prior to the expiration, change or cancellation so that there will be no lapse in any coverage.

11. Any policy of insurance that is written on a claims made basis shall, under the terms of this contract, be renewed or the coverage extended for a period of not less than three years and shall provide coverage for the period operations were performed by the contractor. Proof of such extension shall annually be presented to the County Counsel for the County of Atlantic and indicate the retroactive date of coverage or indicate that all prior acts coverage is provided.

12. Insurance or Risk Funding maintained by the County shall be considered as Excess over Contractors Insurance. Insurance or Risk Funding Maintained by the County of Atlantic does not provide protection for Contractors liability.

13. Certificates of Insurance shall show the Certificate Holder as follows:

COUNTY OF ATLANTIC
COUNTY OFFICE BUILDING
1333 ATLANTIC AVENUE
ATLANTIC CITY, NEW JERSEY 08401
ATTN: RISK MANAGER

Certificates of Insurance not reading as specified above will not be acceptable and will delay contract signature and/or payment.

14. Questions regarding these insurance requirements may be directed to County Counsel at (609)-343-2279. Certificates for approval may be preliminarily submitted to County Counsel via fax (609)-343-2373.