

# **NEW JERSEY WATER SUPPLY AUTHORITY**

**WSA – R25001**

## **Request For Proposals/Scope Of Services**

**for**

## **Professional Risk Management Consulting Services**

**for the**

## **Authority's Property And Casualty Insurance Program**

The New Jersey Water Supply Authority ("Authority") is requesting proposals from Consultants to provide risk management advisory services as outlined in this Request for Proposals ("RFP"). The Consultant should be independent of the placement or under-writing of property and casualty insurance coverage(s) for the Authority. Brokers who choose to respond will not be allowed to bid on the placement of any insurance coverage(s) purchased by the Authority during the period in which that broker acts in the capacity as Risk Management Consultant.

Candidates should demonstrate their qualifications and client experience. Emphasis will be placed upon Consultants with demonstrated public sector work experience particularly with regard to water utilities. Additionally, primary consideration will be given to candidates who can provide a staff individual dedicated to the Authority throughout the year, who has achieved the Chartered Property and Casualty Underwriter and Associate in Risk Management designation ("CPCU", "ARM").

It is anticipated that the Consultant selected will provide risk management services for a period of three (3) years. The Consultant must be able to make themselves and all of the resources of the firm they represent available to the Authority throughout the year to provide assistance as the need arises.

The responsibilities of the Consultant will include (but may not be limited to) the following:

### **YEAR ONE**

1. Assist the Authority in the remarketing of its insurance program (see attached lines of coverage) in year one, including, but not limited to the following:

- a. Prepare specifications and underwriting data for the remarketing of the Authority's insurance coverage(s) for the period March 1, 2025 through February 28, 2026.
- b. Assist the Authority in the review and selection of brokers to participate in the remarketing of the insurance program.
- c. Analyze all coverage proposals and provide recommendations to the Authority's Insurance Committee and Board of Commissioners.
- d. Monitor receipt of insurance binders and review for compliance with specifications and quotations.
- e. Analyze, review and advise with regard to insurance requirements & compliance programs of contractors engaged in the performance of services on Authority properties.

### SUBSEQUENT YEARS

1. Monitor all significant claim and loss prevention activities and procedures, including general liability and workers' compensation.
2. Serve as the Authority's liaison with its insurance brokers and carriers, as necessary.
3. Project annual premium expenditures during budget preparations.
4. Provide general advice as the need arises concerning specific Authority risk management inquiries.
5. Perform site inspection(s), as needed, at Authority-owned facilities, reporting on findings and recommendations.
6. Analyze, review and advise with regard to insurance requirements & compliance programs of contractors engaged in the performance of services on Authority properties.
7. Monitor receipt of insurance binders, review coverage, and advise Authority accordingly.

### PROPOSAL REQUIREMENTS

1. General. The proposals should demonstrate the qualifications, competence, and capacity of the firm seeking to undertake the insurance consultant role with the New Jersey Water Supply Authority in conformity with the requirements of this request for proposal. As such, the substance of proposals will carry more weight than its form or manner of presentation. The proposal should demonstrate the qualifications of the firm and of the particular staff to

be assigned to this engagement. It should specify your firm's special skills or specialized knowledge relating to water utilities, and general approach in providing property and casualty insurance consulting services.

2. **Firm Qualifications and Experience.** The proposal should state the size of the firm, the size of the firm's consulting staff, the location of the office from which the work is to be performed, and the number and nature of the professional staff.
3. **Staff Qualifications and Experience.** The proposal should identify the specialists who will be assigned to the account. The proposal should also provide resumes and other relevant information on the consulting experience of each person assigned.
4. **Engagements with Water Utilities.** For the personnel assigned to this project, list the most significant engagements performed of a similar nature. Indicate the scope of work, date, staff, total hours and the name and telephone number of the principal client contact.
5. **Specific Approach.** The proposal should set forth a plan and or methodology to be used to perform the services required.
6. **Fee Proposal.** In a separately sealed envelope, the fee proposal should identify the individual(s) to be assigned to the project (by name, title) and the stated hourly rate quoted on a fully loaded hourly basis by each labor category. Consultant fees should not include reimbursable(s), such as computer time, postage, telephone charges, travel, duplicating, etc. The proposed upper limits on the amount of consultant fees (fee cap) associated with the Year One remarketing tasks should be provided.
7. **Presence in the State of New Jersey.** A description of the firm's presence in New Jersey.
8. **Conflicts of Interest.** Note and describe any actual and potential conflicts of interest.

## EVALUATION PROCEDURES

Proposals will be evaluated using the following criteria. Proposals will be evaluated and scored for both technical qualifications and price.

Expertise and Experience: The firm's past experience and performance on comparable assignments. The quality of the firm's professional personnel assigned and the quality of the support made available. (Weight 40%)

Approach: The strength of the proposal including the general and specific approach to the assignment. (Weight 25%);

Staff: Qualifications of the staff assigned to the Authority project (Weight 30%);

New Jersey Firms: Consideration for firms with a presence in New Jersey (Weight 5%).

Price: Cost will not necessarily be the governing factor in the selection. The evaluation committee will open fee proposals of the firms submitting the best proposals, and negotiate Fee with the highest ranked firm

Oral Presentations: During the evaluation process, Authority staff may in its discretion, request all or the highest ranked firm(s) to make oral presentations. Such presentations will provide firms with an opportunity to answer any questions staff may have on a firm's proposal.

Final Selection: The New Jersey Water Supply Authority will select a firm based upon the recommendation of the Evaluation Committee. It is anticipated that a firm will be selected by October 1, 2024. Following notification of the firm selected, it is expected a contract will be executed between both parties by October 15, 2024.

### **INSURANCE REQUIREMENTS**

See attached sample contract.

### **RESTRICTIONS ON POLITICAL CONTRIBUTION REQUIREMENTS**

Pay to Play Prohibitions, pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

- A. Make or solicit a contribution in violation of the statute;
- B. Knowingly conceal or misrepresent a contribution given or received;
- C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;
- E. Engage or employ 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 the business entity itself, would subject that entity to the restrictions of the Legislation;
- F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- G. Engage in any exchange of contributions to circumvent the intent of the Legislation;  
or
- H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the legislation.

The Contractor 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 (P.L. 2005, c. 271, 3 as amended) if in a calendar year the Contractor receives one (1) or more contracts valued at \$50,000 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/>.

Three (3) hard copies and one (1) electronic copy in pdf format of the Proposal, and one (1) hard copy of a separately sealed Fee Proposal should be submitted by **4:00 pm on Thursday June 20, 2024** to:

Julie Shelley  
Manager, Contracts and Risk Management  
NEW JERSEY WATER SUPPLY AUTHORITY  
1851 Highway 31  
PO Box 5196  
Clinton, NJ 08809  
**RFP WSA R25001**

## NEW JERSEY WATER SUPPLY AUTHORITY INSURANCE PROGRAM SUMMARY

Policy	3/1/24-3/1/25 Premium	3/1/23-3/1/24 Premium
<b>Property: AEGIS</b>	<b>\$ 1,591,103</b>	<b>\$ 1,309,264</b>
Limit: \$150m; \$5m extra expense/continuity of operations		
Deductible: \$250k/\$250k/\$1m general/dams &dikes/canals & flood		
<b>Boiler &amp; Machinery: AEGIS</b>	Incl. in property	Incl. in property
Limit: \$ 50m; Deductible: \$25k		
<b>Contractors Equipment: AEGIS</b>	Incl. in property	Incl. in property
Limit: \$2.0m; Deductible: \$25K		
<b>Flood: AEGIS</b>	Incl. in property	Incl. in property
Limit: \$30m/Zone A \$15m; Deductible: \$1m		
<b>Earthquake: AEGIS</b>	Incl. in property	Incl. in property
Limit: \$50m; Deductible: \$100k		
<b>Mobile Equipment: Sompco</b>	<b>\$ 13,895</b>	<b>\$ 13,050</b>
Limit \$1m; Deductible \$10k		
<b>Liability (General and Auto): CHUBB</b>	<b>\$ 240,319</b>	<b>\$ 207,975</b>
Limit: \$1m; Deductible: \$150k/\$50k		
<b>Excess Liability: AEGIS</b>	<b>\$ 500,220</b>	<b>\$ 456,687</b>
Limit: \$20m		
<b>Environmental Liability: XL AXA</b>	<b>\$ 26,372</b>	<b>\$ 26,372</b>
Limit: \$10m; Deductible: \$50k		
<b>Workers' Compensation: NJM</b>	<b>\$ 172,320</b>	<b>\$ 185,087</b>
Limit: \$1m		
<b>Management Liability: XL AXA/Travelers/CFC</b>	<b>\$ 69,032</b>	<b>\$ 67,633</b>
Deductible: \$100k/ \$50k/\$25k		
Public Officials Limit: \$5M XL AXA	49,925	48,807
Fidelity & Crime Limit: \$1M Travelers	3,691	3,660
Cyber Risk Limit \$1M CFC	15,416	15,166
<b>Travel Accident: Hartford</b>	<b>\$ 750</b>	<b>\$ 750</b>
Limit \$2m		
<b>Drone: Global Aerospace</b>	<b>\$ 1,086</b>	<b>\$ 958</b>
Limit \$1m		
<b>UST: Tokio Environmental</b>	<b>\$ 3,658</b>	<b>\$ 3,467</b>
Limit \$2m		
<b>TOTAL</b>	<b>\$2,618,755</b>	<b>\$2,271,243</b>

**The following Additional Information is provided from Q&A dialog in past solicitations –**

1) “Analyze, review and advise with regard to insurance requirements & compliance programs of contractors engaged in the performance of services on Authority properties.”

a. Question 1: How many contractors are estimated as part of the annual analyses and review for insurance requirements?

**Authority Response:** The number of contracts requiring work on the part of the consultant varies from year to year. Consultants are advised to review information available on the Authority web site at <https://www.njwsa.org/publications.html> to gauge the type of projects scheduled. More specifically:

FY2025 Basis and Background Document for the Raritan Basin (refer to section “Capital Improvements Program” beginning on page 33), and FY2025 Basis and Background Document for the Manasquan Reservoir System (refer to section “Rehabilitation Reserve and Capital Improvement Program” beginning on page 45).

b. Question 2: What kinds of compliance programs are currently required for contractors that require the Risk Management Consultant’s analysis & review? What is the expected level of the consultant’s involvement/review?

**Authority Response:** All contracts for goods & services, and public works include the transfer of liability to service providers under contract with the Authority. The Consultant shall assist with assessing project risk, and recommending appropriate limits of coverage, on an as-need basis. The amount of involvement will depend on the complexity of the project. The Consultant may be asked to review Contractor’s coverage documents for verification and compliance, waiver requests, etc. A review of the Authority website capital improvement plans referenced above, and documents included therein will provide an overview of the projects planned in the upcoming periods.

c. Question 3: What kinds of contractor services are performed on the Authority’s properties?

**Authority Response:** Typical contractor services are for public works construction and rehabilitation projects, and professional engineering and design services.

2) “Perform site inspection(s), as needed, at Authority-owned facilities, reporting on findings and recommendations.”

a. Question 4: How many sites/Authority-owned facilities are there for possible site inspection?

**Authority Response:** The Authority has 4 primary sites with approximately 25 facilities. The 4 primary sites consist of the Spruce Run Administration Office, and the Spruce Run and Round Valley Reservoirs; the South Branch Pumping Station; the Delaware & Raritan Canal and Field Office; and the Manasquan Reservoir, Administration Office, and Water Treatment Plant.

- b. Question 5: In the last three years, what was the expected frequency/average number of annual site inspections “needed”?

**Authority Response:** In the last three years, the Consultant was not asked to visit any Authority sites.

- c. Question 6: In relation to the Authority’s risk management office, what is the proximity (estimated average distance/time) to travel/access each physical location/site during business hours?

**Authority Response:**

The Authority risk management office is in the Spruce Run Administration Building located at 1851 Highway 31, Clinton, NJ. Authority property consists of roughly 5,000 acres, and all locations can be reached within 1.5 hours.

The Delaware and Raritan Canal Field office is located at 770 Bear Tavern Road, West Trenton, New Jersey.

The South Branch Pumping Station is located at 512 River Road, Clinton, New Jersey.

The Manasquan Reservoir Administration Building and Water Treatment Plant are located at 2041/2061 Hospital Road, Allenwood, New Jersey.

**NEW JERSEY WATER SUPPLY AUTHORITY**

**CONTRACT NO. WSA C25001**

**For**

**PROFESSIONAL RISK MANAGEMENT CONSULTING SERVICES**

This Contract, made and entered into on \_\_\_\_\_, by and between the New Jersey Water Supply Authority, an instrumentality of the State of New Jersey, in but not of the Department of Environmental Protection, with its offices at 1851 Route 31, Post Office Box 5196, Clinton, New Jersey 08809 (hereinafter referred to as the "Authority") and \_\_\_\_\_, (hereinafter referred to as the "Consultant").

**WITNESSETH:** That the parties hereto, each in consideration of the undertakings, promises and agreements on the part of the other herein contained, do hereby undertake, promise and agree, for themselves, their successors and assigns, as follows:

**ARTICLE I - ENGAGEMENT OF THE CONSULTANT**

The Authority hereby engages the services of the Consultant and the Consultant agrees to perform in a good and skillful manner and in accordance with the directions and subject to the approval of the Executive Director of the Authority, (hereinafter referred to as the "Executive Director"), all the necessary professional risk management consulting services for the Authority's property and casualty insurance program (hereinafter known as the "Project") as further set forth in ARTICLE III - SERVICES OF THE CONSULTANT of this Contract.

**ARTICLE II - AUTHORITY OF EXECUTIVE DIRECTOR**

All work to be performed by the Consultant hereunder shall be subject to the approval of the Executive Director of the Authority, or their duly authorized representative and all decisions pertaining to said work shall be made in the name of the Executive Director. Any dispute involving matters of fact pertaining to the scope or details of work to be performed or completed under the terms of the Contract shall be decided by the Executive Director, which decision shall be final in regard to the Authority's position.

**ARTICLE III - SERVICES OF THE CONSULTANT**

The Consultant shall perform those professional risk management consulting services related to the Project as detailed under the Authority's General Scope of Services entitled WSA-

R25001 incorporated herein and attached hereto at XXX. The Proposal and the scope of work pertaining to the Project are hereby incorporated herein and are attached hereto at XXX. The Consultant shall provide additional services during the contract term as agreed upon by the parties.

#### **ARTICLE IV - PERIOD OF SERVICE**

All work to be performed under this Contract shall be for a period of one (1) year with the option to renew for each of the two (2) subsequent years.

#### **ARTICLE V - ADMINISTRATIVE SERVICES TO BE PERFORMED BY THE CONSULTANT**

The Consultant shall perform all customary professional services and shall attend conferences with the Executive Director and the Authority, which may be required in connection with the services to be rendered under this Contract.

#### **ARTICLE VI - DATA TO BE FURNISHED BY THE AUTHORITY**

The Authority will furnish to the Consultant all available information and documents pertinent to the scope of professional Consulting services to be performed under this Agreement.

#### **ARTICLE VII - EXTRA WORK**

The Contract may be modified to include extra work not included under ARTICLE III - SERVICES OF THE CONSULTANT of this Agreement. No extra work is to proceed until such time as the proper contract modification has been negotiated and approved in writing by the Executive Director of the Authority and the Consultant pursuant to ARTICLE XVII hereof.

#### **ARTICLE VIII - COMPENSATION FOR SERVICES**

The total cost to the Authority for the Services rendered in the performance of this Contract shall be limited to XXX dollars for the XXX, per attached scope of services.

#### **ARTICLE IX - PAYMENT PROCEDURES**

The Consultant shall submit to the Authority monthly progress invoices on a form acceptable to the Authority, showing in detail the services performed during the invoice period and the charges therefore. Within thirty (30) days after receipt of an invoice, the Authority shall pay the full amount of the invoice. However, if the Authority objects to all or any portion of an invoice, it shall notify the Consultant of the same within fifteen (15) days from date of receipt of that invoice and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion of the invoice, such that payment is not delayed beyond sixty (60) days.

Acceptance by the Consultant of said payment shall operate as and shall be a release to the Authority from all claims and liability to the Consultant for anything done or furnished for, or relating to, the work called for or to be done under and pursuant to the provisions of this Contract.

### **ARTICLE X – AVAILABILITY OF RECORDS**

The Consultant agrees that all such records will be made available to the Authority for purpose of audit by the Authority upon reasonable notice at any time during the term of this Agreement and for a period of three (3) years thereafter.

### **ARTICLE XI - INSURANCE REQUIREMENTS**

The Consultant shall procure and maintain at its own expense, for the full duration of the Contract unless noted otherwise, liability insurance for damages imposed by law and assumed under Contract, of the kinds and in the amounts hereinafter provided, from insurance companies admitted or approved to do business in the State of New Jersey. By submitting a proposal in response to the Authority RFP, the Consultant expressly agrees that any insurance protection required herein or by the Contract shall in no way limit the Consultant's obligations assumed in the Contract and shall not be construed to relieve the Consultant from liability in excess of such coverage nor shall it preclude the Authority from taking such other actions as are available to it under other provisions of the Contract or otherwise in law or equity.

The insurance shall provide the minimum coverages and limits set forth below. All deductibles and self-insured retentions must be disclosed and are subject to approval by the Authority. The Consultant shall be responsible for the payment of any deductible or self-insured retention.

The Consultant shall not proceed on any work under this Contract until all required insurance coverage is obtained and bound.

#### A. Workers' Compensation –

1. New Jersey Statutory Limits.
2. If there is any part of the Work which requires the Consultant or any of the Consultant's personnel or subcontractors or any of the subcontractor's personnel to comply with the U.S. Longshoremen's and Harbor Workers' Act, Jones Act, Admiralty Laws, or the Federal Employers' Liability Act, the Workers' Compensation policy will provide insurance coverage in a form and with limits which are adequate to comply with these requirements on an actual or 'if any' basis.

#### B. Employers' Liability - minimum limit of **\$1,000,000** combined single limit.

#### C. Commercial Automobile Liability-

1. Commercial Automobile Liability Insurance in comprehensive form that shall protect the Contractor and anyone who may incur vicarious liability for the conduct of the insured, against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles(s) and shall cover operations on and

off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

2. The Combined Single Limit for Bodily Injury and Property Damage Liability shall not be less than **\$1,000,000** each accident, or as otherwise required to satisfy the underlying limit requirements of the Consultant's umbrella liability insurance.

D. Commercial General Liability-

1. The policy shall cover all claims for damages for personal injury, including accidental death, as well as from claims for property damage, which may arise out of operations performed in connection with the Contract.
2. The policy should be occurrence based and provide coverage at least as broad as the standard ISO form including coverage against Explosion (X), Subsidence or Collapse (C) & Underground Damage (U) as related to work being performed, including liability arising from operations performed by subcontractors.
3. The policy should also include coverage for Contractual Liability related to this contract.
4. Consultant shall maintain liability coverage for Products and Completed Operations for a minimum of five (5) years beyond the duration of the Contract.
5. Limits of Liability shall not be less than:
  - a. Bodily Injury and Property Damage Liability, Per Occurrence: **\$1,000,000**, Annual Aggregate Per Project/Location: **\$2,000,000**.
  - b. Personal and Advertising Injury: **\$1,000,000**.
  - c. Products and Completed Operations Aggregate: **\$2,000,000**.

E. Professional Liability Insurance

1. Consultant shall procure, maintain and keep in force at all times during the term of the Contract (or as otherwise agreed to by the Authority), at the Consultant's sole expense, Professional Liability Insurance which covers the Consultant's services rendered under this contract and those rendered by its subcontractors.
2. Whether as an exposure covered by this policy, or as part of a separate policy (with identical terms outlined herein), the policy shall cover loss arising out of environmental liabilities and the disclosure or unauthorized access to confidential information.
3. If the policy is claims-made, continuous coverage shall be maintained, or an extended discovery period exercised, for a period of five (5) years following the completion of all services described in this contract.
4. Limits of Liability shall not be less than **\$3,000,000** per Claim and Annual Aggregate. Consultant may fulfill this requirement by requiring Subconsultant(s) to obtain and maintain this coverage provided that all specified parties are insured under such policy. Consultant is obligated to advise the Authority in writing of any claims filed against this policy which may impair the Annual Aggregate and cause its Subconsultant to fulfill this requirement if coverage is provided by Subconsultant.

Specific Provisions:

All policies shall be issued by insurance carriers with an AM Best rating of at least (A) and financial size category of at least VIII and are licensed and authorized to conduct business in the State of New Jersey.

1. All insurance policies except for A & B shall apply on a primary and noncontributory basis and shall name the following listed entities as additional insured(s):

“The New Jersey Water Supply Authority and its agencies, employees and officers. Contract WSA-C25001.”

2. All of the policies of insurance so required to be purchased and maintained (or certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty (30) days prior written notice has been given to the Authority by certified mail. The Consultant shall submit proof(s) of insurance to the Authority for all insurance required under this section. Consultant’s policies have an exception for cancellation due to failure to pay (10 days’ notice for cancellation due to nonpayment of premiums). Letters are sent via regular mail from Consultant’s insurance companies.
3. Upon request, Consultant shall furnish the Authority with a complete copy of each policy, including all endorsements, required by the Contract.
4. Consultant’s failure to procure or maintain the insurance required by this Section during the entire term of the Contract shall constitute a material breach of this Contract under which the Authority may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the Authority’s interest and pay any and all premiums in connection herewith, and withhold or recover all monies so paid from the Consultant.

#### Subconsultants

1. Subconsultants are required to maintain the above noted coverage(s) as stated above.
2. The primary Consultant shall be also responsible for verification and written certification of all subconsultants’ insurance coverage required for the Contract. The Authority reserves the right to require that the primary consultant provide copies of insurance certificates for all subcontractors.

### **ARTICLE XII - INDEMNIFICATION**

The Consultant, during the performance of work under this Contract, shall defend, indemnify and otherwise save harmless the Authority, from any and all third party claims or actions at law, for which the Authority shall not be reimbursed by insurance, including but not limited to reasonable attorney’s fees and court costs, resulting from the negligent or willful misconduct, including errors and omissions, of the Consultant, its employees or agents, to exercise such care, skill and diligence as professionals ordinarily exercise under similar circumstances.

### **ARTICLE XIII - NON-SOLICITATION**

The Consultant does hereby warrant and represent that this Contract has not been solicited or secured, directly or indirectly, in a manner that is contrary to the laws of the State of New Jersey and, in particular, the provisions of N.J.S.A. 52:34-15 and N.J.S.A. 52:34-19, and that the Consultant has not violated and shall not violate said laws of the State of New Jersey relating to the procurement of or the performance under this Agreement by any conduct, including the paying or giving of any fee, commission, compensation, gift or gratuity of any kind, directly or indirectly, to any Authority employee or officer.

## **ARTICLE XIV - NON-DISCRIMINATION**

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

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

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

The consultant or subconsultant will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the consultant's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

The consultant or subconsultant agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The consultant or subconsultant agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The consultant or subconsultant agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as

established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the consultant or subconsultant agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

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

Letter of Federal Affirmative Action Plan Approval;  
Certificate of Employee Information Report; or  
Employee Information Report Form AA-302 (electronically provided by the Division through the Division's website at: [http://www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance)).

The consultant and its subconsultants shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

#### **ARTICLE XV - RESPONSIBILITY OF THE CONSULTANT**

Notwithstanding any other provision in the Contract, the Consultant shall not be relieved of liability to the Authority for damages sustained by the Authority as a result of any defects, errors, or breach of this Contract by the Consultant. The Authority may withhold any payments due to the Consultant for the purpose of set-off until such time as the exact amount of damages is determined and such monies withheld by the Authority may be applied toward the satisfaction of such damages. The acceptance, approval or payment for any of the service performed by the Consultant hereunder shall not constitute a release or waiver of any claim the Authority has or may have for defects or errors or other breach of the Contract on the part of the Consultant and of any term or condition to be performed by the Consultant hereunder.

#### **ARTICLE XVI – REMOVAL OF CONSULTANT PERSONNEL**

The Consultant shall not make any significant changes to the project team that was submitted to the Authority as part of the Consultant's Technical Proposal without the Authority's prior approval. Significant changes shall include the project manager, sub-consultants and other key technical personnel. The Consultant acknowledges that the Authority relied on project participation by all persons named in the Proposal in entering into this Contract with the

Consultant. The Authority reserves the right to have such person replaced if, in the judgment of the Authority, any such person is unsatisfactory.

### **ARTICLE XVII - MODIFICATION OF AGREEMENT**

The terms, conditions and provisions of this Agreement cannot be modified or varied except in writing, signed by a duly authorized representative of the Consultant, to be binding upon the Consultant, and by the Executive Director, to be binding on the Authority.

### **ARTICLE XVIII - COMMUNICATION**

Until changed by written notice, given by either party to the other, the following addresses for the representatives of the parties hereto shall be used for the mailings of all notices and reports required by this Contract.

Executive Director  
New Jersey Water Supply Authority  
1851 Route 31  
Post Office Box 5196  
Clinton, New Jersey 08809  
Telephone No.: (908) 638-6121

### **ARTICLE XIX – STANDARDS PROHIBITING CONFLICT OF INTEREST**

The following prohibitions on Consultant activities shall apply to all contracts or purchase agreements made with the Authority, pursuant to Executive Order No. 189 (1988):

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 State officer or employee or Special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Authority 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-13i, of any such officer or employee, or 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-13G;

b) The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Authority officer or employee from any Authority vendor shall be reported in writing forthwith by the vendor to the Attorney General and the State Ethics Commission (formerly 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 having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or service by or to the Authority thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A.

52:13D-13G. Any relationships subject to this provision shall be reported in writing forthwith to the State Ethics Commission, which may grant a waiver of this restriction upon application of the 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 in his 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 to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person; and

f) The provisions cited above in a through e shall not be construed to prohibit an Authority officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the State Ethics Commission may promulgate under paragraph c.

#### **ARTICLE XX – SET OFF FOR STATE TAX**

Pursuant to P.L. 1995, c. 159, effective January 1, 1996, and notwithstanding any provision of the 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 goods 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 deductions which might be attributable to the taxpayer, partner, or shareholder subject to 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 R.S. 54:49-18. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c. 184 (c. 52:32-32 et seq.) to the taxpayer shall be stayed.

#### **ARTICLE XXI - CONTRACT REMAINING VALID**

If any provision of the contract is determined to be ineffective or invalid under the laws of the State of New Jersey, all other provisions shall remain effective and valid, provided the purpose of the remaining valid and effective provisions is not frustrated.

## **ARTICLE XXII - TERMINATION**

The Authority may, at any time, direct the termination of this Contract, effective upon receipt by the Consultant of written notice of such termination. Costs and disbursements incurred by the Consultant up to the time of termination shall be reimbursable in accordance with the provisions set forth in ARTICLES VIII and IX of this Agreement.

## **ARTICLE XXIII - ASSIGNMENT**

This Contract shall not be transferred or assigned to any other individual, firm partnership or corporation without the prior written consent of the Authority.

## **ARTICLE XXIV - APPLICABLE LAW**

This Contract shall be construed according to the laws of the State of New Jersey, insofar as existence of a contract as a binding agreement and matters concerning performance or breach thereof are concerned. Any legal action will be brought in the courts within the State of New Jersey.

## **ARTICLE XXV - NEW JERSEY BUSINESS CERTIFICATION**

Pursuant to N.J.S.A. 52:32-44, the Consultant and Subconsultant(s) shall provide to the Authority a valid Business Registration Certificate (BRC) from the Division of Revenue in the Department of the Treasury. No contract shall be entered into unless the Consultant and Subconsultant(s) first provides proof of valid business registration.

A Subconsultant under contract shall provide and the Consultant shall forward proof of valid business registration within the Division of Revenue to the Authority. No Subcontract shall be entered into by the Consultant under contract with the Authority unless the Subcontractor first provides proof of valid business registration.

## **ARTICLE XXVI – RESTRICTIONS ON POLITICAL CONTRIBUTIONS**

Pay to Play Prohibitions, pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

- A. Make or solicit a contribution in violation of the statute;
- B. Knowingly conceal or misrepresent a contribution given or received;
- C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;
- E. Engage or employ 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 the business entity itself, would subject that entity to the restrictions of the Legislation;

- F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the legislation.

The Consultant 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 (P.L. 2005, c. 271, 3 as amended) if in a calendar year the Consultant receives one (1) or more contracts valued at \$50,000 or more. It is the Consultant'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/>.

### **ARTICLE XXVII - ENTIRE CONTRACT**

Provisions contained herein or incorporated herein by reference constitute the entire Agreement and supersede all previous communications or representations, either verbal or written, between the parties hereto with respect to the subject matter hereof.