

PREPARATION  
OF  
PROVIDE TURN-KEY DESIGN-BUILD SERVICES  
FOR A  
PHOTOVOLTAIC GENERATION SYSTEM

ATLANTIC CITY MUNICIPAL UTILITIES AUTHORITY

SCOPE OF SERVICES

SELECTION OF PROFESSIONAL CONSULTANTS

Prepared by

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ARTICLE I ADMINISTRATION

1.1 DATE AND REVISIONS:

Date of Original Scope of Services: June 24, 2009

Revision Dates:

ALL REVISED ENTRIES WILL BE MARKED WITH AN ASTERISK (\*) IN THE MARGIN

ALL PROPOSALS MUST BE MADE UPON THE FORM INCLUDED

HEREIN. THE ENTIRE SCOPE OF SERVICES WITH ALL

ENTRIES COMPLETED MUST BE SUBMITTED WITH PROPOSALS,

INCLUDING ADDENDUM TO SCOPE OF SERVICES, CORPORATE

DISCLOSURE STATEMENT AND AFFIRMATIVE ACTION REQUIREMENTS.

ATLANTIC CITY MUNICIPAL UTILITIES AUTHORITY  
REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES

Proposals are due at 11:00 A.M. Tuesday, August 11, 2009. Six (6) copies are to be delivered to Neil A. Goldfine, Atlantic City Municipal Utilities Authority Board Room, located at 401 N. Virginia Avenue, Atlantic City, New Jersey 08404-0117.

The Consultant will be required to perform various tasks as more specifically outlined in Article III.

Completion of all forms in this Request for Proposals (RFP) is mandatory. Failure to complete and sign the following forms will be cause for rejection of the submitted proposal:

1. Section 6.3, Method of Compensation.
2. Corporate Disclosure Statement.
3. Exhibit A, Mandatory Affirmative Action Language.
4. Schedule of Minority Contractors and/or Suppliers.
5. State Certificate of Employee Information Report, if one as been issued. If one has not been issued, it is your obligation to acquire one and submit a copy prior to contract approval.
6. Schedule A, Insurance and Indemnification Agreement
7. State of New Jersey Business Registration Certificate.
8. Political Contribution Disclosure Form.
9. Business Entity Disclosure Form.
10. Stockholders Disclosure Certification
11. Business Entity Disclosure Certification

Copies may be made of all pages in this RFP.

During the performance of this Contract, the Consultant will be required to comply with the requirements of P.L. 1975, c. 127; P.L. 1977, c. 33; and Atlantic City Municipal Utilities Authority Resolution 267 of 1992.

Proposals may be delivered to the MUA or forwarded by U.S. Mail, or other delivery services, on or before 11:00 A.M. of the date above; OR handed in at the Purchasing Board Meeting when called for. The MUA disclaims any responsibility for quotes forwarded by U.S. Mail, or other delivery services, and received beyond the quote opening deadline.

## Introduction

The Atlantic City Municipal Utilities Authority (ACMUA) provides drinking water for Atlantic City, which is located on Absecon Island in Atlantic County, New Jersey.

The Authority's main facilities include:

- Two surface water reservoirs (Kuehnle Pond Dam and Doughty Pond Dam) with a combined capacity of approximately 500 million gallons;
- Thirteen (13) wells with depths ranging from 200 to 675 feet;
- Three (3) water storage facilities with a combined capacity of more than 12 million gallons;
- The Pleasantville Water Treatment Plant;
- Over 150 miles of water transmission lines;
- Admin. Office/Distribution Yard Garage located 401 N. Virginia Ave.,
- Atlantic City, N.J.

The Board of the Atlantic City Municipal Utilities Authority is committed to offering quality service to the residents of Atlantic City. The Board therefore believes that this goal would be better obtained by encouraging practices that have environmental benefits as well as financial benefits. Therefore, the ACMUA Board is interested in exploring proposals for the installation of a Photovoltaic Generation System at the Administrative Office Building and the Pleasantville Water Treatment Plant.

General Information

A. Issuing Office and Point of Contact

Executive Director: Neil Goldfine  
Email: ngoldfine@acmua.org  
Phone: (609) 345-3315  
Facsimile: (609) 345-7055  
Address: 401 N. Virginia Ave., Atlantic City, NJ,  
08401

B. Limits of Liability

The Atlantic City Municipal Utilities Authority assumes no liability for any cost incurred by proposers in responding to this RFP or in responding to any further request for interviews, additional information, etc. prior to the issuance of the contract.

The Consultant shall designate his authorized Project Manager on the form provided with this Scope of Services under Article VII.

Neil A. Goldfine, P.E., P.P.  
Executive Director

A. Proposal Format

There is no restriction to length of proposals; however, proposers are encouraged to be as concise as possible. All proposals should include:

1. Letter of transmittal and eight (8) copies of proposal.
2. Project work schedule.
3. Permits and Approvals - a complete list of all necessary permits, the agencies responsible for issuance of same, and a proposed schedule for their acquisition in order to assure compliance with appropriate regulatory timetables.
4. Qualifications:
  - a. Personnel
  - b. Experience and facilities of the Firm(s).
  - c. Recent work history for similar projects, if available.
  - d. Documents to demonstrate financial strength, including financial statements
  - e. Identification and Qualifications of subcontractors
  - f. Licenses and Certifications
  - g. Proof of Liability and Professional Insurance
5. Business Proposals: Proposals to be considered shall include one or both of the following separate scenarios:
  - a. Power Purchase Agreement - Proposer finances, plans/permits, designs, builds, owns, operates and provides electricity to ACMUA at a fixed rate for a contract term of 15 years. Proposal may include an agreement to share in SREC revenue with the ACMUA.
  - b. ACMUA Ownership - ACMUA Finances. Proposer to enter into a design build contract with the ACMUA. Proposer plans/permits, designs, builds, and turns-over the complete and operating PV system to the ACMUA. The PV

System size, number of acres to be used, cost, estimated annual production, method of interconnection, etc. to be included. Proposer should also include a proposal for annual operation and maintenance of the system.

6. Summary of Benefits: - Developer should include a summary of benefits that their proposal offers the ACMUA. Developers are encouraged to be creative and identify all benefits, including, but not limited to; guarantees on construction cost, commercial operation date and solar system output; end of contract provisions and options; and, sharing of all environmental benefits.

7. Meetings:

A major component of all tasks is cooperation and interaction with the ACMUA on an as necessary basis. This shall include, but not be limited to, a kick-off meeting discuss the essential goals of the project and monthly meetings.

#### B. Information and Questions

Questions must be in writing and addressed to Neil Goldfine, by 4:30 PM on July 15, 2009. Questions can either be e-mailed or faxed. It is the proposer's responsibility to ensure their questions are received by the ACMUA. A collective site visit is scheduled for July 8, 2009, 10:00 AM beginning at 401 N. Virginia Ave., Atlantic City. Directions to the site are available on the ACMUA Website [www.acmua.org](http://www.acmua.org).

It is the developers responsibility to perform due diligence. Failure to perform full due diligence does not relieve developer from fulfilling project requirements.

#### C. Evaluation Criteria:

ACMUA will evaluate proposals based on pricing and other economic factors, environmental benefits to be achieved by the project, detailed technical approach to the project, experience and qualifications of the developer and subcontractors as well as financial strength of the developer.

## 1.2. DEFINITIONS

**CONSULTANT:** An individual, firm, partnership, corporation or joint venture, acting directly, or through a duly authorized representative, legally submitting a Proposal or entering into a Contract with the MUA.

**CONTRACT:** The agreement covering the performance of the Project and payment therefore, including this Scope of Services, Proposal, Resolution of Award of Contract, Executed Form of Contract, Supplementary Agreements and letters or other information giving interpretations or revisions of any of the foregoing documents, all of which are to be treated as one instrument whether or not set forth at length in the form of Contract.

**FINAL ACCEPTANCE:** A mutual agreement of the contract parties that all professional services have been satisfactorily performed and all of the contracted deliverable documents have been satisfactorily delivered and accepted by the MUA.

**MUNICIPAL UTILITIES AUTHORITY (MUA):** A Public utility which owns and operates the Municipal Water Department.

**PROPOSAL:** The prepared form furnished by the MUA, properly completed and executed and submitted as a proposal for the performance of the project.

**PROJECT:** The entire scope of professional services and products to be performed and delivered to the MUA under the Contract.

**BUSINESS DAY:** A calendar day, exclusive of Saturdays, Sundays and legal Federal, State and City Holidays, which is mutually agreed upon as the definition of a working day for the scope of this project.

## 1.3. INTENT

The Authority is requesting a proposal for Professional Consulting Services required for the following project:

Provide Turn-key Design-build Services for a Photovoltaic Generation System

## 1.4. DESCRIPTION

Professional Consulting Services sought under this Proposal are detailed in Article III.

## ARTICLE II GENERAL PROVISION

### 2.1 RESPONSIBILITY OF THE CONSULTANT

With respect to the performance of consulting services, the Consultant shall exercise that degree of skill, care and diligence normally exercised by a recognized professional with respect to the performance of comparable consulting services.

With respect to the performance of work by subcontractors, the Consultant shall use its recognized professional judgment, care and prudence in accepting such work.

In its performance of professional consulting services, the Consultant:

- A. Shall comply with all applicable laws and ordinances, including applicable regulations of the City, County, State and Federal Government.
- B. Shall be responsible for the coordination, integration and interfacing of all work performed by its own forces and subcontractors.

### 2.2 DATA TO BE FURNISHED TO THE CONSULTANT

The MUA shall furnish to the Consultant, at its request, and in a timely manner, all pertinent plans, reports, records, maps and supporting data which are and which shall become available to the MUA and which the Consultant may require in performance of the consulting service.

### 2.3 PERSONNEL

The MUA reserves the right to direct the Consultant to remove and reject nomination of any of its personnel from the performance of the professional consulting services under this Contract. If such removal is for cause, the cost shall be borne by the Consultant.

The Consultant recognizes that the assignment of personnel was a key factor in the selection of the Consultant by the MUA. The Consultant agrees that the persons listed elsewhere in this Scope of Services will perform such functions as indicated. Any proposed changes must be approved by the MUA Official.

### 2.4 PROJECT MANAGEMENT

The Consultant Project Manager for the consulting services shall be fully responsible for the day-to-day activities under this Contract and shall serve as the primary contact to the MUA's official.

### 2.5 PROJECT CONTROL SCHEDULING

2.5.1 DUTIES OF THE CONSULTANT PROJECT MANAGER: General duties of the Consultant Project Manager will include review of all technical products of the Consultant and project administration within the limits of the Contract. All correspondence and communication between the MUA and the Consultant related to the scope of the project will be issued by or directed by the Consultant Project Manager. The Consultant Project Manager is not authorized to direct the Consultant to accomplish any work not required by the Contract nor is he authorized to approve the changes in the Contract on behalf of the MUA.

2.5.2 WORK SCHEDULE: For larger projects, a preliminary Gantt Chart Schedule will be requested for the performance of work outlined in the Scope of Services. This schedule shall be used for progress monitoring and control. If at any time during the performance of this specified consulting services, the Consulting foresees any variation from the approved work schedule, he shall immediately submit a revised work schedule to the MUA for review and approval. For smaller projects a schedule is still required in the proposal.

2.5.3 FEE ESTIMATES: Proposed fee estimates shall be coordinated with the schedule and any proposed project phasing. Any necessary revised fee estimates shall be submitted to the MUA for review and approval prior to requests for payment. Lump sum fees are preferred.

2.5.4 PROGRESS REPORTS: For larger-scale engagements, the Consultant shall submit monthly progress reports in writing to the MUA by the end of the third week of the following month. These progress reports shall include:

- A. A narrative discussion of all activities in progress during the report period, including services anticipated to be performed during the next month.
- B. A narrative discussion of the work schedule and an estimate of the per cent of completion of the consulting services rendered to date including any variations from the accepted work schedule. Variations shall be accompanied by a narrative explanation.
- C. An estimate of costs for each task including variations from the proposed fee schedule. Variations shall be accompanied by a narrative explanation.

## 2.6 TIME OF PERFORMANCE

The Consultant shall perform in his professional services with due diligence and shall complete the professional services within the time schedule contained in this Scope of Services after receipt of the MUA's Notice to Proceed. In the event that performance of the professional consulting services is delayed by causes beyond the reasonable control of the Consultant and its subcontractors, and

without fault or negligence of the Consultant and its subcontractors, the time and additional costs occurred for the performance of the professional services shall be equitably adjusted to reflect the extent of such delay, provided that the Consultant shall have given the MUA written ten (10) days of commencement of such delay. Such notice shall include a description of the delay and the steps to be taken by the Consultant and other to mitigate the affect of such delay.

The Consultant shall proceed with the project only upon receipt of written Notice to Proceed from the MUA.

#### 2.7 PROGRESS REPORT

In addition to the provisions of Article 2.5, the MUA shall be entitled at times to be advised, at its request, of the status of the project being done by the Consultant and of details thereof. The closest collaboration and cooperation shall be maintained by the Consultant with representatives of the MUA, and either party to the Contract may request and be granted a conference.

#### 2.8 OWNERSHIP OF DOCUMENTS AND EQUIPMENT

All finished and unfinished documents, data, studies, surveys, drawings, specifications, maps, photographs, reports, books and instruments gathered or prepared for, or by the Consultant pursuant to this Contract shall be the property of the MUA without restriction or limitation on their use. Original copies of such items shall be delivered by the Consultant to the MUA upon final acceptance or within sixty (60) days after termination of the professional consulting services. The Consultant shall be permitted to retain, at its own cost, copies of such items for its records, however, publication of this material is subject to the written approval of the MUA.

Tangible items of non-consumed equipment, materials, supplies and furnishings purchased by the Consultant, the cost of which have been reimbursed to the Consultant as a direct cost, shall be turned over to the MUA at completion of, or early termination of, the professional consulting services, or otherwise disposed of as directed by the MUA, and the proceeds of any such disposal shall be credited to the MUA.

#### 2.9 INSURANCE AND INDEMNITY

SEE SCHEDULE A

The Consultant shall, to the full extent permitted by applicable law, indemnify, hold harmless, and upon request, defend the MUA, the MUA's respective officers, employees, agents and representatives from and against any and all claims, losses, costs, damages and liability on account of injury to or death of any person or loss of or damage to any property arising from any negligent acts or omissions of the Consultant or its officers, employees, agents, subcontractors or representatives during the course of this project.

#### 2.10 FINAL ACCEPTANCE

When the project has been completed, the Consultant shall so advise the MUA in writing. Within thirty (30) days of receipt of such notice, the MUA shall give the Consultant written notice of any incompleting services, or the MUA shall issue a letter of Final Acceptance. Upon completion of any incompleting services, the Consultant shall again notify the MUA and shall request written notice of Final Acceptance. Once the incompleting services are complete, the MUA shall issue a letter of Final Acceptance within thirty (30) days of such notice. Final Acceptance shall not constitute a waiver or abandonment of any rights or remedies available to the MUA under any other section of this Contract.

#### 2.11 TERMINATION, SUSPENSION AND SANCTIONS

If through any cause within the reasonable control of the Consultant, the Consultant shall fail to fulfill in a timely and proper manner, or otherwise violate any of the covenants, agreements or stipulations material to this Contract, the MUA shall thereupon have the right to terminate the Contract then remaining to be performed by giving written notice to the Consultant of such termination which shall become effective upon receipt by the Consultant. In the event of termination, all finished and unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports and all other work products prepared by the Consultant, and its subcontractors, shall be promptly delivered to the MUA, who shall compensate the Consultant in accordance with the terms of this Contract for all Professional Consulting Services performed by the Consultant prior to termination, that are evidenced by materials delivered by the Consultant to the MUA.

Notwithstanding the above, the Consultant shall not be relieved of liability to the MUA for damages sustained by the MUA by virtue of any breach of the Contract by the Consultant, and the MUA may reasonably withhold payment to the Consultant until such time as the exact amount of damages to the MUA, from the Consultant, is determined.

The MUA may, for its convenience, terminate the project then remaining to be performed at any time by giving written notice to the Consultant of such termination, which shall be come effective upon receipt by the Consultant. In addition to the provisions of the above two paragraphs, the Consultant shall be reimbursed for all costs incidental to said termination, including without limitation, demobilization costs, and otherwise, reimbursed under these termination provisions. Such payments shall be the total extend of the MUA's liability to the Consultant upon termination for convenience.

The MUA also reserves the right to terminate the project then remaining to be performed in the event the Consultant is placed either in voluntary or involuntary bankruptcy or makes an assignment for benefit of creditors. All rights and obligations shall be the same as provided for in this Article.

In the event of the Consultant's non-compliance with the non-discrimination provisions of this Contract, the MUA shall impose such Contract sanctions as it may determine to be appropriate, including but not limited to withholding of payment to the Consultant under the Contract until the Consultant complies with said provisions. In the event the MUA cancels or terminates the project pursuant to this paragraph, the rights and obligations shall be the same as provided for in this Article.

#### 2.12 CHANGES

The MUA may, from time to time, order changes in the project and the Consultant shall promptly comply with each written order in accordance with procedures to be established by the MUA. Each change shall be directed by a written change order signed by the MUA official designated in this Scope of Services and accepted by the Consultant Project Manager. Said change order will provide equitable adjustment in the time of performance, budget and fixed fee if applicable, as well as any other provisions of this Contract which are affected by said change order.

If the Consultant is of the opinion that any services it has been directed to perform are beyond the scope of this Contract, and constitutes extra work, it shall promptly notify the MUA of that opinion, in writing.

#### 2.13 DISPUTES

Except as provided for in this Contract, any disputes concerning a question of fact arising under this Contract, which is not disposed of by agreement, shall be decided by the MUA, which shall mail or otherwise furnish a copy in writing of the decision to the Consultant. The decision of the MUA shall be final and conclusive unless within thirty (30) days from the date of the receipt of such copy, the Consultant mails, or otherwise furnishes, to the MUA a written appeal. The decision of the MUA or its Board of Directors, for the determination of such appeals, shall be final and conclusive unless determined otherwise by a court of competent jurisdiction. In connection with any appeal proceeding under this Article, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Consultant shall proceed diligently with the performance of the Contract in accordance with the MUA's decision. Failure to comply with the provisions of the above paragraph shall be cause for termination in accordance with Article 2.11.

#### 2.14 INSPECTION

The Consultant shall permit the authorized representatives of the MUA, the county of Atlantic, State of New Jersey and the Federal Government to inspect, review and approval all work tracings, plans, specifications, maps, data, records and construction site work performed, gathered or developed under this contract at anytime within the duration of the Contract and within three (3) years after

the final acceptance or termination of the Contract.

#### 2.15 ASSIGNMENT, TRANSFER OR SUBCONTRACTING

The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same, whether by assignment or novation, without the prior written consent of the MUA. With prior written approval by the MUA of the proposed subcontracts, the Consultant may subcontract not more than fifty (50%) per cent of the Contract to another third party.

#### 2.16 EQUAL OPPORTUNITY

The Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, ancestry, martial status, physically handicapped, place of birth or national origin. The Consultant shall take affirmative actions to insure that applicants are employed and that employees are treated during their employment without regard to their race, religion, color, sex, age, ancestry, martial status, physically handicapped, place of birth or national origin. Such actions shall include, but not be limited to the following: Employment, upgrading, transfer or demotion, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship. Evidence of such action will be included in a written Affirmative Action Plan developed in accordance with the requirements of Resolution No. 267 of 1992.

During the performance of this Contract, the Consultant agrees as follows:

The Consultant shall, and all solicitations or advertisements for employees placed by or on behalf of the contract, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, age, ancestry, martial status, physically handicapped, place of birth or national origin.

The Consultant shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, as applicable, a notice to be provided advising the said labor union or worker's representative of a Consultant's commitments with this paragraph, and shall post copies of the notice in a conspicuous place available to employees and applicants for employment.

The Consultant will cooperate with the MUA in meeting its commitments for Minority Business Enterprise Utilization, and will use its best efforts to insure that minority enterprises shall have the maximum practicable opportunity to compete for subcontract work under this project. The Consultant shall include in all subcontracts which may exceed \$5,000, the requirements of Federal Procurement Regulations regarding the utilization of minority business enterprises as follows:

a. It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

b. The Consultant agrees to use his best efforts to carry out this policy in the award of his subcontractors to the fullest extent consistent with the efficient performance of this Contract. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

#### 2.17 CONFLICT OF INTEREST

The Consultant covenants that it presently has no interest, and shall not acquire any interest, direct or indirectly, which would conflict in any manner or degree with the performance of this Contract. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall knowingly be employed by the Consultant.

No member, officer or employee of the MUA or of a local public body, during his tenure, or for one (1) year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

#### 2.18 COVENANT AGAINST CONTINGENT FEES

The Consultant warrants that it has not employed nor retained any company or person other than a bona fide employee working solely for the Consultant, to solicit or secure the Contract, and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract.

#### 2.19 PATENT RIGHTS, COPYRIGHTS, CONFIDENTIAL FINDINGS

Any patentable result arising out of this Contract, as well as all information, designs, specifications, processes, data and findings, shall be made available to the MUA, unless it is legally determined that it is in the public interest that it not be so made available.

No reports, maps, other documents, articles or devices produced in whole or in part under this Contract shall be the subject of any application for a copyright or patent by or on behalf of the Consultant or its employees subcontractors.

#### 2.20 NOTICES

All Communications relating to the day-to-day activities shall be exchanges between the Consultant Project Manager and the MUA official designated herein. The Consultant Project Manager shall be designated when submitting this Proposal.

Notices hereunder shall be effective on delivery, if delivered personally, on the day following postmark if mailed to an address in Atlantic City, and on the seventh (7) day following postmark, if mailed to an address outside Atlantic City.

#### 2.21 PUBLICITY NEWS RELEASES

The Consultant shall not during or after performance of this Contract, disseminate any information outside its organization regarding this project, or the services performed for the MUA without prior written approval of the MUA Official.

#### 2.22 AS-BUILT PLANS

The Consultant shall prepare an As-Built plan upon completion of the project and shall submit two (2) reproducible copies of these documents, signed, to the MUA Official. The As-Built plans shall show specific, dimensional locations and depths of all construction as it was actually completed in the field. Any changes from the original plans shall be highlighted on the As-Built plans.

As-Built plans shall be filed with the MUA Official prior to the releasing of the final payment and within twenty (20) calendar days of submission of the construction contractor's final payment request.

#### 2.23 AFFIRMATIVE ACTION GENERAL CONDITIONS

Consultant submitting proposals are required to comply with the requirements of Public Law 1975, Chapter 127, and MUA Resolution No. 267 of 1992.

ALL CONSULTANTS are required to submit an Affirmative Action Plan with their bid stating their compliance with the Equal Employment Opportunity Ordinance(s) regarding equal employment opportunity and shall file employment information reports, or other reports as may be required by the MUA.

ALL CONSULTANTS submitting proposals are required to submit the schedule of Minority Contractors and/or suppliers with their bid, listing the minority contractors and/or suppliers at a minimum of ten (10%) per cent of the total bid amount they will be utilizing and to identify all of his subcontractors and they must disclose where they are buying all of their suppliers before approval of the subcontractors.

The successful Consultant's employment goals are hereby restated as per P.L. 1975, c. 127, to be minority percentage twenty (20%) per cent and female percentage forty-three (43%) per cent for procurement and service contractors, and twenty (20%) per cent minority workers in each construction trade for construction contracts.

- (a) MINORITY BUSINESS ENTERPRISE: A minority business enterprise is an independent business concern which

is at least fifty-one (51%) per cent owned and controlled by minority group members; is or has the potential to be an independent and continuing enterprise, and meeting the following requirements:

1. The minority ownership in the firm must be real, substantial and continuing.
  2. The minority ownership has and exercises the authority to independently control the business decision of the entity.
- (b) MINORITY GROUP MEMBERS: Minority group members are citizens who are Black, Hispanic, Asian or American Indian, as further defined by the Executive Committee.
- (c) GOODS and SERVICES: The procurement of goods and services shall include but not be limited to construction design and related services, the purchase of all goods and materials and professional services.
- (d) EXEMPTION: The classification of a particular contract area as exempt from the MBE utilization requirements established in this Order for lack of MBE's in the area.
- (e) WAIVER: The granting to a majority business enterprise a waiver on particular contract of the MBE utilization requirements established by this Order.

The following is reprinted from Resolution No. 267 of 1992. The bidders should in no way consider this the entire Ordinance.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, ancestry, or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, ancestry or national origin. (as used herein the work "TREATED" shall mean and include, without limitation, the following: recruited, whether advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.) The contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notice to be provided by the Authority setting forth the provisions of this nondiscrimination clause. The contractor shall make a good faith effort to utilize a certified minimum of ten (10%) per cent minority contractors and/or suppliers.

The contractor shall, in all classifications including trainees or any contracted project with the Authority, have a working Affirmative Action Plan. No contractor having traditionally deprived employees in all classifications of his/her work force shall receive a contract

from the Authority unless his/her Affirmative Action Plan will actualize this goal. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all applicants will receive consideration for employment without regard to race, color, religion, sex, ancestry or national origin. The contractors shall send to each labor union or representative of workers with which they have collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers representative of the contractor's commitments under the Equal Employment Opportunity Resolution of the Authority and shall post copies of the notice in conspicuous places available to employees and applicant for employment.

It shall be no excuse for non-compliance that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer traditionally deprived persons.

The contractors shall file and shall cause their subcontractors, if any, a file compliance reports with the Authority in the form and to the extent prescribed by the Authority Compliance reports filed at such times as directed shall contain information as to the employment practices, policy, programs and statistics of the contractors and their subcontractors.

The contractor shall comply with such action with respect to any subcontractor as the Authority may direct as a means of enforcing the provisions herein, including penalties and sanctions for non-compliance.

The Contractor shall include the provisions herein of this Equal Employment Opportunity Clause in every subcontractor or purchase order so that such provisions will be binding upon each subcontractor or vendor.

During hearing procedures, dealing with non-compliance, all contract payments shall be withheld and if it is determined after opportunity for hearing on the record that the contractor or subcontractor has failed to comply with any portion of the program as herein stated and described, that finding will subject the offending party to any or all of the following penalties:

- a. Continue withholding of all future payments under the public contract to the contractor in violations, until it is determined that the contractor or subcontractor is in compliance with the provisions of the contract.
- b. Refusal of all future bids for any public contract with the Authority or any of its departments or divisions until such time as the contractor or subcontractor demonstrates that he has established and shall carry out the policies of the program as herein outlined.

- c. Cancellation of the public contract and declaration of forfeiture of the performance bond.
- d. In cases in which there is substantial or material violation or the threat of substantial or material violation of the compliance procedure or that which may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions.

The Consultant shall complete all pages of the "Affirmative Action Requirements" with their bid in order for their bid to be considered.

ARTICLE III PROFESSIONAL SERVICES TO BE PROVIDED BY CONSULTANT

The ACMUA is requesting proposals from qualified professionals to provide turnkey services to design-build a complete and operating Photovoltaic Generation System (PV System) at the sites located in Atlantic City and Pleasantville, New Jersey. Services are to include, but not be limited to, planning, permitting, design, construction, interconnection, commissioning and operation. See E5 for business proposal options.

The PV System is to include solar arrays, inverters, wiring, metering, controls, etc. to provide an energy efficient PV System that is life cycle cost effective. The size of the system is not specified; vendors are encouraged to build the most economic, cost-beneficial system that will provide the highest and best economic and environmental benefits to the ACMUA. The ACMUA'S prior two years of electric consumption data for relevant locations is listed below:

<i>12 Months Ending</i>	<i>Location</i>	<i>kWh used</i>
June 2007-May 2008	Adriatic & Virginia Ave., Atlantic City	313,860
June 2008-May 2009	Adriatic & Virginia Ave., Atlantic City	328,960
June 2007-May 2008	Shore Road Station, Pleasantville	3,125,927
June 2008-May 2009	Shore Road Station, Pleasantville	2,848,911
June 2007-May 2008	Filter Plant/ Main Street, Pleasantville	1,589,466
June 2008-May 2009	Filter Plant/ Main Street, Pleasantville	1,535,381

Interconnection rules and regulations are not included with the RFP. It is the responsibility of the proposer to identify whether the size and scope of the project they propose will be a Net Metered or Merchant Generator System. It is the ACMUA'S understanding that the professionals responding to this RFP are aware of the rules and regulations as they relate to solar production in the state of New Jersey. In addition, due to the unidentified size of the project, it is not possible for the ACMUA to identify the applicable rules and regulations. The proposed locations reside in Atlantic City Electric service territory.

The ACMUA may elect (or be required) to proceed with a traditional or performance-based bid procurement process for this project under the same timeframe. In this event the ACMUA's "bid document" will be based upon information obtained from Proposals submitted in response to this RFP. Responding to this RFP is acknowledgement that the proposer has no objection to the ACMUA utilizing technical information from the proposal for this purpose.

#### General Site Conditions

It is proposed that the new system will be installed on the roof of the Administration Building located at 401 N. Virginia Ave., Atlantic City and on the ground at the site of the removed Basin A located at California Ave. and Main Street, Pleasantville.

Again, the ACMUA is providing the locations as examples only and does not intend to restrict the potential locations. Proposers should utilize their experience and best judgment when considering the best locations.

#### General Technical Information

The ACMUA recognizes that the current project scope including technical details will evolve as the project matures. For the benefit of comparing proposals it is requested that proposers attempt to follow the scope as closely as possible recognizing that the project may change if it is in the best interest of the project to do so.

The arrays may be pole or ground-mounted with fixed or module tracking (single or double axis). The ACMUA will choose the array-mounting configuration that is the most cost effective or revenue beneficial over the life of the project. Any roof foundation proposed must be non-penetrating.

For purposes of this RFP, warranties will be the obligation of the owner of the system. Under either business proposal, the minimum warranty requirements are 25 years at the rated power output, 5 years for the inverter(s) and 10 years for installation.

#### System Design

The selected proposer will be responsible for providing a design that meets the ACMUA'S objectives. It may be necessary for the

ACMUA to publicly bid the project. Therefore, the preliminary technical design (minus site specific drawings) including drawings or detail sheets showing the PV panels, the inverters, metering, controls and other required components and specifications for all equipment and installation should be submitted with the proposal. Drawings should be provided in AutoCAD 2000 or later format and equipment specifications for all equipment and installation should be provided in MS Word format. One (1) set of design documents on CD-ROM should be provided. The CD can be returned to the sender if requested.

#### Real Time Monitoring

Web-based monitoring will be developed and maintained to display the benefits of the PV installation and help promote the project in the community. The web site will be linked to the ACMUA web site and be available for public access. The monitoring will include instantaneous kW and kWh; daily kWh generation; kW and kWh output on a monthly basis; and actual year-to-date and lifetime kWh.

#### Permits and Licenses

The selected proposer is responsible for permitting of the project. The Proposer and/or the sub-contractor should be registered with the State of New Jersey as a licensed installer of Solar Electric equipment. In addition, Land Use Regulation permit(s) issued by the NJDEP may be necessary depending on the location of the improvements. The ACMUA will assist as necessary with obtaining of permits.

#### Interconnection and Metering

The selected proposer will be responsible for interconnection and metering. The PV System interconnection will be subject to all requirements of Atlantic City Electric and/or PJM Interconnection. It is the proposer's responsibility to identify and execute necessary applications, interconnection sites, contracts, etc. based on the size of the proposed system.

#### List of Attachments

Attachment A- SITE MAP (AERIAL): Administrative Office  
Attachment B - SITE MAP (AERIAL): Basin A

## ARTICLE IV SERVICES TO BE PROVIDED

### 4.1 REVIEW OF REPORTS

The Executive Director of the Atlantic City Municipal Utilities Authority shall review all information submitted by the Consultant in this regard and provided direction within a reasonable period of time of the receipt of submittal. The Consultant shall not proceed with subsequent stages of their contract until the MUA has completed its review and is given written concurrence with the Consultant's recommendations.

### 4.2 PLANS AND SPECIFICATIONS

The Consultant shall provide conditions and associated boiler plate. The Consultant shall forward the full set of original technical specifications to the MUA official for their review.

The Consultant shall make all required copies of the plans and specifications and shall be responsible for distribution of same to prospective consultants. The MUA shall be responsible for submitting the legal advertisement for solicitation of bids.

### 4.3 AWARD OF CONTRACT

After receipt of bids for the construction work, the MUA Official shall be responsible for recommending a course of action to the Board of Directors. The MUA Official shall consult the Consultant on the evaluation of the bids received in the preparation of recommending a course of action.

### 4.4 PAYMENT TO CONSULTANT AND CONTRACTOR

The Consultant shall prepare all MUA vouchers for payment to the Consultant.

ARTICLE V TIME SCHEDULE AND LIQUIDATION DAMAGES

5.1 TARGET DATES

The following schedule shows the target dates for performance of the work. Target dates are subject to change at the Atlantic City Municipal Utilities Authority discretion. It is anticipated that the schedule will be as follows:

<b>Event</b>	<b>Date</b>
RFP Issued	June 24, 2009
Site Visit	July 8, 2009
Questions Due	July 15, 2009
Proposals Due	August 11, 2009
Award Contract	September 16, 2009
Start of Work and Permitting Process	September 21, 2009
Completion of Work	March 1, 2010

5.2 LIQUIDATED DAMAGES

Time is of the essence in the performance of the professional consulting services required for this project. The Consultant agrees to the following assessment of liquidated damages for each MUA Business Day that the Consultant exceeds the agreed upon time schedule for the project. This fee shall be deducted from any payment due or to become due the Consultant, and it is mutually agreed that this fee constitutes liquidated damages and not a penalty.

AMOUNT OF LIQUIDATED DAMAGES PER MUA BUSINESS DAY: \$100

Both contractual parties confirm the above liquidated damages provision, but agree nevertheless, that said provisions shall be subject to delays caused by acts of God, which the Consultant could not have reasonably foreseen and provided against, and delays caused by any strikes, boycotts or like obstructive actions of employees which are beyond the control of the Consultant and which he cannot reasonably overcome.

## ARTICLE VI COMPENSATION AND PAYMENT

### 6.1 FINANCIAL RECORDS

The Consultant shall maintain books, records, documents and other evidence and accounting procedures and practices sufficient to reflect properly all direct and indirect costs, of whatever nature, claimed to have been incurred and anticipated to be incurred for the performance of this contract until the expiration of three (3) years from the date of final payment under this contract. The system of accounting will be in accordance with generally accepted accounting principals and practices and shall be consistently applied.

The Consultant shall permit the authorized representatives of the MUA and other affected governmental agencies to inspect and audit all books, records, documents and other supporting data and documentation relating to its performance under the contract. These rights of audit shall extend for a period of three (3) years following final payment under this contract.

In the event the funds paid to the Consultant under this contract are subsequently properly disallowed by the MUA because of accounting errors or charges not in conformity with this contract, the Consultant shall refund such disallowed amount to the MUA promptly.

If the contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three (3) years from the date of any resulting final settlement.

Records which relate to appeals, litigation or the settlement of claims arising out of the performance of this contract, or costs and expense of this contract to which exception has been taken by the MUA, or by any of its duly authorized representatives, shall be retained until the expiration of three (3) years from the date of final payment under this contract or until such appeals, litigations, claims or exceptions have been disposed of, whichever occurs later.

### 6.2 CONTRACT CEILING:

Regardless of the method of compensation, the total compensation to be paid to the Consultant by the MUA on account of this project as provided herein, shall not exceed the amount of the approved contract.

Changes issued by the MUA pursuant to the Scope of Services shall not constitute authorization by the MUA to exceed the contract ceiling except to the extent that, provisions to such affect are set forth in said changes. In the event the actual costs of the professional services overrun the contract ceiling as a result of the Consultant's deviations from the Scope of Services, which deviations are not directed or authorized in writing by the MUA, the Consultant will absorb for its own account, one hundred (100%) per cent of the amount of said overrun.

### 6.3 TYPE OF CONTRACT, FEES AND COMPENSATION:

The Atlantic City Municipal Utilities Authority may execute a long-term power purchase agreement and/or revenue sharing contract for professional services required to complete the work specified within this RFP. In addition, at the Atlantic City Municipal Utilities Authority's discretion, the project may be required to be publicly bid should the Atlantic City Municipal Utilities Authority conclude it is in its best interest to own the solar facility.

The Consultant shall submit his invoice to the MUA's Comptroller, and it shall be due and payable by the MUA, conditionally pending audit review, prior to the end of the following month.

The compensation provided for herein which remains unpaid after final acceptance by the MUA, for the total project shall be paid to the Consultant by the MUA within thirty (30) days after final audit by the authorized representatives of the MUA.

ARTICLE VII. CONSULTANT FIRM INFORMATION

PROJECT \_\_\_\_\_ DATE: \_\_\_\_\_

7.1 FIRM NAME: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

If incorporated, under what State Laws: \_\_\_\_\_

7.2 CONSULTANT'S PROJECT MANAGER TO BE ASSIGNED TO THIS PROJECT

Name: \_\_\_\_\_

Title: \_\_\_\_\_

7.3 CONSULTANT'S PERSONNEL TO BE USED ON THIS PROJECT:

<u>Name</u>	<u>Tasks</u>	<u>% Time</u>
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7.4 ERRORS AND OMISSIONS INSURANCE:

Face Amount: \_\_\_\_\_

Insurance Co: \_\_\_\_\_

Policy Number: \_\_\_\_\_

7.5 WORK SCHEDULE:

If a work schedule is not contained in the Scope of Services, or if it is long or complex, please attached it to this Article VII.

7.6 FEE SCHEDULE:

If the project is done on a PER DIEM basis, or if a long and complex fee schedule is involved, please attach it to this Article VI

CORPORATE/PARTNERSHIP DISCLOSURE STATEMENT

CONTRACTOR SHALL SIGN AND COMPLETE THIS FORM AND SUBMIT IT WITH PROPOSAL

ALL CONTRACTORS SHALL READ AND COMPLETE THIS STATEMENT WHERE APPLICABLE, REGARDLESS OF WHETHER CONTRACTOR IS CORPORATION, PARTNERSHIP OR SOLE PROPRIETOR.

Chapter 33 of the Public Laws of 1977 (N.J.S.A. 52:25-24.2) provides in pertinent part that no partnership or corporation shall be awarded any State, County, Municipal or School District Contract for the performance of any work or the furnishing of any materials or supplies unless prior to the receipt of the bid, or accompanying the bid of said partnership or corporation, there is submitted a statement containing the following information:

1. If the contractor is a partnership, then the statement shall set forth the names and addresses of all partners who own a 10% or greater interest in the partnership.
2. If the contractor is a corporation, then the statement shall set forth the names and addresses of all stockholders in the corporation who own 10% or more of its stock of any class.
3. If a corporation own all or part of the stock of the corporation or partnership submitting the bid, then the statement shall include a list of the stockholders who own 10% or more of the stock of any class of that corporation.

CONTRACTOR MUST COMPLETE ONE OF THE FOLLOWING STATEMENTS:

1. Stockholders or Partners owning 10% or more of the company submitting bid:

<u>Name</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____

Signature: \_\_\_\_\_

2. No Stockholder or Partner owns 10% or more of the company submitting bid.

Signature: \_\_\_\_\_

3. Bid is being submitted by an Individual who operates as a sole proprietorship.

Signature: \_\_\_\_\_

**ARTICLE VIII. REQUIRED AFFIRMATIVE ACTION EVIDENCE FOR  
PROCUREMENT, PROFESSIONAL AND SERVICES CONTRACTS**

Vendors must submit a completed Affirmative Action Employee Information Report (AA302 - Pink Copy) with their proposals.

Vendors must complete the following questionnaire as part of the Bid/Contract Package in the event that you or your firm is awarded a contract.

1. Our company has a Federal Letter of Affirmative Action Plan Approval.

YES \_\_\_\_\_ NO \_\_\_\_\_.

2. Our company has a Certificate of Employee Information Report.

YES \_\_\_\_\_ NO \_\_\_\_\_.

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

Name: \_\_\_\_\_  
(Please type or print)

Signature: \_\_\_\_\_.

Title: \_\_\_\_\_.

Date: \_\_\_\_\_.

Telephone #: \_\_\_\_\_.

If you answered yes for any of the questions, the required information must be included with this proposal. If you answered no to questions 1 or 2, you must acquire one and include it in the contract documents if you are awarded the contract.

## EXHIBIT A

### MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

#### GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

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

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

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

The contractor or subcontractor, where applicable, agrees to comply with the 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 employ minority and women workers consistent with the applicable county employment goals established in accordance with **N.J.A.C. 17:27-5.2**, or a binding determination of the applicable county employment goals determined by the Division, pursuant to **N.J.A.C. 17:27-5.2**.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation 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 applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation 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 good and services contract, one of the following three documents:

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

The contractor and its subcontractor shall furnish such reports or other documents to the Division of Contract Compliance & EEO 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 Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (NJAC 17:27)**.

Name of Company: \_\_\_\_\_

Name of Highest Official: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Schedule of Minority Contractors and/or Suppliers

This Form is to be Completed by Consultants

Name of Minority Business Firms and Agent's Name	Specify Type of Work to be Done	Dollar Amount of Participation (Minimum of 10% of Total Amount)

The Atlantic City Municipal Utilities Authority requires that:

1. Minority contractors and/or suppliers be certified by the City of Atlantic City and/or the State of New Jersey.
2. Certifications and letters of interest from all firms listed above must be attached to this form.
3. THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE BID OR PROPOSAL.

CONSULTANTS SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_