

CONTRACT FOR PROPERTY AND FACILITIES MANAGEMENT SERVICES

AGREEMENT made this ____ day of _____, 2017, by and between the NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY (hereinafter referred to as the "Authority"), having its address at 36 West State Street, P.O. Box 990, 36 West State Street, Trenton, New Jersey 08625-0990, and _____ (hereinafter referred to as the "Vendor"), having its address at _____

The parties agree as follows:

1. **The Work.** Relative to the project, the Vendor shall perform or cause subcontractors to perform the work (hereinafter referred to as the "Work") described in the Request for Qualifications and Request for Proposals dated July 28, 2017 (hereinafter referred to as "RFQ/P") and in Vendor's Proposal dated August 25, 2017 (hereinafter referred to as "Vendor's Proposal") all of which are attached hereto and made a part of this Contract (hereinafter referred to as the "Contract"). The Work contemplates the use of subcontractors, which subcontractors the Authority has the right to reasonably approve. The Vendor shall perform repairs and maintenance and shall supervise all subcontractors in their performance of work and service at the LOCATION project (hereinafter referred to as the "Project") for no additional compensation or fee to the extent that such repairs, maintenance and supervision can be performed during normal work hours.

The Vendor will assign a Site Superintendent to be on-site during normal business hours, Monday through Friday, except for the holidays as outlined in the RFQ/P. Any day that the Vendor knows in advance of the Site Superintendent's absence, regardless of reason, Vendor will supply other personnel trained and knowledgeable to perform the function of Site Superintendent. There will be no additional charge to the Authority for these services. Any day that the Vendor does not know in advance of the Site Superintendent's absence, Vendor will provide other personnel trained and knowledgeable to be available on an "on-call" basis during the entire business day. There will be no additional charge to the Authority for these calls for up to eight hours per day of on-site work.

During Site Superintendent vacations, the Vendor will supply other personnel trained and knowledgeable to perform the function of Site Superintendent. There will be no additional charge to the Authority for these services.

The Authority reserves the right to require, in its sole discretion, a change in the Site Superintendent and/or Facility Manager if it becomes dissatisfied with their performance.

To the extent that any discrepancy exists between the terms and conditions of the RFQ/P and Vendor's Proposal, the terms and conditions of the RFQ/P shall prevail and take precedence.

In the event that circumstances at the Project should give rise to the need for services beyond the scope of the RFQ/P and Vendor's Proposal, arrangements for such work shall be limited to those additional services that are approved in writing by the Authority.

2. **Time.** The Vendor shall provide the subject services commencing on or about _____, 2017, as outlined in the notice to proceed, and shall continue to provide services until on or about _____, 2020. The Authority, in its sole discretion, may extend the terms of this agreement for an additional two (2) year period.

The Vendor shall render the services described in the Vendor's Proposal and RFQ/P as requested by the Authority and generally pursuant to the Project Schedule included therein.

Prior to expiration of this contract, after selection by the Authority of a successor Vendor, the Authority and the Vendor shall jointly prepare a mutually agreeable detailed plan for phase-in/phase-out operations. This phase-in/phase-out period may commence either thirty (30) days prior to the expiration or immediately after expiration of the contract term or any extension thereof. Continuity for all services required under this contract shall be maintained during this period.

In the event the services are scheduled to end either by contract expiration or by termination by the Authority, at the Authority's sole discretion, it shall be incumbent upon the Vendor to continue the services, if requested by the Authority, until a replacement property and facility management firm can be completely operational. The Vendor will be reimbursed for these services at the rates in effect when this transitional period clause is invoked by the Authority.

3. **Contract Price.** The Authority will pay the Vendor a Property/Facilities Management Fee of _____ per month. The Authority will pay the Vendor a Site Superintendent Fee of _____ per month based upon the Site Superintendent working full-time at the Project Site. The Authority will pay the Vendor a Facility Manager Fee of _____ per month based upon the Facility Manager working full-time at the Project Site(s). The monthly fees will be increased by _____ percent annually. For all other services required pursuant to the RFQ/P, the Authority will pay the Vendor for the performance of the Work on a time and expense basis at the hourly rates outlined in the Fee Proposal set forth in the Vendor's Proposal. Expenses not specifically identified in the Fee Proposal shall be billed as is reasonable and customary.

The Authority will reimburse Vendor for approved subcontractors and supplies needed specifically for the work based upon the actual amounts billed to Vendor for such subcontract work and supplies without any Vendor mark-up, profit or service charge added.

The Authority may require services in addition to those agreed to in the RFQ/P and the

Proposal. Compensation to the Vendor for additional services shall be either an agreed lump sum fee or time and materials fee in accordance with the Fee Proposal set forth in Vendor's Proposal; or if not specified in Vendor's Proposal, then reasonable and customary amounts.

4. **Ownership and Use of Documents.** All reports, surveys, drawings and other information produced or generated by Vendor pursuant to this Contract shall become the sole property of the Authority and may be used in its entirety or in part at the sole discretion of the Authority without additional compensation to or approval from the Vendor. Whenever such information is used, credit shall be given as to the author/source of the information.

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and / or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the sole property of the Authority and shall be delivered to the Authority upon thirty (30) days' notice by the Authority. Regarding software computer programs and / or source codes developed for the Authority, the work shall be considered "work for hire," that is, the Authority, not the Vendor or subcontractor, shall have full and complete ownership of all software computer programs and / or source codes developed. To the extent that any of such materials may not, by operation of the law, be a work made for hire in accordance with the terms of this Agreement, the Vendor or subcontractor(s) hereby assigns to the Authority all right, title and interest in and to any such material, and the Authority shall have the right to obtain and hold in its own name and copyrights, registrations and any other proprietary rights that may be available.

5. **Manner of Payment.**

a) The Vendor shall submit one invoice package per month to the Authority no later than the twelfth calendar day of each month for all charges for the preceding month. The monthly invoice package, including all supporting documentation and compliance documents, must be submitted electronically by the successful Firm to NJEDA by 12:00 noon the 12th calendar day of each month. A paper copy with original backup including invoices, receipts and signatures must be retained at the offices of the successful Firm and submitted to NJEDA only upon request. NJEDA has instituted a "green policy" for all reporting and invoicing. The successful Firm will be expected to comply with said policy. No project multipliers or markups shall be used or added to billings submitted under this Contract for subcontractors or purchases made in connection with the Work.

b) **New Jersey Office of State Comptroller**

This Contract is subject to N.J.A.C. 17:44-2.2. Accordingly, the contract partner(s) 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. Furthermore, relevant records of private vendors or other persons entering into contracts with covered entities are subject to audit or review by the Office of the State Comptroller pursuant to N.J.S.A. 52:15C-14(d).

Vendor 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.

NJEDA reserves the right to audit the records of the Vendor in connection with all matters related to this Agreement. The Vendor agrees to maintain records in accordance with generally accepted accounting principles, for period of not less than five (5) years after receipt of final payment.

Where applicable, pursuant to N.J.S.A. 2A:30A-1, et seq., and N.J.S.A. 2A:32-40, et seq., the terms of this this contract are subject to the New Jersey Prompt Payment Act. This includes the provisions of the Act that address subcontracting, subcontractors, and subcontracts.

6. **Penalty for Overbilling.** Without terminating this Contract or declaring a default under this Contract, the Authority shall have the right to access a penalty against Vendor for any bill submitted by Vendor to the Authority for payment if the amount of the bill submitted exceeds the correct amount that should have been billed by five percent (5%) or more. Any penalty assessed by the Authority for overbilling will be assessed in the amount of two hundred percent (200%) of the amount that the bill submitted exceeded the correct amount that should have been billed and will be deducted from any future payment due from the Authority to Vendor under this Contract. In the event of a dispute regarding the amount of any penalty assessed for overbilling cannot be amicably resolved by the parties, the Authority and Vendor agree to submit the matter to binding arbitration.

7. **Indemnification.** The Vendor shall defend, indemnify, protect and hold harmless the Authority, and their officers, agents, servants and employees from and against any and all suits, claims, demands, losses or damages of any kind arising out of or claimed to arise out of any act, error, or omission on the part of the Vendor, its officers, agents, servants, employees and subcontractors in the performance of services under this Contract. The Vendor shall, at its own expense, appear, defend and pay all charges for attorneys and all costs and other expenses arising from such suit or claim or incurred in connection therewith. If any judgment shall be rendered against the Authority, or their officers, agents, servants, and employees or against anyone for which indemnification is provided under this Section 7, the Vendor shall, at its own expense, satisfy and discharge the same promptly.

The Vendor shall be liable to the Authority for any reasonable costs incurred by the Authority to correct, modify, or redesign any technical information, reports, findings, analyses, surveys or drawings generated or produced by Vendor or any Work performed by the Vendor that is found to be defective or not in accordance with the provisions of the Contract as a result of any negligent act, error, or omission on the part of the Vendor, its officers, agents, servants, employees and subcontractors. The Vendor shall be given a reasonable opportunity to correct any deficiency.

The indemnification obligation set forth in Section 7 is not limited in any way by the insurance coverage required pursuant to Section 8 of this Contract and shall survive the terms of this contract.

8. **Insurance.** The Vendor shall procure and maintain, at its own expense, liability insurance for damages of the kinds and in the amounts hereinafter provided, from insurance companies licensed, admitted and approved to do business in the State of New Jersey. The Vendor shall obtain this coverage from A VII or better rated companies as determined by A.M. Best Company. All liability insurance policies shall afford coverage on an occurrence rather than claims made basis with the exception of the professional liability coverage. The types and minimum amounts of insurance required are as follows:

a) **Commercial General Liability Insurance.**

The minimum limits of liability for this insurance shall be \$2,000,000 per occurrence and \$3,000,000 in the aggregate and cover liability arising out of, occasioned by or resulting from products, completed operations, personal and advertising injury, premises operations and independent contractors. The Commercial General Liability Insurance policy shall name NJEDA as an additional insured. The coverage to be provided under this policy shall be at least as broad as the standard, basic, unamended and unendorsed commercial general liability policy and shall include contractual liability coverage. This insurance shall apply as primary insurance with respect to any other Commercial General Liability insurance or self-insurance programs afforded to NJEDA.

b) **Workers' Compensation and Employers' Liability.**

Workers' Compensation Insurance shall be provided in accordance with the requirements of the laws of this State and shall include an endorsement to extend coverage to any State which may be interpreted to have legal jurisdiction. Employers' Liability Insurance shall also be provided in an amount acceptable to the Authority.

c) **Automobile Liability Insurance**

Automobile Liability and, if necessary, Commercial Umbrella Liability with a limit of not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of any auto, including owned, hired and non-owned vehicles. The Automobile Liability shall name NJEDA

as an additional insured. This insurance shall apply as primary insurance with respect to any other Automobile Liability insurance or self-insurance programs afforded to NJEDA.

Certificates of Insurance acceptable to the Authority in respect to each of the aforementioned policies shall be filed with the Authority prior to commencement of work. These Certificates, and the corresponding policies, shall contain a provision that coverages afforded under the policies will not be canceled unless at least thirty (30) days prior written notice (10 days notice for non-payment cancellation) has been given to the Authority. If such notice is not available from the insurance company, Firm agrees to provide the Authority with notice of cancellation within 48 hours of receipt of said notice from the insurance company.

Contractor's Equipment Insurance

Any insurance policy covering the machinery and equipment owned, operated, and/or controlled by the Firm, subcontractors and subordinate subcontractors against loss by any cause shall include an endorsement providing that the underwriters waive their right of subrogation against the owner, the Firm and all subcontractors and subordinate subcontractors.

Subcontractors

The successful firm will include all subcontractors as insureds under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors will be subject to the requirements stated herein.

The successful firm shall waive all rights against the Authority and its agents for recovery of damages to the extent these damages are covered by the policies listed above, where allowable by law. In addition, to the extent damages are covered by property insurance during construction, the Authority and Firm waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages. The Authority and the Firm, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein. If the policies of insurance purchased by either party as required above do not expressly allow the insured to waive rights of subrogation prior to loss, the insured shall cause them to be endorsed with a waiver of subrogation.

9. **Termination.** The Authority shall have the right without cause and in its complete discretion to terminate the Contract at any time upon thirty (30) days' advance written notice to the Vendor. In such event, absent a default on the part of the Vendor, the Vendor shall be entitled to compensation for all services properly provided to the Authority pursuant to the Contract prior to such termination.

In addition to other remedies available under law to the non-defaulting party, this Contract may be terminated by either party upon ninety (90) days' advance written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination.

10. **Debarment Liability** The Vendor acknowledges that it shall be rendered liable to debarment in the public interest, pursuant to procedures established by Executive Order No. 34 (1976), and updated by Executive Order No. 189 (1988), and pursuant to N.J.A.C. 19:30-2, for violating any of the following provisions:

a) No Vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Authority officer or employee or special Authority officer or employee, as defined by N.J.S.A. 52:13D-13(b) and (e), with which such Vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13(I), of any such officer or employee, or any partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13(g).

b) The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by any Authority officer or employee or special Authority officer or employee from any Authority Vendor shall be reported in writing forthwith by the Vendor to the Attorney General of New Jersey and the Executive Commission on Ethical Standards.

c) No Vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such Vendor to, any Authority officer or employee or special Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Authority, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13(g). Any relationships subject to this subsection shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the Authority officer or employee or special Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

d) No Vendor shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee or special Authority officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

e) No Vendor shall cause or influence, or attempt to cause or influence, any Authority officer or employee or special Authority officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the Vendor or any other person.

11. **Time for Completion and Damages.** The time for beginning and the time for completion of the Work are essential conditions of the Contract, and the Work embraced shall be commenced on the date specified herein.

The Vendor shall proceed with the Work at such rate of progress to ensure that each aspect of the Contract is fully and timely performed and completed from time to time. It is expressly understood and agreed by and between the Vendor and the Authority that the Contract time for the completion of the Work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

For reasons within the Vendor's control, if the Vendor shall fail to complete the Work, or shall be responsible for a delay which results in the failure to complete the Work within the Contract time, or extension of time granted by the Authority, then the Vendor will pay the Authority an amount sufficient to compensate the Authority for its damages incurred as a result of such failure to complete.

12. **Contractual Liability Act.** Notwithstanding any provision in this Agreement or in the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq., to the contrary, the parties hereto agree that any and all claims made by the Vendor against the Authority for damages, including, but not limited to costs and expenses, shall be governed by and subject to the provisions of the New Jersey Contractual Liability Act.

13. **Subcontractors/Purchasing.**

In instances where services are subcontracted out, the Vendor will retain subcontractors via a competitive selection process approved by the Authority and as outlined in the RFQ/P. For all subcontracts or purchases estimated to be in excess of \$1,000, at least three (3) proposals will be obtained by the Vendor. Prior to hiring any subcontractor or making any purchase in excess of \$1,000, the Vendor must provide copies of all documentation substantiating the engagement or purchase, along with its recommendation to the Authority for its written approval. For all subcontracts or purchases estimated to be in excess of \$25,000, the Vendor must prepare a written request for proposal and obtain at least three (3) **sealed** proposals from qualified firms. The request for proposal will state a date and time for receipt and opening of proposals and the Vendor will provide copies of the request for proposals to the Authority prior to the deadline date. The Authority reserves its right to attend proposal openings.

14. **Wage Standards for State Building Service Contracts.**

On January 12, 2006, P.L. 2005, c. 379 (N.J.S.A. 58:11-56.58 et seq.) was enacted that establishes wage standards for workers employed by contractors or subcontractors performing “building services” for properties or premises owned or leased by the State of New Jersey. The wage standards are subject to the *building services* portion of the Scope of Services outlined in the RFQ/P.

Contractors or subcontractors must pay employees the established wage standard for the appropriate New Jersey county and classification of building service employee. The requirements are further outlined in the RFQ/P. Annual adjustments of the prevailing wage for building services will be made during the term of this contract, and if it is found that any worker employed by the Vendor or any subcontractor covered by this contract, has been paid less than the required prevailing wage, the Authority may terminate the Vendor or subcontractor's right to proceed with the work, and the Vendor and its sureties shall be liable to the Authority for any excess costs occasioned by the termination.

The Vendor and each subcontractor shall keep an accurate record showing the name, classification, and actual hourly rate of wages and any benefits paid to each worker employed by it to perform building services pursuant to this contract or any subcontract, and shall preserve those records for two years after the date of payment. The records shall be open at all reasonable hours to inspection by the Authority and copies produced within five (5) business days after request by the Authority.

15. **Political Campaign Contributions.**

15.1 For the purpose of this Section 15, the following shall be defined as follows:

a) “Contribution” means a contribution reportable as a recipient under “The New Jersey Campaign Contributions and Expenditures Reporting Act” P.L. 1973, c. 83 (C.10:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq., a contribution made to a legislative leadership committee, a contribution made to a municipal political party committee or a contribution made to a candidate committee or election fund of any candidate for or holder of the office of Lieutenant Governor. Currently, contributions in excess of \$300 during a reporting period are deemed “reportable” under these laws.

b) “Business Entity” means:

i. a for-profit entity as follows:

A. in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of corporation;

- B. in the case of a general partnership: the partnership and any partner;
- C. in the case of a limited partnership: the limited partnership and any partner;
- D. in the case of a professional corporation: the professional corporation any shareholder or officer;
- E. in the case of a limited liability company: the limited liability company and any member;
- F. in the case of a limited liability partnership: the limited liability partnership and any partner;
- G. in the case of a sole proprietorship: the proprietor; and
- H. in the case of any other form of entity organized under the laws of this State or other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;

- ii. any subsidiary directly or indirectly controlled by the business entity;
- iii. any political organization organized under section 527 of the Internal Revenue

Code is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and

iv. with respect to an individual who is included within the definition of business entity the individual's spouse or civil union partner, and any child residing with the individual, provided, however, that, this Order shall not apply to a contribution made by such spouse, civil union partner, or child to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of section 9 of P.L. 2005, c. 51 (C.19:44A-20.1 et seq.) ("Chapter 51").

c) PL 2005, c.51 – means Public Law 2005, chapter 51 (C. 19:44A-20.13 through C. 19:44A-20.25, inclusive) as expanded by Executive Order 117 (Gov. Corzine, September 24, 2008).

15.2 The terms, restrictions, requirements and prohibitions set forth in P.L. 2005, c. 51 are incorporated into this Agreement by reference as material terms of this Agreement with the same force and effect as if P.L. 2005, c. 51 were stated herein its entirety. Compliance with P.L. 2005, c. 51 by Vendor shall be a material term of this Agreement.

15.3 Vendor hereby certifies to the Authority that commencing on and after October 15, 2004, Vendor (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) has not solicited or made any Contribution of money, pledge of Contribution, including in-kind Contributions, that would bar a contract agreement between Vendor and the Authority pursuant to P.L. 2005, c. 51. Vendor hereby further certifies to the Authority that any and all certifications and disclosures delivered to the Authority by Vendor (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) are accurate, complete and reliable. The certifications made herein are intended to and shall be a

material term of this Agreement and if the Treasurer of the State of New Jersey determines that any Contribution has been made in violation of P.L. 2005, c. 51, the Authority shall have the right to declare this Agreement to be in default.

15.4 Vendor hereby covenants that Vendor (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) shall not knowingly solicit or make any contributions of money, or pledge of a contribution, including in-kind contributions, to a candidate committee or election fund of any candidate or holder of the public office of Governor of New Jersey or to any New Jersey state or county political party committee prior to the expiration or earlier termination of this Agreement. The provisions of this Paragraph 13.4 are intended to and shall be a material term of this Agreement and if the Treasurer of the State of New Jersey determines that any Contribution has been made by Vendor (and each of its principals, subsidiaries and political organizations included within the definition of Business Entity) in violation of P.L. 2005, c. 51, the Authority shall have the right to declare this Agreement to be in default.

15.5 In addition to any other Event of Default specified in the Contract Documents, the Authority shall have the right to declare an event of default under this Agreement if: (i) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) makes or solicits a Contribution in violation of P.L. 2005, c. 51, (ii) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) knowingly conceals or misrepresents a Contribution given or received; (iii) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) makes or solicits Contributions through intermediaries for the purpose of concealing or misrepresenting the source of the Contribution; (iv) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) makes or solicits any Contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or to any State or county party committee; (v) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) engages or employs a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) directly would violate the restrictions of P.L. 2005, c. 51; (vi) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) funds Contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) engages in any exchange of Contributions to circumvent the intent of P.L. 2005, c. 51; (viii) Vendor (or any of its principals, subsidiaries and political organizations included within the definition of Business Entity) directly or indirectly through or by any other person or means, does any act which would violate the restrictions of P.L. 2005, c. 51; or (ix) any material misrepresentation exists in any Political Campaign

Contribution Certification and Disclosure which was delivered by Vendor to the Authority in connection with this Agreement.

15.6 Vendor hereby acknowledges and agrees that pursuant to P.L. 2005, c. 51, Vendor shall have a continuing obligation to report to the Office of the State Treasurer, Political Campaign Contribution Review Unit of any Contributions it makes during the term of this Agreement. If after the effective date of this Agreement and before the entire Contract Price is paid by the Authority, any Contribution is made by Vendor and the Treasurer of the State of New Jersey determines such Contribution to be a conflict of interest in violation of P.L. 2005, c. 51, the Authority shall have the right to declare this Agreement to be in default.

15.7 The Vendor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888) 313-3532 or on the internet at <http://www.elec.state.nj.us/>.

16. **General Conditions**

A. The Work shall be performed in a professional manner, in accordance with the standards generally expected or required within the profession and the Work shall also be performed in accordance with all applicable state, federal and local laws, rules, regulations and ordinances.

B. The Vendor shall provide such reports, certificates, and documents as the Authority may reasonably require within five (5) business days after request by the Authority.

C. Within five (5) business days after request by the Authority, the Vendor shall provide to the Authority, at Vendor's expense, copies of all equipment and maintenance records, warranties, proposals, invoices, receipts, back-up documentation, subcontracts, compliance records, employee and payroll records, plans, drawings, diagrams, cost estimates, reports, and/or other documents required for each property.

D. If the Authority or Vendor observes or otherwise becomes aware of any fault or defect in the Work or the Project or nonconformance with any of the Contract Documents, prompt written notice thereof shall be given by the party discovering the defect to the other.

E. The Vendor will immediately notify (but in no event later than 24 hours) the

Authority of any property damage, equipment failure, or incidents/accidents related to any Authority-properties in accordance with the established procedures provided to the Vendor.

F. The Vendor must comply with all local, state and federal laws, rules and regulations applicable to the contract(s) issued pursuant to the RFQ/P and to the goods delivered and/or services performed hereunder.

G. The Authority shall furnish all information reasonably required for the performance of the Work and shall render approvals and decisions as expeditiously as possible for the orderly progress of the Vendor's services and of the Work.

H. The Vendor shall comply with the affirmative action requirements set forth in the Law Against Discrimination, N.J.S.A. 10:5-31 et seq., and the regulations promulgated thereunder by the State Department of Treasury.

I. The Vendor is required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 which are expressly included within the terms of this agreement, see Exhibit A annexed hereto and made a part hereof.

J. In accordance with Public Law 2004, Chapter 57, a subcontractor shall provide a copy of its business registration to any Vendor who shall forward it to the Authority. No contract with a subconsultant shall be entered into by any Vendor unless the subconsultant first provides proof of valid business registrations. The Vendor shall provide written notice to all subconsultants that they are required to submit a copy of their business registration to the Vendor. The Vendor shall maintain a list of the names of any subconsultants and their current addresses, updated as necessary during the course of the contract performance. The Vendor shall submit to the Authority a copy of the list of subconsultants, updated as necessary during the course of performance of the contract. The Vendor shall submit a complete and accurate list of the subconsultants to the Authority before a request for final payment is made to the Authority. The Vendor and any subconsultant providing goods or performing services under this contract, and each of their affiliates, shall, during the term of the contract, 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", P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the State, refer to Exhibit B.

K. In accordance with the requirements of N.J.S.A. 52:32-17 et seq., N.J.A.C. 12A:10-1.2 et seq., N.J.A.C. 12A:10A-1.2 et seq., N.J.A.C. 17:13-1.2 et seq., and N.J.A.C. 17:14-1.2 et seq., the Authority is required to develop a set-aside plan for Small Businesses. The Vendor agrees that it shall comply with all requirements of these provisions. If the Vendor fails to comply with the requirements of these provisions, the Authority may declare this Contract void.

L. Pursuant to N.J.S.A. 52:34-13.2, all Work and all subcontractor services performed in connection with or as part of the Work shall be performed within the United States.

M. Tax Set Off: Pursuant to N.J.S.A. 54:49-19, and notwithstanding the provision of another law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of state government, is entitled to payment for those good or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any state tax, the Director of the Division of Taxation shall seek to set off so much of that payment as shall be necessary to satisfy the indebtedness. The amount set-off shall not allow for the deduction of any expense or other deduction which might be attributable to the taxpayer partner or shareholder subtraction of set-off under this Act. The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within (30) days of such notice under the procedures for protests established under N.J.S.A. 54:49-19. No request for conference, protest or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness.

N. The Vendor will assist the Authority in complying with the energy efficiency practice requirements of Executive Order No. 11 (2006) as outlined in the RFQ/P. The Vendor will submit a report to the Authority every six (6) months outlining the types, volume and dollar amounts of recycled products, energy efficient products, renewable energy products, low toxicity products and alternatives to products that contain PBTs, and other products manufactured through environmentally sustainable methods purchased during the previous six months.

O. The Vendor shall not disclose to any third party the contents of the information, reports, findings, analysis, surveys and drawings generated or produced in performance of this Contract, or provide copies of same, without the prior written consent of the Authority, except where such information, reports, etc. are legally required by order of court or administrative agency, state or federal.

P. The Authority and the Vendor, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party of this Contract and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Contract. Neither the Authority nor the Vendor shall assign, sublet, or transfer any interest in this Contract without the prior written consent of the other party.

Q. Any notices required to be given under this Contract shall be mailed to:

New Jersey Economic Development Authority
P.O. Box 990

36 West State Street
Trenton, New Jersey 08625-0990
Attn: Donna T. Sullivan, Vice President
Real Estate Development Division

and

R. To the extent that there is any conflict between the terms and conditions of the Vendor's Proposal and the terms and conditions of the Contract and the RFQ/P, the Contract and RFQ/P shall control.

S. This Contract shall be construed under the laws of the State of New Jersey.

T. The headings of the various paragraphs of this Contract are inserted for the convenience of reference only, and in no way define, describe or limit the scope or intent of this Contract or any of the provisions hereof, and shall not affect the interpretation of this Contract or any of the provisions hereof.

U. This Contract shall be construed without any presumptions against the drafter and shall be considered as though it were drafted cooperatively by both parties.

V. In the event that any portion of this Contract is found to be contrary to law and unenforceable; the validity of remaining covenants, agreements, terms and provisions contained in this Contract, shall be in no way affected, prejudiced or disturbed thereby.

W. This Contract constitutes the entire agreement between the parties. Any changes or amendments to the Contract must be in writing and signed by the Vendor and an authorized representative of the Authority.

X. The parties hereto represent that they have the proper authority to sign on behalf of the entities entering this Contract and they fully intend for the Authority and Vendor to be legally bound.

The Contract entered into as of the day and year first written above.

ATTEST:

NEW JERSEY ECONOMIC DEVELOPMENT
AUTHORITY

Donna T. Sullivan, Vice President
Real Estate Development Division

By: _____
Maureen Hassett, SVP
Governance, Communications &
Strategic Initiatives

ATTEST:

By: _____