

# **TOWN OF KEARNY BID RECEIPT**

**RENTAL OF SNOW REMOVAL**

**NOVEMBER 4, 2016 (11:30 A.M.)**

**EQUIPMENT AND VEHICLES**

**Received the following document:**

- Bid Notice
- Bid Document Check List
- Living Wage Ordinance
- Stockholder Disclosure Certification
- Non-Collusion Affidavit
- Consent of Surety
- Affirmative Action Compliance Notice
- Equal Employment Opportunity Notice
- Americans with Disabilities Act Notice
- Business Registration Certificate
- Acknowledgement of Receipt of Addenda
- Equipment Certification
- Bid Proposal Form
- Contract Addendum
- Contract / Agreement
- Technical Specifications

*Please fill out the following or attach a business card (please print).*

**NAME:**

\_\_\_\_\_

**COMPANY:**

\_\_\_\_\_

**ADDRESS:**

\_\_\_\_\_

\_\_\_\_\_

**CITY:**

\_\_\_\_\_

**STATE & ZIP:**

\_\_\_\_\_

**DATE PICKED UP OR MAILED:**

\_\_\_\_\_

# **TOWN OF KEARNY BID DOCUMENT CHECKLIST**

**RENTAL OF SNOW REMOVAL**

**NOVEMBER 4, 2016 (11:30 A.M.)**

## **EQUIPMENT AND VEHICLES**

***The following items must be properly executed and submitted with the bid package for consideration. Please initial each item for compliance.***

- Stockholder Disclosure Certification \_\_\_\_\_
- Non-Collusion Affidavit \_\_\_\_\_
- Bid Guarantee (with power of attorney for full amount of bid) \_\_\_\_\_
- Consent of Surety (with power of attorney for full amount of bid) \_\_\_\_\_
- Affirmative Action Compliance Notice \_\_\_\_\_
- Equal Employment Opportunity Notice \_\_\_\_\_
- Americans with Disabilities Act Notice \_\_\_\_\_
- Business Registration Certificate \_\_\_\_\_
- Public Works Contractor Certificate (if applicable) \_\_\_\_\_
- Prevailing Wage Certificate (if applicable) \_\_\_\_\_
- Acknowledgement of Receipt of Addenda \_\_\_\_\_
- Equipment Certification \_\_\_\_\_
- Bid Proposal Form \_\_\_\_\_
- References \_\_\_\_\_
- Status of Contracts awarded in the past two (2) years \_\_\_\_\_

**NAME:** \_\_\_\_\_

**COMPANY:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_

**STATE & ZIP:** \_\_\_\_\_

**AMOUNT OF PROPOSAL: \$** \_\_\_\_\_

## **BID NOTICE**

NOTICE IS HEREBY GIVEN, that sealed bids will be received by the Purchasing Agent, for the Town of Kearny, County of Hudson, State of New Jersey, **on Friday, November 4, 2016** at the following prevailing time at the Town Hall on 402 Kearny Avenue, Kearny, New Jersey, at which time and place, bids will be opened and read in public for:

**RENTAL OF SNOW REMOVAL  
EQUIPMENT & VEHICLES**

**11:30 A.M.**

Specifications and other bid information may be obtained at the Town Clerk's office between 9 AM and 5 PM.

Bidders shall comply with the Affirmative Action Provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq.

The Mayor and Council reserve the right to waive any minor irregularities in or to reject any or all bids.

By order of the Mayor and Council of the Town of Kearny.

---

Patricia Carpenter, Town Clerk  
Town of Kearny, New Jersey

## **TOWN OF KEARNY**

### **Instructions to Bidders and Statutory Requirements**

#### **I. SUBMISSION OF BIDS**

- A. Sealed bids shall be received by the Town of Kearny, hereinafter referred to as “owner”, in accordance with public advertisement as required by law, with a copy of said notice being attached hereto and made a part of these specifications.
- B. Sealed bids will be received by the Purchasing Agent or designated representative at the time and location as stated in the Notice to bidders, and at such time and place will be publicly opened and read aloud.
- C. The bid shall be submitted in a sealed envelope: (1) addressed to the owner, (2) bearing the name and address of the bidder written on the face of the envelope, and (3) clearly marked “BID” with the contract title and/or bid # of the contract being bid.
- D. It is the bidder’s responsibility that bids are presented to the owner at the time and at the place designated. Bids may be hand delivered or mailed; however, the owner disclaims any responsibility for bids forwarded by regular or overnight mail. If the bid is sent by express mail service, the designation in sub-section C, above, must also appear on the outside of the express mail envelope. Bids received after the designated time and date will be returned unopened.
- E. Sealed bids forwarded to the owner before the time of opening of bids may be withdrawn upon written application of the bidder who shall be required to produce evidence showing that the individual is or represents the principal or principals involved in the bid. Once bids have been opened, they shall remain firm for a period of sixty (60) calendar days.
- F. All prices and amounts must be written in ink or preferably machine-printed. Bids containing any conditions, omissions, unexplained erasures or alterations, items not called for in the bid proposal form, attachment of additive information not required by the specifications, or irregularities of any kind, may be rejected by the owner. Any changes, whiteouts, strikeouts, etc. in the bid must be initialed in ink by the person signing the bid.
- G. Each bid proposal form must give the full business address, business phone, fax, e-mail if available, the contact person of the bidder, and be signed by an authorized representative as follows:
- Bids by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or by an authorized representative, followed by the signature and designation of the person signing.

- Bids by corporations must be signed in the legal name of the corporation, followed by the name of the State in which incorporated and must contain the signature and designation of the president, secretary or other person authorized to bind the corporation in the matter.
- Bids by sole-proprietorship shall be signed by the proprietor.
- When requested, satisfactory evidence of the authority of the officer signing shall be furnished.

H. Bidder should be aware of the following statutes that represent "Truth in Contracting" laws:

- N.J.S.A. 2C:21-34, et seq. governs false claims and representations by bidders. It is a serious crime for the bidder to knowingly submit a false claim and/or knowingly make material misrepresentation.
- N.J.S.A. 2C:27-10 provides that a person commits a crime if said person offers a benefit to a public servant for an official act performed or to be performed by a public servant, which is a violation of official duty.
- N.J.S.A. 2C:27-11 provides that a bidder commits a crime if said person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.
- Bidder should consult the statutes or legal counsel for further information.

## **II. BID SECURITY AND BONDING REQUIREMENTS**

The following provisions if indicated by an (X), shall be applicable to this bid and be made a part of the bid documents:

### ☒ A. BID GUARANTEE

Bidder shall submit with the bid a certified check, cashier's check or bid bond in the amount of ten percent (10%) of the total price bid, but not in excess of \$20,000.00, payable unconditionally to the owner. When submitting a Bid Bond, it shall contain Power of Attorney for full amount of Bid Bond from a surety company authorized to do business in the State of New Jersey and acceptable to the owner. The check or bond of the unsuccessful bidder(s) shall be returned pursuant to N.J.S.A. 40A:11-24a. The check or bond of the bidder to whom the contract is awarded shall be retained until a contract is executed and the required performance bond or other security is submitted. The check or bond of the successful bidder shall be forfeited if the bidder fails to enter into a contract pursuant to N.J.S.A. 40A:11-21.

Failure to submit a bid guarantee shall result in rejection of the bid

### ☒ B. CONSENT OF SURETY

Bidder shall submit with the bid a Certificate (Consent of Surety) with Power of Attorney for full amount of bid price from a Surety Company authorized to do business in the State of New Jersey and acceptable to the owner stating that it

will provide said bidder with a Performance Bond in the full amount of the bid. This certificate shall be obtained in order to confirm that the bidder to whom the contract is awarded will furnish Performance and Payment Bonds from an acceptable surety company on behalf of said bidder, any or all subcontractors or by each respective subcontractor or by any combination thereof which results in performance security equal to the total amount of the contract, pursuant to N.J.S.A. 40A:11-22.

Failure to submit consent of surety form shall result in rejection of the bid

☐ C. PERFORMANCE BOND

Bidder shall simultaneously with the delivery of the executed contract, submit an executed bond in the amount of one hundred percent (100%) of the acceptable bid as security for the faithful performance of this contract.

The performance bond provided shall not be released until final acceptance of the whole work and then only if any liens or claims have been satisfied. The surety on such bond or bonds shall be a duly authorized surety company authorized to do business in the State of New Jersey pursuant to N.J.S.A. 17:31-5.

Failure to submit this with the executed contract shall be cause for declaring the contract null and void pursuant to N.J.S.A. 40A:11-22.

☐ D. LABOR AND MATERIAL (PAYMENT BOND)

Bidder shall with the delivery of the performance bond submit an executed payment bond to guarantee payment to laborers and suppliers for the labor and material used in the work performed under the contract.

Failure to submit a labor and material bond with the performance bond shall be cause for declaring the contract null and void.

☐ E. MAINTENANCE BOND

Upon acceptance of the work by the owner, the contractor shall submit a maintenance bond (N.J.S.A. 40A:11-16.3) in an amount not to exceed 25% of the project costs guaranteeing against defective quality of work or materials for the period of: \_\_\_\_\_ 1 year OR \_\_\_\_\_ 2 years

☒ F. KEARNY LIVING WAGE ORDINANCE

Bidder shall simultaneously with the delivery of the executed contract, submit certification of compliance with Kearny Living Wage Ordinance.

### III. INTERPRETATION AND ADDENDA

A. The bidder understands and agrees that its bid is submitted on the basis of the specifications prepared by the owner. The bidder accepts the obligation to become familiar with these specifications.

B. bidders are expected to examine the specifications and related bid documents with care and observe all their requirements. Ambiguities, errors or omissions noted by bidders should be promptly reported in writing to the appropriate official. Any prospective bidder who wishes to challenge a bid specification shall file such challenge in writing with the contracting agent no less than three business days prior to the opening of the bids. Challenges filed after that time shall be considered void and having no impact on the contracting unit or the award of a contract pursuant to N.J.S.A. 40A:11-13. In the event the bidder fails to notify the owner of such ambiguities, errors or omissions, the bidder shall be bound by the requirements of the specifications and the bidder's submitted bid.

C. No oral interpretation and or clarification of the meaning of the specification s for any goods and services will be made to any bidder. Such request shall be in writing, addressed to the owner's representative stipulated in the specification. In order to be given consideration, a written request must be received seven (7) business days prior to the date fixed for the opening of the bid for goods and services. All interpretations, clarifications and any supplemental instructions will be in the form of written addenda to the specifications, and will be distributed to all prospective bidders. All addenda so issued shall become part of the specification and bid documents, and shall be acknowledged by the bidder in the bid. The owner's interpretations or corrections thereof shall be final. When issuing addenda, the owner shall provide required notice prior to the official receipt of bids to any person who has submitted a bid or who has received a bid package pursuant to N.J.S.A. 40A:11-23c.1

#### D. Discrepancies in Bids

1. If the amount shown in words and its equivalent in figures do not agree, the written words shall be binding.

Ditto marks are not considered writing or printing and shall not be used.

2. In the event that there is a discrepancy between the unit prices and the extended totals, the unit prices shall prevail. In the event there is an error of the summation of the extended totals, the computation by the owner of the extended totals shall govern.

#### E. Pre-Bid Conference - If stated in the Notice to Bidders:

☒ A Pre-Bid Conference is not required for this bid.

☐ A Pre-Bid Conference for this proposal will be held on \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_. Attendance is not mandatory, but is strongly recommended.

Failure to attend does not relieve the bidder of any obligations or requirements.

#### **IV. BRAND NAMES, STANDARDS OF QUALITY AND PERFORMANCE**

A. Brand names and/or descriptions used in these specifications are to acquaint bidders with the types of goods and services desired and will be used as a standard by which goods and services offered as equivalent will be evaluated.

B. Variations between the foods and services described and the goods and services offered are to be fully identified and described by the bidder on a separate sheet and submitted with the bid proposal form. Vendor's literature WILL NOT suffice in explaining exceptions to these specifications. In the absence of any exceptions by the bidder, it will be presumed and required that the goods and services as described in the bid specification be provided or performed.

C. It is the responsibility of the bidder to document and/or demonstrate the equivalency of the goods and services offered. The owner reserves the right to evaluate the equivalency of the goods and services.

D. In submitting its bid, the bidder certifies that the goods and services to be furnished will not infringe upon any valid patent or trademark and that the successful bidder shall, at its own expense, defend any and all actions or suits charging such infringement, and will save the owner harmless from any damages resulting from such infringement.

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

F. The contractor shall guarantee any or all goods and services supplied under these specifications. Defective or inferior goods shall be replaced at the expense of the contractor. The contractor will be responsible for return freight or restocking charges.

#### **V. INSURANCE AND INDEMNIFICATION**

The insurance documents indicated by an (X) shall include but are not limited to the following coverage.

##### **A. INSURANCE REQUIREMENTS**

☒ 1. Worker's Compensation Insurance shall be maintained in full force during the life of the contract, covering all employees engaged in performance of the contract pursuant to N.J.S.A. 34:15-12(a) and N.J.A.C. 12:135-1.6.



☒ 2. General Liability Insurance shall be provided with limits of not less than \$ 1,000,000.00 any one accident for bodily injury and \$1,000,000.00 aggregate for property damage, and shall be maintained in full force during the life of the contract.

☒ 3. Automotive Liability Insurance covering contractor for claims arising from owned, hired and non-owned vehicles shall be maintained in full force during the life of the contract.

#### B. CERTIFICATES OF THE REQUIRED INSURANCE

Certificates of Insurance for those policies required above shall be submitted with the contract. Such coverage shall be with an insurance company authorized to do business in the State of New Jersey and shall name the owner as an additional insured. Self-insured contractors shall submit an affidavit attesting to their self-insured coverage and shall name the owner as an additional insured.

#### C. INDEMNIFICATION

Bidder shall indemnify and hold harmless the owner from all claims, suits or actions, and damages or costs of every name and description to which the owner may be subjected or put by reason of injury to the person or property of another, or the property of the owner, resulting from negligent acts or omissions on the part of the contractor, the contractor's agents, servants or subcontractors in the delivery of goods and services, or in the performance of the work under the contract.

#### VI. PRICING INFORMATION FOR PREPARATION OF BIDS

A. The owner is exempt from any local, state or federal sales, use or excise tax.

B. Estimated Quantities (Open-End Contracts): The owner has attempted to identify the items(s) and the estimated amounts of each item bid to cover its requirements; however, past experience shows that the amount ordered may be different than that submitted for bidding. The right is reserved to decrease or increase the quantities specified in the specifications pursuant to N.J.A.C. 5:30-11.2 and 11.10. NO MINIMUM PURCHASE IS IMPLIED OR GUARANTEED.

C. Contractor shall be responsible for obtaining any applicable permits or licenses from any government entity that has jurisdiction to require same. All bids submitted shall have included this cost.

D. Bidders shall insert prices for furnishing goods and services required by these specifications. Prices shall be net, including any charges for packing, crating, containers, etc. All transportation charges shall be fully prepaid by the contractor, F.O.B. destination and placement at locations specified by the owner. As specified, placement may require

inside deliveries. No additional charges will be allowed for any transportation costs resulting from partial shipments made for the contractor's convenience.

## **VII. STATUTORY AND OTHER REQUIREMENTS**

The following are mandatory requirements of this bid and contract.

### **A. MANDATORY AFFIRMATIVE ACTION CERTIFICATION**

No firm may be issued a contract unless it complies with the affirmative action provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27-1 et seq. The following information summarizes the full, required regulatory text, which is included as Exhibit A of this bid specification.

#### **1. Goods and Services (including professional services) Contracts**

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

- i. A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter); or
- ii. A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4; or
- iii. A photocopy of an Employee Information Report (Form AA 302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

#### **2. Maintenance/Construction Contracts**

After notification of award, but prior to signing the contract, the contractor shall submit to the public agency compliance officer and the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts (Division) an initial project workforce report (Form AA201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor shall also submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of the contract to the Division and to the public agency compliance officer. The contractor shall also cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

## B. AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. Bidders are required to read the Americans with Disabilities language that is included as Appendix A of this specification and agree that the provisions of Title II of the Act are made a part of the contract. The contractor is obligated to comply with the Act and to hold the owner harmless.

## C. STOCKHOLDERS DISCLOSURE

N.J.S.A. 52:25-24.2 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of goods and services, unless, prior to the receipt of the bid or accompanying the bid of said corporation or partnership, bidders shall submit a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent or more of its stock of any class, or of all individual partners in the partnership who own a ten percent or greater interest therein. The included Statement of Ownership shall be completed and attached to the bid proposal. This requirement applies to all forms of corporations and partnerships, including, but not limited to, limited partnerships, limited liability corporations, limited liability partnerships and Subchapter S corporations. Failure to submit a stockholder disclosure document shall result in rejection of the bid.

## D. PROOF OF BUSINESS REGISTRATION

N.J.S.A. 52:32-44 requires that each bidder (contractor) submit proof of business registration with the bid proposal. Proof of registration shall be a copy of the bidder's Business Registration Certificate (BRC). A BRC is obtained from the New Jersey Division of Revenue. Information on obtaining a BRC is available on the internet at [www.nj.gov/njbgs](http://www.nj.gov/njbgs) or by phone at (609) 292-1730. N.J.S.A. 52:32-44 imposes the following requirements on contractors and all subcontractors that knowingly provide goods or perform services for a contractor fulfilling this contract:

- 1) The contractor shall provide written notice to its subcontractors and suppliers to submit proof of business registration to the contractor;
- 2) Prior to receipt of final payment from a contracting agency, a contractor must submit to the contracting agency an accurate list of all subcontractors or attest that none was used;
- 3) During the term of this contract, the contractor and its affiliates shall collect and remit, and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of

Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into this State.

A contractor, subcontractor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25 for each day violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency. Information on the law and its requirements is available by calling (609) 292-1730.

**If boxes of the following items are checked, they are mandatory requirements of the bid proposal and contract.**

☐ E. NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT

The manufacturer or supplier of chemical substances or mixtures shall label them in accordance with the N.J. Worker and Community Right to Know Law (N.J.S.A. 34:5A-1 et seq.). Containers that the law and rules require to be labeled shall show the Chemical Abstracts' Service number of all the components and the chemical name. Further, all applicable Material Safety Data Sheets (MSDS) - hazardous substance fact sheet - must be furnished.

☐ F. PREVAILING WAGE ACT

Pursuant to N.J.S.A. 34:11-56.25 et seq., contractors on projects for public work shall adhere to all requirements of the New Jersey Prevailing Wage Act. The contractor shall be required to submit a certified payroll record to the owner within ten (10) days of the payment of wages. The contractor is also responsible for obtaining and submitting all subcontractors' certified payroll records within the aforementioned time period. The contractor shall submit said certified payrolls in the form set forth in N.J.A.C. 12:60-6.1(c). It is the contractor's responsibility to obtain any additional copies of the certified payroll form to be submitted by contacting the New Jersey Department of Labor and Workforce Development, Division of Workplace Standards. Additional information is available at [www.state.nj.us/labor/lssc/lspubcon.html](http://www.state.nj.us/labor/lssc/lspubcon.html).

☐ G. THE PUBLIC WORKS CONTRACTOR REGISTRATION ACT

N.J.S.A. 34:11-56.48 et seq. requires that a general or prime contractor and any listed subcontractors named in the contractor's bid proposal shall possess a certificate at the time the bid proposal is submitted. After bid proposals are received and prior to award of contract, the successful contractor shall submit a copy of the contractor's certification along with those of all listed subcontractors. All non-listed subcontractors and lower tier sub-contractors shall be registered prior to starting work on the project. It is the general contractor's responsibility that all non-listed subcontractors at any tier have their certificate prior to starting work on the job.

Under the law a “contractor” is “a person, partnership, association, joint stock company, trust, corporation or other legal business entity or successor thereof who enters into a contract” which is subject to the provisions of the New Hersey Prevailing Wage Act [N.J.S.A. 34:11-56.25, et seq.] It applies to contractors based in New Jersey or in another state.

The law defines “public works projects” as contracts for “public work” as defined in the Prevailing Wage statute [N.J.S.A. 34:11-56.26(5)]. The term means:

- “Construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program.
- “Public Work” shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds....”
- “Maintenance work” means the repair of existing facilities when the size, type of extent of such facilities is not thereby changed or increased. While “maintenance” includes paining and decorating and is covered under the law, it does not include work such as routine landscape maintenance or janitorial services.

To register, a contractor must provide the State Department of Labor with a full and accurately completed application form. The form is available on line at [www.state.nj.us/labor/lse/lspubcon.html](http://www.state.nj.us/labor/lse/lspubcon.html).

N.J.S.A. 34:11-56.55 specifically prohibits accepting applications for registration as a substitute for a certificate of registration.

☒ H. NON-COLLUSION AFFIDAVIT

The Affidavit shall be properly executed and submitted with the bid proposal.

☒ I. PAY TO PLAY

Starting in January, 2007, business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year.

Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

## **VIII. METHOD OF CONTRACT AWARD**

A. The length of the contract shall be stated technical specifications. Pursuant to requirements of N.J.A.C. 5:30-5.1 et seq., any contract resulting from this bid shall be subject to the availability and appropriation of sufficient funds annually. Please see Section X, Termination of Contract, Sub-section E, for additional information.

B. If the award is to be made on the basis of a base bid only, it shall be made to that responsible bidder submitting the lowest net bid.

C. If the award is to be made on the basis of a combination of a base bid with selected options, it shall be made to that responsible bidder submitting the lowest net bid.

D. The owners may also elect to award the contract on the basis of unit prices.

E. The form of contract shall be submitted by the owner to the successful bidder. Terms of the specifications/bid package prevail. Bidder exceptions must be formally accepted by the owner.

## **IX. CAUSES FOR REJECTING BIDS**

Bids may be rejected for any of the following reasons

A. All bids pursuant to N.J.S.A. 40A:11-13.2;

B. If more than one bid is received from an individual, firm or partnership, corporation or association under the same name;

C. Multiple bids from an agent representing competing bidders;

D. The bid is inappropriately unbalanced;

E. The bidder is determined to possess, pursuant to N.J.S.A. 40A:11-4b, Prior Negative Experience; or

F. If the successful bidder fails to enter into a contract within 21 days, Sundays and holidays excepted, or as otherwise agreed upon by the parties to the contract. In this case at its option, the owner may accept the bid of the next lowest responsible bidder. (N.J.S.A. 40A:11-24b)

## **X. TERMINATION OF CONTRACT**

A. If, through any cause, the contractor shall fail to fulfill in a timely and proper manner obligations under the contract, or if the contractor shall violate any of the requirements of the contract, the owner shall thereupon have the right to terminate the contract by giving written notice to the contractor of such termination and specifying the effective date of termination.

Such termination shall relieve the owner of any obligation for balances to the contractor of any sum or sums set forth in the contract. Owner will pay only for goods and services accepted prior to termination.

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

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

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

E. Continuation of the terms of the contract beyond the fiscal year is contingent on availability of funds in the following year's budget. In the event of unavailability of such funds, the owner reserves the right to cancel the contract.

F. Acquisition, Merger, Sale and/or Transfer of Business, etc. It is understood by all parties that if, during the life of the contract, the contractor disposes of his/her business concern by acquisition, merger, sale and/or transfer or by any means convey his/her interest(s) to another party, all obligations are transferred to that new party. In this event, the new owner(s) will be required to submit all documentation/legal instruments that were required in the original bid/contract. Any change shall be approved by the Owner.

G. The contractor will not assign any interest in the contract and shall not transfer any interest in the same without the prior written consent of the owner.

H. The owner may terminate the contract for convenience by providing 60 calendar days advanced notice to the contractor.

## **XI. PAYMENT**

A. No payment will be made unless duly authorized by the Owner's authorized representative and accompanied by proper documentation.

B. Payment will be made in accordance with the Owner's policy and procedures.

FIRST READING	6 12 07
PUBLISH	6-16-07
SECOND READING	6-27-07
PUBLISH	7-2-07

**TOWN OF KEARNY  
2007-(O)-41**

**AN ORDINANCE ESTABLISHING MINIMUM EMPLOYMENT  
STANDARDS TO ENCOURAGE EMPLOYERS PROVIDING  
SERVICES TO THE TOWN OF KEARNY TO PAY LIVING  
WAGES AND AFFORD EMPLOYEES HEALTH BENEFITS**

WHEREAS the State of New Jersey has amended N.J.S.A. 34:11-66a4 relative to the establishment of certain minimum wage rates; and

WHEREAS by its terms, N.J.S.A. 34:11-66a4 does not prohibit any political subdivision of the State (including municipalities) from adopting regulations or rules, or entering into agreements, establishing standards for vendors, contractors and subcontractors of the political subdivision regarding issues of wage rates and greater protections of the rights to the employees of such vendors, contractors and subcontractors; and

WHEREAS, it is important to the health and welfare of residents of the Town of Kearny that all working people are paid a wage that enables them to lift their families out of poverty; and

WHEREAS, the Mayor and Council of the Town of Kearny declares that it is the policy of the Town to promote living wages and benefits that allow working families in their community to meet basic needs; and

WHEREAS, the Town of Kearny awards taxpayer funded contracts to businesses to provide services to the public and to the Town government; and

WHEREAS public costs to all taxpayers are likely to increase as companies that provide health benefits either drop those benefits or are replaced by companies that do not, because more working families will be forced to obtain necessary care from public health clinics, public hospitals, emergency rooms, and publicly funded programs such as Medicaid; and

WHEREAS, by requiring businesses benefiting from taxpayer funds through contracts with the Town to promote the creation of jobs which pay a living wage and provide reasonable health benefits to their employees will increase the ability of residents of the Town of Kearny and throughout the County of Hudson and State of New Jersey to attain self-sufficiency, decrease economic hardship and reduce the need for taxpayers to fund social services to provide supplemental support for employees of local and state business.

*mm.  
6-27-07  
C. Neglia  
Randy Schmitzer*



**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Kearny, Hudson County, New Jersey that the Revised General Ordinances be and here by are amended and supplemented as follows:

**SECTION 1. Living Wage and Health Benefit Requirement.**

The following minimum pay and benefit requirements must be complied with by contractors, subcontractors and vendors who provide work or services under a contract awarded by the Town of Kearny.

**SECTION 2. Definitions.**

For purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) "Town" means Town of Kearny.
- (b) "Company" means any natural person, corporation, partnership, limited liability company, joint venture, sole proprietorship, associations, trust or any other entity.
- (c) "Contractor" means any company that performs work or services under a contract awarded by the Town of Kearny, including but not limited to janitorial or security services, on premises owned, occupied, used, or controlled by the Town of Kearny.
- (d) "Living Wage" means an amount equal to 150% of the Federal Minimum Wage at the time a contract is awarded or renewed.
- (e) "Subcontractor" See definition of Contractor.
- (f) "Employee" means any person who performs work at least twenty (20) hours of work per week for a contractor, subcontractor or vendor, including full-time, part-time, temporary, or seasonal workers, independent contractors, contracted workers, contingent workers, and persons made available to work through the services of a temporary services, staffing or employment agency or similar entity.
- (g) "Vendor" See definition of Contractor

### **SECTION 3. Living Wage and Benefits Rate.**

Employees who work at least twenty (20) hours per week for any contractors, subcontractors and vendors providing services under a contract awarded the Town to be performed at various Town work sites and/or on the site of the contractor, subcontractor or vendor shall receive the following minimum pay and benefits:

- (a) An hourly rate of pay one hundred and fifty percent (150%) of the Federal Minimum Wage at the time the contract is awarded or renewed; and
- (b) Medical benefits shall be provided by the employer at the employer's expense for each employee within 60 days of hiring. At a minimum, the benefits provided shall be basic medical insurance coverage, which shall include a Health Maintenance Organization Plan with no deductible; a hospital indemnity benefit and a doctor's office indemnity benefit.

### **SECTION 4. Applicability and Compliance.**

(a) The terms and conditions of this Ordinance shall not apply to any contract authorized prior to or during the period of any contract renewal included in a contract authorized prior to the effective date of this Ordinance. Application of the terms and conditions of this Ordinance shall be prospective only.

(b) Compliance with the requirements of this Ordinance shall be waived for any contractor, subcontractor and vendor currently under contract with the Town of Kearny, if the Ordinance provisions vary with the terms of an existing bona fide collective bargaining agreement in place at the date of the enactment of this Ordinance, provided that all parties to the existing bona fide collective bargaining agreement in place at the date of the enactment of this Ordinance agree to a waiver of the application of this Ordinance. However upon expiration of the term of the collective bargaining agreement, all provisions of this Ordinance shall apply.

(c) Contractors, subcontractors or vendors employing ten (10) or less employees shall be exempt from compliance with this Ordinance, providing that the contract with Town is not in excess of \$500,000.00 annually.

### **SECTION 5. Notice and payroll records.**

- (a) The Town shall advise all contractors, subcontractors and vendors of the requirements of this Ordinance prior to the award of a contract.
- (b) Contractors, subcontractors and vendors who enter into contract with the Town shall allow the Town access to payroll and benefits records to monitor compliance with the requirements of this Ordinance, and shall permit an employee or an employee's designated representative to inspect the

employer's payroll and benefits pertaining to that employee. Where a contractor, subcontractor or vendor does not maintain or retain adequate records documenting wages paid or benefits, or does not allow the Town reasonable access to such records, there shall be a rebuttable presumption that the contractor, subcontractor or vendor has not paid the requisite hourly compensation. This presumption may be overcome if the contractor, subcontractor or vendor has paid the requisite hourly compensation.

#### **SECTION 6. Implementation and Enforcement.**

- (a) The Town may interpret, implement and enforce this Ordinance, including issuing regulations and administrative findings of violations and instituting legal actions to enforce administrative findings. Any regulations promulgated by the Town shall have the force and effect of law and may be relied on by employers, employees and other parties to determine their rights and responsibilities under this Ordinance.
- (b) No contractor, subcontractor or vendor or other person shall discharge or take any other adverse action against any person in retaliation for asserting any claim or right under this Ordinance, for assisting any other person in doing so, or for informing any person about their rights. Taking adverse action against a person within ninety days of a person's engaging in any of the foregoing activities shall raise a presumption that such action was retaliation, which may be rebutted by clear and convincing evidence that such action was taken for other permissible reasons.
- (c) Any employee harmed by a contractor, subcontractor or vendor's violation of this Ordinance may bring an action against the contractor, subcontractor and/or vendor in any court of competent jurisdiction and, upon prevailing, shall be awarded any appropriate legal or equitable relief, including any compensation required under this ordinance that was not timely paid and an additional amount equal to the amount of liquidated damages, and shall be awarded reasonable attorney's fees and costs of suit. Any investigation of an employer by the Town or other law enforcement officer shall not bar an employee from bringing an action.
- (d) A contractor, subcontractor or vendor that violates this Ordinance may also be required to pay a civil penalty of an amount set by the Town or a court sufficient to deter future violations, but not less than \$200 per violation. Each employee and each week that a contractor, subcontractor or vendor fails to pay the total hourly compensation required by this ordinance or retaliates against an employee or other person in violation of this Ordinance shall constitute a separate violation. Civil penalties shall be retained by the Town and used to finance activities to enforce this Ordinance.

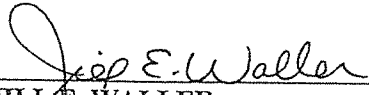
- (e) The Town shall make in information regarding all contractor, subcontractor and vendor compliance with this Ordinance publicly available during the term of any contract with the Town.

Repealer: All Ordinances and parts thereof conflicting herewith be, and the same hereby are, repealed.

Severability: If any section, paragraph subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed to be valid and effective.

Effective Date: This Ordinance shall be effective upon passage and publication as required by law.

I certify that the foregoing ordinance was introduced by the Council on first reading on June 12, 2007 duly published according to law, and passed on second reading and final passage on June 26, 2007.

  
JILL E. WALLER  
ACTING TOWN CLERK

I hereby approve the foregoing Ordinance this 26<sup>th</sup> day of June, 2007.

	INTRODUCED	SECOND	AYE 1ST	AYE 2ND	NAY 1ST	NAY 2ND	ABSTAIN 1	ABSTAIN 2	ABSENT 1ST	ABSENT 2ND
SHERRY			X	X						
DOYLE			X	X						
PETTIGREW		X	X	X						
LANDY			X							X
ARCE			X	X						
MC CURRIE	X		X	X						
ECKEL			X							X
KRUSZNIS			X							X
SANTOS			X	X						

  
ALBERTO SANTOS, MAYOR

FIRST READING: February 13, 2008
PUBLISH 02/16/08
SECOND READING 02/26/08
PUBLISH 03/04/08
PLAN BD REVIEW n/a

**TOWN OF KEARNY  
COUNTY OF HUDSON  
2008 – (O) – 08**


**ORDINANCE AMENDING ORDINANCE NO. 2007-(O)-41  
ESTABLISHING MINIMUM EMPLOYMENT STANDARDS TO  
ENCOURAGE EMPLOYERS PROVIDING SERVICES TO THE  
TOWN OF KEARNY TO PAY LIVING WAGES AND AFFORD  
EMPLOYEES HEALTH BENEFITS**

Ordinance No. 2007-(O)-41 of the Town of Kearny, adopted on second reading on June 27, 2007, shall be and hereby is amended as follows:

1. Section 3(b) of the Ordinance shall be amended to read in its entirety as follows:

“(b) Medical benefits shall be provided by the employer at the employer’s expense for each employee within 60 days of hiring. At a minimum, the benefits provided shall be basic medical insurance coverage, which may include a Health Maintenance Organization Plan with no deductible; a hospital indemnity benefit and a doctor’s office indemnity benefit.”

I certify that the foregoing ordinance was introduced by the Council on first reading on February 13, 2008, duly published according to law, and passed on second reading and final passage on February 26, 2008.

  
JILL E. WALLER  
ACTING TOWN CLERK

I hereby approve the foregoing Ordinance this 26th day of February, 2008.

  
ALBERTO G. SANTOS, MAYOR

	INTRODUCED	SECONDED	AYE 1ST	AYE 2ND	NAY 1ST	NAY 2ND	ABSTAIN 1	ABSTAIN 2	ABSENT 1ST	ABSENT 2ND
COUNCIL										
SHERRY			X	X						
DOYLE		X	X	X						
PETTIGREW				X					X	
LANDY			X	X						
ARCE			X	X						
MC CURRIE	X		X	X						
ECKEL			X	X						
KRUSZNIS			X	X						
SANTOS			X	X						

*C-J. Bruno  
All Depts*

**STOCKHOLDER DISCLOSURE CERTIFICATION**  
**This Statement Shall Be Included with Bid Submission**

Name of Business: \_\_\_\_\_

☐ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.      **OR**

☐ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

**Check the box that represents the type of business organization:**

- ☐ Partnership                      ☐ Corporation                      ☐ Sole Proprietorship  
☐ Limited Partnership           ☐ Limited Liability Corporation   ☐ Limited Liability Partnership  
☐ Subchapter S Corporation

**Sign and notarize the form below, and, if necessary, complete the stockholder list below.**

Stockholders:

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

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

Home Address: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

Home Address: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

Home Address: \_\_\_\_\_

Home Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Affiant)

(Notary Public)

\_\_\_\_\_  
(Print name & title of Affiant)

My Commission expires:

\_\_\_\_\_  
(Corporate Seal)

**NON-COLLUSION AFFIDAVIT**

State of New Jersey

County of \_\_\_\_\_

SS:

I, \_\_\_\_\_ residing in \_\_\_\_\_  
(name of affiant) (name of municipality)

in the County of \_\_\_\_\_ and State of \_\_\_\_\_ of full age,

being duly sworn according to law on my oath depose and say that:

I am \_\_\_\_\_ of the firm of \_\_\_\_\_  
(title or position) (name of firm)

\_\_\_\_\_ the bidder making this Proposal for the bid entitled  
\_\_\_\_\_, and that I executed the said proposal with full  
(title of bid proposal)

authority to do so that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the TOWN OF KEARNY relies upon the truth of the statements contained in said Proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by \_\_\_\_\_.

Subscribed and sworn to me  
before this day

\_\_\_\_\_  
Signature

\_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Type or print name of affiant under signature)

\_\_\_\_\_  
Notary public of

My Commission expires \_\_\_\_\_

(Seal)

### CONSENT OF SURETY

A performance bond will be required from the successful contractor on this project, and consequently, all bidders shall submit, with their bid, consent of surety in substantially the following form:

To: \_\_\_\_\_  
(Owner)

Re: \_\_\_\_\_  
(Contractor)

\_\_\_\_\_  
(Project Description)

This is to certify that the \_\_\_\_\_  
(Surety Company)

will provide to \_\_\_\_\_ a performance bond in  
(Owner)

the full amount of awarded contract in the event that said contractor is awarded a contract for the above project.

\_\_\_\_\_  
(CONTRACTOR)

\_\_\_\_\_  
(Authorized Agent of Surety Company)

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

**CONSENT OF SURETY MUST BE SIGNED BY AN AUTHORIZED AGENT  
OR REPRESENTATIVE OF A SURETY COMPANY AND NOT BY THE  
INDIVIDUAL OR COMPANY REPRESENTATIVE SUBMITTING THE BID.**



**AFFIRMATIVE ACTION COMPLIANCE NOTICE**  
**N.J.S.A. 10:5-31 and N.J.A.C. 17:27**

**GOODS AND SERVICES CONTRACTS**  
**(INCLUDING PROFESSIONAL SERVICES)**

This form is a summary of the successful bidder's requirement to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1 et seq.

The successful bidder shall submit to the public agency, after notification of award but prior to execution of this contract, one of the following three documents as forms of evidence:

- (a) A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);    OR
- (b) A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;    OR
- (c) A photocopy of an Employee Information Report (Form AA302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

The successful vendor may obtain the Affirmative Action Employee Information Report (AA302) from the contracting unit during normal business hours.

The successful vendor(s) must submit the copies of the AA302 Report to the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts (Division). The Public Agency copy is submitted to the public agency, and the vendor copy is retained by the vendor.

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27.1 et seq. and agrees to furnish the required forms of evidence.

The undersigned vendor further understands that his/her bid shall be rejected as non-responsive if said contractor fails to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27-1 et seq.

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

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

## **EXHIBIT A**

### **MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. (P.L. 1975, C.127) N.J.A.C. 17:27**

#### **GOODS, PROFESSIONAL SERVICE 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, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, 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, gender identity or expression, disability, nationality 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 nondiscrimination clause.

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

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

The contractor or subcontractor agrees to make good faith efforts to 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, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the 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, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

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

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO 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 Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

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

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

The contractor and the Town of Kearny, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C. S121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damage against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the owner shall expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

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

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

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

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

**STATE OF NEW JERSEY  
BUSINESS REGISTRATION CERTIFICATE  
SAMPLE**

---

**Taxpayer Name:** TOWN OF KEARNY

**Trade Name:**

**Address:** 402 KEARNY AVE  
KEARNY, NJ 07032-2604

**Certificate Number:** 0104678

**Effective Date:** June 16, 1995

**Date of Issuance:** January 30, 2013

---

**For Office Use Only:**

20130130111937883

TOWN OF KEARNY

ACKNOWLEDGMENT OF RECEIPT OF ADDENDA

The undersigned Bidder hereby acknowledgment receipt of the following Addenda:

<u>Addendum Number</u>	<u>Dated</u>	<u>Acknowledge Receipt</u> (initial)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

☐ **No addenda were received:**

Acknowledged for: \_\_\_\_\_  
(Name of Bidder)

By: \_\_\_\_\_  
(Signature of Authorized Representative)

Name: \_\_\_\_\_  
(Print or Type)

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

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

## EQUIPMENT CERTIFICATION

The undersigned Bidder hereby certifies as follows:

The bidder owns or controls all the necessary equipment required to accomplish the work described in the specifications.

Name of Bidder: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Name of above: \_\_\_\_\_  
(Print)

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

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

**TOWN OF KEARNY**

**BID PROPOSAL FORM**

**RENTAL OF SNOW REMOVAL EQUIPMENT & VEHICLES**

---

(Contract Title and Bid Number, if applicable)

**RENTAL OF SNOW REMOVAL EQUIPMENT & VEHICLES**

---

(Description of goods/services being bid)

The undersigned proposes to furnish and deliver the above goods/services pursuant to the bid specification and made part hereof:

---

Amount in words

\$ 

---

Amount in numbers

---

Company Name

---

Federal I.D. # or Social Security #

---

Address

---

Signature of Authorized Agent

---

Type or Print Name

Title: 

---

---

Telephone Number

---

Date

---

Fax Number

---

E-mail address



## **AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of November 2016, by and between \_\_\_\_\_, (hereinafter the "Contractor") and the **Town of Kearny**, Hudson County, New Jersey (hereinafter the "TOK").

WITNESSETH, that in consideration of the mutual conditions, covenants and agreements contained herein, the Contractor and TOK hereby agree as follows:

### **ARTICLE 1 – Contract Documents.**

- 1.1 The Contractor agrees to abide by all terms and conditions of the Contract Documents relating to **Rental of Snow Removal Equipment and Vehicles**
- 1.2 The Contract Documents consist of this Agreement, the Contractor's Proposal submitted on **November 4, 2016** including all bid forms submitted previously or in connection therewith, and the Specifications, all of which are expressly incorporated herein as part of this Agreement.

The Contractor hereby acknowledges that it has read the Contract Documents and has full knowledge of the manner of provision of the goods and services to be provided and all the terms and conditions relating thereto as set forth in the Contract Documents.

### **ARTICLE 2 – Goods and Services.**

- 2.1 The Contractor will provide all goods and services and all work called for by, and in strict conformity with, the Contract Documents.

### **ARTICLE 3 – Term.**

- 3.1 The Contractor shall provide all goods and services to be provided under the Contract Documents within the time set forth in the Contract Documents. Term of the contract will be for six (6) months of the equipment rental.

### **ARTICLE 4 – Contract sum.**

- 4.1 The fee to be paid by the TOK to the Contractor for the goods and services to be provided under this Agreement shall be \$\_\_\_\_\_.

### **ARTICLE 5- Payment.**

- 5.1 All amounts due and owing under the Contract Documents shall be separately invoiced by the Contractor and paid by the Town of Kearny upon delivery by the Contractor, and acceptance by the Town, of all goods and services required by the contract documents. The TOK agrees to act upon and to pay all undisputed invoices.
- 5.2 No payment made under this Agreement shall be conclusive evidence of the Contractor's performance of this Agreement either wholly or in part.

#### **ARTICLE 6 – Termination.**

- 6.1 This Agreement may be suspended or terminated by the TOK with or without cause upon five (5) days written notice.
- 6.2 In the event of a substantial breach of this Agreement by the TOK, the Contractor may terminate this Agreement upon five (5) days written notice.

#### **ARTICLE 7 – Dispute Resolution.**

- 7.1 Claims disputes or other matters in question arising out of or relating to this Agreement or alleged breach thereof shall be subject to and determined by a court of competent jurisdiction venued in Hudson County, New Jersey.

#### **ARTICLE 8 – Governing Law.**

- 8.1 This Agreement shall be governed by and in accordance with the laws of the State of New Jersey.

#### **ARTICLE 9 – Performance Bond.**

- 9.1 Upon execution of this Agreement, the Contractor shall furnish the TOK with a performance bond in a form guaranteeing the faithful performance of the Contract in the amount of one hundred per cent (100%) of the Contract Sum in a form satisfactory in all respects to the Municipal Attorney of the TOK.
- 9.2 The bond shall be delivered simultaneously with execution of the Agreement.
- 9.3 If, at any time, or for any reason, the bond ceases to be adequate security for the TOK, the successful bidder shall, within five (5) days after notice, substitute an acceptable bond with surety satisfactory to the TOK.
- 9.4 The premium on any bond shall be paid by the Contractor.

#### **ARTICLE 10 – Miscellaneous Provisions.**

- 10.1 No assignment or transfer of any money or monies due or to become due hereunder, or of any part of such monies will be permitted until and unless the same shall have been approved in writing by the TOK.
- 10.2 Any notices required or permitted to be given pursuant to the terms of this Agreement shall be sufficiently given when delivered personally, by courier services (such as Federal Express) or certified mail, return receipt requested, addressed to each party as follows:

**As to Contractor:**

**As to the TOK:**

Attention: Michael Martello, Business Administrator  
Town of Kearny  
402 Kearny Avenue  
Kearny, New Jersey 07032

**With copies to:**

Gregory J. Castano, Esq.  
Castano Quigley LLC  
155 Passaic Avenue - Suite 340  
Fairfield, New Jersey 07004

- 10.3 Contractor agrees to the fullest extent permitted by law, to indemnify and hold the TOK harmless from damages and losses arising from the negligent acts, errors, or omissions of Contractor in providing the goods and services rendered pursuant to the terms of this Agreement.
- 10.4 This Agreement and the Contract Documents express the entire agreement between the Contractor and the TOK regarding this matter. This Agreement can only be modified with another written agreement signed by both parties.
- 10.5 The attached Contract Addendum is attached hereto and incorporated herein.
- 10.6 The contractor shall comply with all applicable laws in performance of this contract.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year written above.

**ATTEST:**

\_\_\_\_\_

**Town of Kearny**

By: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

**Contractor**

By: \_\_\_\_\_

1. Contractor and the Town hereby incorporate into this contract the mandatory language of N.J.A.C. 17:27-3.4(a) and the mandatory language of N.J.A.C. 17:27-5.3 promulgated pursuant to N.J.S.A. 10:5-31 to 38 (P.L. 1975, c. 127, as amended and supplemented from time to time), including the provisions set forth on the attached Exhibit A.
2. Contractor and the Town hereby incorporate into this contract the provisions of Title 11 of the Americans with Disabilities Act of 1990 (the "Act"), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulations promulgated thereunder.
3. The Contractor acknowledges its obligation to comply with the Town of Kearny Ordinance No. 2007-(0)-41 attached hereto with regard to the payment of Living Wages and the provision of Health Benefits to its employees.
4. Contractor confirms that it has not engaged in investment activities in Iran (as defined in N.J.S.A. 52:32-56) and the Contractor is not identified as having such investments on the list developed by the New Jersey Department of the Treasury. Contractor shall, upon execution of this Agreement, complete, sign and file with the Town Clerk, the Certification attached hereto.

## IRAN CERTIFICATION

I, \_\_\_\_\_, residing at \_\_\_\_\_, upon penalty of perjury do certify to the following statements:

I am the \_\_\_\_\_ of the business entity submitting this bid and am duly authorized to execute this document on the business' behalf.

I am not, and the business entity submitting this bid, is not:

providing goods or services of \$20,000,000.00 or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

a financial institution that extends \$20,000,000.00 or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

\_\_\_\_\_  
Affiant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Notary Public

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

## **TECHNICAL SPECIFICATION**

### **Rental equipment for snow removal:**

Please provide The Town of Kearny prices on the following equipment for snow removal:

The hourly rate should include the equipment with an operator.

#### **1. Loaders**

Cat Powered RPM Snow Blower 102” (Model # RPM 215 NJPA) or equivalent. The loader needs to have a large snow blower attached to the front.

#### **2. Large dump trucks**

VOLVO VHD8s or equivalent

#### **3. Bulldozer**

Caterpillar D6GXL Series II or equivalent

#### **4. Skid-Steer**

S450T4 Bobcat Skid-Steer loader or equivalent