



Bid # 8171

MAINTENANCE AND REPAIR SERVICES OF TECOGEN CHILLERS

BUYER: Habiba Jamali, MBA
ADVERTISEMENT DATE: April 21, 2023
LAST DAY FOR QUESTIONS: May 1, 2023, at 11:00 AM EST
DUE DATE AND TIME: May 9, 2023, at 12:00 PM EST

Issued by: Essex County College
Purchasing Department
303 University Ave.
6th Floor
Newark, NJ 07102
purchasing@essex.edu
www.essex.edu

INTRODUCTION

DESCRIPTION OF ESSEX COUNTY COLLEGE

Essex County College is accredited by the Middle States Commission on Higher Education and is licensed by the State of New Jersey through the Office of the Secretary of Higher Education to operate and award Associate Degrees and Certificates.

MISSION

Essex County College is an open-access community college that serves the diverse needs of students through comprehensive educational programs, training, and continuing education. Essex County College is dedicated to academic excellence and the success of its students.

VISION

A Beacon for Education and Knowledge, Essex County College attracts people who seek a better life through education. We transform lives, broaden learning and empower students to achieve their full potential. Our College community and graduates are change agents and leaders who contribute to the health, vitality, and advancement of society.

Essex County College Students First Strategic Plan 2019-2024 is available via <https://www.essex.edu/wp-content/uploads/2021/12/STUDENTS-FIRST-Ver.-2.0.pdf>

OVERVIEW

Essex County College reserves the right to reject any and all proposals and the right at its option to waive or refuse to waive any defect or informality in any proposals. All responsive proposals received will be subjected to an evaluation by qualified personnel. Respondents should submit sufficient information to enable the evaluation committee to fully ascertain each respondent's capability to perform the requirements contemplated by this solicitation. All commitments made in the proposals shall become a part of any resultant contract. Proposals will not be received after such date and time indicated in the solicitation. The College reserves the right to cancel this bid at any time without cost or obligation.

Only a purchase order authorizes the performance of services. Essex County College is not responsible for services performed without an authorized Purchase Order. This is being solicited through a Fair and Open process by N.J.S.A.19:44A-20 et seq. The College is exempt from any local, state, or federal sales, use, or excise taxes.

DESCRIPTION OF THE PROJECT

Essex County College issued this bid request to solicit a Contractor to furnish all labor, equipment, supplies, and insurance necessary for Maintenance and Repair Services of Tecogen Chillers at the Newark Campus, located at 303 University Avenue, Newark, New Jersey.

EVALUATION AND CONSIDERATION OF BIDDERS

Essex County College intends to award a contract to the lowest responsive and responsible bidder. Whenever two or more quotations or bids of equal amounts are the lowest quotations or bids submitted by responsible parties, the Essex County College may award the contract to any one of such parties, as in its discretion, it may determine.

KEY DATES

Advertised Date: April 21, 2023

Site Visit: The bid will be automatically rejected from any contractor that was not represented at the **Mandatory Site Visit** or failed to properly register and submit a signed site-inspection sheet (**Appendix A**) page # 49. Please contact Mr. Jeff Shapiro at 973-877-3142 or 973-877-4412 or via e-mail at shapiro@essex.edu for the appointment.

Last Day for Questions: May 1, 2023, at 11:00 AM EST

Due Date and Time: May 9, 2023, at 12:00 PM EST
(Bid opening date will be conducted virtually via Zoom)
Zoom ID: 97901072547, Passcode 631592

BID SUBMITTAL

Submission by **fax** or **e-mail** is NOT PERMITTED.

All responses shall be made in accordance with guidance received from the Purchasing Department and shall be returned to the address below in sealed envelopes bearing on outside the name of the vendor:

For USPS/Hand delivery, the mailing address is:

Ms. Habiba Jamali
Purchasing Department
Essex County College
303 University Avenue,
6th Floor, Room #6108
Newark, NJ, 07102

RE: Bid # 8171 – Maintenance and Repair Services of Tecogen Chillers

The College will not be responsible for late postal delivery service nor will postmark dates be considered in honoring bids. Federal Express and/or other equivalent forms of courier service including overnight mail service must be received in Purchasing Department before the bid opening date and time. Otherwise, it will be rejected.

CONTACT FOR ALL QUESTIONS

The specific section, bid number, and page number to which each question refers are to be indicated. The College will have a reasonable amount of time to respond to questions or concerns. It is the College's intent to respond to all appropriate questions and concerns; however, the College reserves the right to decline to respond to any question or concern.

Any response by the College to inquiries from one respondent will be furnished to all vendors as an amendment or clarification to this bid, if this information is necessary for submitting qualifications or if the lack of such information would be prejudicial to a uniform response.

Inquiries on matters requiring further clarification concerning the contents of this document should be directed in written form via email to:

Habiba Jamali
Assistant Director of Purchasing
RE: Bid # 8171 – Maintenance and Repair Services of Tecogen Chillers
E-mail: purchasing@essex.edu

CONTRACT PERIOD

This contract agreement shall cover a period of one (1) year (July 1, 2023, through June 30, 2024), with an option to renew for one (1) year (July 1, 2024, through June 30, 2025). Renewals may be exercised by the College at its sole discretion, please review the attached standard contract terms and conditions. Prices will remain in effect as of the date of renewal, unless they are modified or canceled by either party, in writing, not less than 30 days prior to the expiration date of the agreement.

BID FORMAT

Vendors must include one (1) original, one (1) copy, and one electronic copy on a portable USB flash drive of their bid response.

INSURANCE REQUIREMENTS

The insurance documents include but are not limited to the following coverages. The successful bidder shall provide coverage so that all insurance coverage must be in effect no later than 12:01 A.M. EST at the start of the day of the contract and remain in effect for the duration of the contract, including any extensions.

1. The coverage maintained by the Contractor shall be written by companies licensed to do business in the State of New Jersey and maintaining an AM BEST rating of A- or better with a financial size rating of Class IX or larger. *All insurance shall contain a waiver of subrogation against the Owner.*
2. Commercial General Liability insurance is written on an occurrence form including independent contractor liability, products/completed operations liability, and contractual liability, covering but not limited to the liability assumed under the indemnification provisions of this contract. ***Coverage for bodily injury and property damage claims arising out of the professional acts of the general contractor and subcontractors shall also be included.*** The policy shall not include any endorsement that restricts or reduces coverage as

provided by the ISO CG0001 form without the approval of the Owner. Commercial General Liability:

The minimum limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate, or two million dollars (\$2,000,000) product/completed operations aggregate. The Products and Completed Operations insurance shall be maintained for one (1) year or more after the final payment. A “per project endorsement” shall be included, so that the general aggregate limit applies solely to the project that is the subject of this contract.

3. Commercial Auto Liability: Liability covering owned, non-owned, and hired vehicles. The limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence.
4. Worker’s Compensation: Worker's Compensation Insurance applicable to the laws of the State of New Jersey and other State or Federal jurisdictions required to protect the employees of the Contractor and any Subcontractor who will be engaged in the performance of this Contract. The certificate must so indicate that no proprietor, partner, executive officer, or member is excluded. This insurance shall include Employers' Liability Protection with a limit of liability not less than one million dollars (\$1,000,000) for bodily injury, each occurrence, one million dollars (\$1,000,000) for disease, each employer, and two million dollars (\$2,000,000) disease, aggregate limit. Including the employer’s liability insurance under the umbrella insurance can satisfy the limit requirements.
5. Excess Liability applying an excess of primary to the commercial general liability, commercial automobile liability, and employer’s liability insurance shall be provided with minimum limits (\$1,000,000) per occurrence and a (\$1,000,000) general aggregate.
6. The General Liability Insurance General Aggregate and Excess Liability limits shall apply and be written exclusively, in total, to this Project only. A per-project endorsement for all coverage and limits must be included in each policy.
 - Bodily injury and property damage insurance policies shall be so written as to provide coverage for special hazards where such hazards will be incidental to subcontractors’ work.
7. The contractor and subcontractor shall list, on the certificate of insurance, all additional insureds including:
 - Essex County College

SOLICITATION INSTRUCTIONS

A. GENERAL NOTES

1. This bid will be awarded as one (1) complete package.
2. Bids will be automatically rejected from any vendor that did **NOT** provide the required documents attached to this bid.
3. **The successful contractor will receive an award letter and Purchase Order once approved by the Board of Trustees of Essex County College.**
4. The approved contractor must provide a contact person, telephone number with extension, fax number, and e-mail to expedite the processing of College Purchase Orders.
5. All invoices must be sent directly to the Facilities Management Department. All invoices must reference a service ticket number and Essex County College Purchase Order number.
6. The contractor must provide a schedule of all work to be performed upon the award of this contract.

B. CONTRACTOR'S QUALIFICATIONS

1. Bidders are cautioned not to attach any conditions, limitations, or make any changes or erasures on the bid blanks, as such conditions, limitations, and provisions may render the bid informal and cause its rejection.
2. The contractor must have factory-authorized training on these machines and provide proof of such training. The listed individuals must be regular employees of the vendor and their names shall accompany this bid. In supplying a bid response, the vendor is stating that he has all the necessary tools and is fully trained and qualified to work on the gas-fired Tecogen Chillers. If the vendor is unable to diagnose or repair any problems that arise and requires assistance from the manufacturer, any additional costs for that manufacturer's time or personnel shall not be passed on to the College.
3. Similarly, the contractor must have access to the manufacturer's parts, machine data, software, and any service passwords necessary to access the machines' computerized controllers. Any additional costs needed to acquire manuals, software (including factory authorized updates), passwords, etc. shall not be passed onto the College.
4. The vendor shall comply with all Statutes of the State of New Jersey relating to the employment of labor and the payment of prevailing wage rates and shall comply with all State and Federal Laws and Regulations of Chiller preventive maintenance, service, and general repair in the fulfillment of his/her duties under this contract. The vendor shall also be responsible for any violations or penalties associated directly or indirectly with its failure to comply with said laws.

5. The Contractor must submit with their bid the following:

Five (5) references verifying maintenance services for Chillers of similar size performed in the State of New Jersey in the past twelve (12) months. Reference information should include the company or institute's name, contact person's name and title, telephone number, address, and project description.

6. The service to be performed by the vendor under the specifications shall consist of furnishing all labor, equipment, supplies, insurance, and all else necessary described herein from the College.
7. When repairing and replacing any item, the Contractor must use the most up-to-date materials being manufactured by the original equipment manufacturer or fully compatible. No used materials shall accept. All damaged parts are to be removed from the premises or disposed of as directed by Facilities Management staff.
8. The Contractor must be trained in the service and repair of the equipment described in the scope of work. If the contractor needs to subcontract any technical support work to another company or manufacturer, the contractor will do so without any additional cost to the college.

C. CONTRACTOR'S RESPONSIBILITY

1. It shall be the contractor's responsibility to become familiar with all aspects of the bid to survey existing conditions and to verify all descriptions of service for this contract needed to prepare an accurate bid and ensure a complete service contract.
2. The contractor shall supervise the service, using an experienced employee, and be solely responsible for all means, methods, techniques, sequences, and procedures and for coordinating all portions of the service.
3. The contractor will limit or confine his/her service to those areas of the building or site necessary to complete the contract. Service outside the contract limits shall be the vendor's sole responsibility. All areas disturbed during the contract shall be restored to their original condition.
4. All work under this contract is to be performed during the regular working day, except as otherwise specified. Overtime rate outside normal work hours will be provided with this bid.
5. All work to be accomplished under this contract shall in general match existing installations in every respect, insofar as possible, to provide a first-class job to Essex County College.
6. All work proposals/quotes are to be presented to the Supervisor of Maintenance and Operations or designee before the start of the work.
7. The contractor shall demonstrate they have a written lock-out/tag-out procedure and their employees are trained by OSHA-1910.147 and any other EPA/OSHA training applicable to the task(s) which they will be performing.

8. The contractor shall abide by all State, Local, and Occupational Safety and Health Administration/Public Employees Occupational Safety and Health (OSHA/PEOSH) safety requirements called for in the different items of work in the scope of this contract. If the vendor is found to be practicing poor safety procedures on the job site, a designated Facilities Department representative shall stop all work until the unsafe practice has ceased. Proper safety equipment and procedures as directed under these standards are part of the scope of work.
9. The Contractor shall guarantee all new materials, labor and installation for a minimum of twelve (12) months from the date of final acceptance by the College.
10. The contractor must provide replacement parts of the original manufacturer (OEM), or equal and fully compatible, to accomplish the programmed preventative maintenance specified. If repairs cannot be affected within 24 hours due to a lack of parts and the inability to procure them, Essex County College has the option to contact a secondary vendor to affect the repair.
11. The contractor shall adhere to the manufacture's comprehensive preventative procedures along with College's specified procedures.
12. The contractor assumes full responsibility for repairs and maintenance. If the repairs, maintenance, or technology, is beyond the capabilities of the contractor, the vendor will subcontract their repairs, technical assistance, or both, to a qualified third party at no additional cost to the College.
13. The contractor shall also provide emergency service when requested during off hours; such as evening, night, weekend, or holiday at the rate quoted. The contractor shall have the capability to provide services 7 days, 24 hours a day, all 365 days of the year. The vendor is required to provide a one-hour response time, 24 hours a day, for emergency services for Tecogen Chiller Systems and as defined in the Scope of Work section.
14. The contractor shall provide material or chemical cost information, if requested.
15. The vendor shall provide the Physical Plant Manager an annual PM schedule based on the manufacturer's preventive maintenance schedule along with the College listed preventive maintenance requirement.
16. The vendor shall furnish all the necessary maintenance materials and repair parts required to perform regular inspections and seasonal maintenance tasks for the equipment. All parts that are considered by the manufacturer to be normal consumable or "wear and tear" items or those that are regularly replaced as part of a maintenance program are to be included in this contract.
17. All work associated with this contract shall be coordinated through the Physical Plant Manager located at the Newark Campus.
18. It shall be the Contractor's responsibility to provide the Facilities Management Director with updated drawings, sketches, schematics, and warranties of any new devices, upgrades or alterations accomplished periodically throughout the term of the contract.

D. JOB CONDITIONS

1. Any work that may interrupt classes must be rescheduled through the Facilities Management Department. Contractors must notify the Facilities Department that they are working on Campus on a daily basis. The Contractor will be provided with a schedule of the Campus Holidays upon request.
2. The College is in constant use by students and staff; therefore, Contractors working in the area must be courteous and act in a professional manner at all times.
3. The Contractor will maintain the operational integrity of the Tecogen Chillier. The Contractor will not make any repairs and alterations until all necessary equipment to complete the job are on site. All work is to be scheduled through the Facilities Management Department, which can be contacted at (973) 877-3141 or (973) 877-4412.
4. The Contractor will be responsible for notifying the Facilities Management Department of any emergency conditions. Work that will interfere with classes that are in session will be rescheduled during night hours or weekends when classes are not in session. The College workweek is Monday through Friday 7:00AM to 11:00 PM. and on Saturdays 7:00 AM to 3:00 PM. The contractor will be provided with a schedule of the Campus Holidays upon request.
5. The vendor must submit to the Supervisor of Maintenance and Operations or representative a full report of the services which must include:
 - Date & Time
 - Name of person performing the work
 - On-job service time
 - Description of work including part replaced or repaired
6. All work shall be performed expeditiously and with minimum disturbance to the normal operation of the College.
7. The vendor shall not shut down any equipment unless permission is obtained from the Director of Facilities Management or his designee.
8. There will be no renegotiated, increased, or supplemented price during the contract period.

E. LICENSES AND PERMITS

1. The bidder is required to show evidence that the Contractor will have the appropriate license(s) and permit(s), as required by law to service and maintenance.
2. The Contractor shall obtain all required licenses, permits, insurance, and other authorizations necessary to perform this scope of service. The Contractor is to submit a copy of required licenses, permits, insurance, and other authorizations to the Facilities and Purchasing Department.

F. LADDERS, SCAFFOLDING, ETC.

The contractor shall furnish their ladders, scaffolding, and other equipment and tools as required to complete the contract and shall comply with all safety requirements governing the use of such equipment.

G. HOUSEKEEPING

1. The vendor shall be responsible for keeping grounds, walkways, and corridors neat and orderly at all times. Any unsightly, unsanitary, and/or hazardous conditions shall be corrected as soon as practical. If the vendor allows any such condition to continue after it has been called to his attention, the College shall have the right to remedy the same at the vendor's expense.
2. All areas in which the vendor is working shall be returned to the condition they are found; no packing materials or debris is to be left in any of the buildings or on-site other than approved trash receptacles.

H. DAMAGE TO ADJACENT AREAS

If during work under this contract, the Contractor damages the building, site, equipment, surrounding utilities, or other College property, the Contractor shall be responsible to restore, repairing, and/or replacing any such item, equipment, or possession at his cost.

I. EMERGENCY CONTACT

The Contractor will provide 24-hour emergency phone numbers to the Facilities Management and the Campus Police Department to be able to contact the Contractor if an emergency arises.

J. REQUEST FOR ADDITIONAL PAYMENT

The vendor may request payment for additional work not covered by this contract but previously approved by the Facilities Department, by submitting the following to Jeff Shapiro, Facilities Director.

- Invoice, dated and signed by the Contractor, stating exact hours worked, work completed, itemized list of materials supplied and amount due.

K. LOCATION

Essex County College – **Main Campus**
303 University Avenue
Newark, New Jersey 07102

L. CONTRACT CLOSEOUT

When the contract is expired or terminated, the Contractor shall provide the Facilities Management Director with the final drawings, sketches, schematics and warranties of any new devices or alterations accomplished during the term of the contract.

SCOPE OF WORK

The vendor shall supply all labor, materials, equipment, and insurance necessary to perform maintenance and repair services of Tecogen Chillers. The following is not intended to describe in full work required, but is a supplement for clarification and/or noting any other billable work that may have to be performed during the contract term.

Scope of maintenance includes any and all preventive maintenance required, inspections, and repairs required to keep the chillers operating with optimum efficiency. The term chiller includes gas-fired engines and all components within packaged Tecogen Chillers. This contract also includes all necessary parts and labor required for the scheduled and unscheduled maintenance and repairs or replacements of the part(s) or component(s) of chillers. To maintain the chillers in optimal efficiency, it will be required to clean condenser and heat exchanger bundles once a year at the end of the cooling season. Evaporator tube bundles shall be cleaned once per service contract term, coincident with the condenser tubes. All parts and labor necessary to perform the described service are covered under this contract.

Any external components not part of the chiller, such as external HVAC piping and controls, shall not be the responsibility of the contractor and not covered under this contract. However, sensors mounted in the catalytic converters are included. Any firmware upgrades in the machine controllers and maintenance of the communications to the building automation system are included.

A. SPECIFICS OF THE CHILLERS

1. The Chillers are Natural Gas-fired engine driven screw machines; model # 400X.
2. Each chiller is capable of producing 400-tons cooling effects.
3. Chillers utilize R-134A refrigerants.
4. Each chiller has two separately operable natural gas-fired engines.
5. The Chiller Plant is in operation since installed new in 2003 and since maintained by the original equipment manufacturer.

B. COMPREHENSIVE ANNUAL INSPECTION AND SERVICE – ONCE PER YEAR

1. Check and record refrigerant level.
2. Test for refrigerant leaks including relief valve piping outlets.
3. Check the main starter and control panel.
4. Check load and unload vane solenoid.
5. Inspect and tighten electrical connections.
6. Check flow switch operation.
7. Lubricate inlet vane linkage, if applicable.

8. Check vane control setting and operation.
9. Check waterside pressure drops across vessels.
10. Log and perform fault analysis, analyze performance, and trend log.
11. Meg compressor and oil pump motors.
12. Clean and replace oil cooler strainer.
13. Check oil sump heater operation.
14. Perform oil analysis for wear metals, moisture, and acid.
15. Inspect vibration eliminators and inspect water piping for leaks.
16. Check head pressure control operation for tower fans or bypass valve.
17. Check minimum condenser water temperature operation.

C. CONTROLS AND SAFETIES – ELECTRONIC

1. Verify all settings in the electronic control panel.
2. Inspect the control panel for cleanliness.
3. Inspect wiring and connections for tightness and signs for overheating and discoloration.
4. Verify the working condition of all indicator/alarm lights and LED/LCLD displays.
5. Verify the operation of the oil sump temperature control device.
6. Test high condenser pressure safety device. Calibrate and record-setting.
7. Test low evaporator temperature safety device. Calibrate and record-setting.
8. Test low oil pressure safety device. Calibrate and record-setting.
9. Test high motor temperature safety device. Calibrate and record.

D. LUBRICATION SYSTEM

1. Inspect oil pump starter for signs of overheating, arching, burns, etc.
2. Check the tightness of terminal connections on the oil pump motor starter.
3. Verify the operation of the oil heater. Measure amps and compare reading with a watt rating of the heater.
4. Change the oil filter.
5. Verify the oil level. Add oil as needed.

E. MOTOR

Inspect wiring and connections for tightness and signs of overheating and discoloration.

F. SPRING START-UP (ONCE PER YEAR)

1. Follow manufacturer's recommendations for a startup.
2. Verify the operation of the oil heater and that oil temperature to the manufacturer's recommendation before starting the chiller.
3. Verify the full water system, including the cooling tower, the condenser, and the evaporator.
4. Verify flow rates through the condenser and the evaporator.
5. Test all flow-proving devices on the chilled water and condenser water circuits.
6. Start the chiller.
7. Verify the motor cooling operation.
8. Shut down the chiller.
9. Check the oil and refrigerant levels. (If the refrigerant charge needs correction, the refrigerant, and the labor to install it, are included in this contract).
10. Re-start the chiller and log the operating conditions after the system has stabilized.
11. Review operating procedures with operating personnel.
12. Provide a written report of completed work, operating log, and indicate any uncorrected deficiencies detected.

G. MID-SEASON RUNNING INSPECTION AND SERVICE (THREE TIMES PER YEAR)

Inspection of the following items helps to keep the unit operating reliably and efficiently through the cooling season. The list is a guideline for minimum inspections to be performed.

1. Check the general operations of the unit.
2. Inspect chiller for water, refrigerant, and oil leaks.
3. Run chiller and log reading, analyze performance.
4. Record unusual noises and vibrations.
5. Record refrigerant level.
6. Record oil level.
7. Verify operation of the oil heater and cooler.

8. Review chiller operations with the chiller operator.
9. Inspect and tighten electrical connections.
10. Check relays, operating, and safety controls.
11. Check flow switch operation.
12. Take and record waterside pressure drops across vessels.
13. Check, log, last fault analysis, and analyze performance.
14. Clean oil cooler strainer, water-cooled only.
15. Check oil sump heater operation.
16. Perform oil analysis for wear metals, moisture, and acid.
17. Inspect vibration eliminators and inspect water piping for leaks.
18. Check condenser water strainer(s).
19. Check head pressure control operation for tower fans.
20. Check minimum condenser water temperature operation.

H. ANNUAL OIL ANALYSIS (ONCE PER YEAR)

Pull oil sample for routine analysis during the inspection and provide report within two (2) weeks of the sample.

I. SERVICE REPORTS

1. The vendor will provide the Physical Plant Manager or representative a comprehensive report detailing all work done for each scheduled maintenance visit. The report shall include recommendations if needed.
2. The vendor must submit to the Physical Plant Manager or representative a full report of all service calls. The report must include but not limited to:
 - a) Date & time arrived on site.
 - b) Date & time work was completed.
 - c) Name of technician(s) performing the work.
 - d) A detailed description of work performed including parts replaced or repaired.

J. EXCEPTIONS

The following is not included in the Agreement:

1. Normal daily operation of this equipment.
2. Adjustment of space thermostat settings to satisfy individual occupants' comfort levels.
3. Damage caused by floods, freezing conditions.

4. Inspections, alteration, replacement, and retrofits are required by insurance companies, municipal or governmental agencies.
5. Maintenance of municipal utilities including electrical power, telephone service, natural gas, water, and drains.
6. Upgrades to computer software programs, hardware, and ancillary devices not an integral part of the Chiller.
7. Repair or replacement chimneys, engine flues, or catalytic converters.

K. EMERGENCY SERVICES

This is categorized by the criterion that the Tecogen Natural Gas Fired Chiller System has failed and not readily available to support the College. The issue must be resolved immediately.

FORMS THAT MUST BE COMPLETED AND SUBMITTED

BIDDERS CHECKLIST

The contractor is instructed to complete, sign, and return the following documents as a part of its bid response. **Initial next to the items and include the checklist in your submission.**

_____	Bid Pricing Form	
_____	Non-Collusion Affidavit	(Notarized)
_____	Statement of Ownership Disclosure	(Notarized)
_____	Affirmative Action Compliance Notice	
_____	Employee or Relative Disclosure Requirement Form	(Notarized)
_____	Prevailing Wage Qualification Form	
_____	Public Works Employers Form	
_____	Mandatory Equal Employment Opportunity (EEO) Form	(Notarized)
_____	New Jersey Anti-Discrimination Provision	(Notarized)
_____	Americans with Disabilities Act of 1990	(Notarized)
_____	Political Contribution Disclosure Form	
_____	Contractor Questionnaire / Certification	
_____	Disclosure of investigation and actions involving bidder	
_____	Trade Reference	
_____	Consent to Thirty-Day Extension	
_____	Addendum(s)	
_____	Vendor Information Form	
_____	Minority and Women-Owned Business Declaration Form	
_____	Equipment Certification	
_____	Bidder's Certification	
_____	Site Inspection Form	
_____	W9 Form (download from the IRS website and submit with the package)	

ITEMS MUST BE PROVIDED PRIOR TO THE TIME A CONTRACT IS AWARDED:

- _____ State of New Jersey Business Registration Certificate (BRC)
- _____ Copy of Public Works Contractor Registration Certificate (PWCR) - State on New Jersey Department of Labor, Divisions of Wage and Hour Compliance (P. L. 1999 Chapter 238) for the bidder, and the designated subcontractors, effective on the date of bid, prior to award of contract
- _____ Certificate of Liability Insurance
- _____ Disclosure of Investment Activities in Russia-Belarus and Iran
- _____ Employee Information Report (Form AA-302)

Name of Representative (print) Phone # & Fax #

Name of Firm E-mail

BID SHEET

FISCAL YEAR 2023-2024

Provide all inspection, maintenance and repair services of two Tecogen Chillers installed new in 2003 to produce 400 tons of cooling to Essex County College main campus as per solicitation instructions and scope of work. The Chillers are Natural Gas-fired engine-driven screw machines, Model # 400X and utilizes R-134A Refrigerants. The bid will be awarded as one complete package. The contract monthly service charges and hourly rates shall remain in effect the entire contract period.

Please indicate the following:

- The quarterly rate for testing, inspection, and maintenance.
- Hourly straight time, premium time and overtime rates for service and installation charges due to minor additions to the system, abuse, misuse, or acts of God.
- The mark-up that your company will charge on cost of control parts that are needed for repairs or minor additions, not covered by this contract.

1. QUARTERLY RATE: \$ _____

2. YEARLY COST: \$ _____

3. HOURLY RATES (NOT COVERED BY CONTRACT, BILLABLE PER INCIDENT):

-Straight Time Rate: \$ _____ per hour

-Overtime Rate: \$ _____ per hour

-Premium Time (weekends, holidays): \$ _____ per hour

4. COMPONENTS:

Parts & Material Mark-up _____ %

NOTE:

- The College reserves the right to ask for verification of material or parts cost.
- No additional charges such as truck charge, tool charge, travel time, or tolls will be accepted on invoices.

BID SHEET

FISCAL YEAR 2024-2025

Provide all inspection, maintenance and repair services of two Tecogen Chillers installed new in 2003 to produce 400 tons of cooling to Essex County College main campus as per solicitation instructions and scope of work. The Chillers are Natureal Gas-fired engine-driven screw machines, Model # 400X and utilizes R-134A Refrigerants. The bid will be awarded as one complete package. The contract monthly service charges and hourly rates shall remain in effect the entire contract period.

Please indicate the following:

- The quarterly rate for testing, inspection, and maintenance.
- Hourly straight time, premium time and overtime rates for service and installation charges due to minor additions to the system, abuse, misuse, or acts of God.
- The mark-up that your company will charge on cost of control parts that are needed for repairs or minor additions, not covered by this contract.

1. QUARTERLY RATE: \$ _____

2. YEARLY COST: \$ _____

3. HOURLY RATES (NOT COVERED BY CONTRACT, BILLABLE PER INCIDENT):

-Straight Time Rate: \$ _____ per hour

-Overtime Rate: \$ _____ per hour

-Premium Time (weekends, holidays): \$ _____ per hour

4. COMPONENTS:

Parts & Material Mark-up _____ %

NOTE:

- The College reserves the right to ask for verification of material or parts cost.
- No additional charges such as truck charge, tool charge, travel time, or tolls will be accepted on invoices.

Emergency hours contact:

Name: _____

Phone: _____

CONTRACTOR SIGNATURE

DATE: _____

SIGNED: _____

TITLE: _____

NAME OF FIRM: _____

STATE LICENSE NO.: _____

LEGAL ADDRESS: ORGANIZED AS A (MARK ONE):

_____ () INDIVIDUAL

_____ () PARTNERSHIP

_____ () CORPORATION UNDER STATE LAW OF

TELEPHONE: _____

(SEAL)

VENDOR INFORMATION:

Payment Terms: _____

Acknowledged for: _____
(Name of Bidder/Company)

(Signature of Authorized Representative)

Date

Name (Print)

Title

E-mail

Tax ID

Phone #

Fax #

NON-COLLUSION AFFIDAVIT

State of _____

County of _____

I, _____ residing in _____
(name of affiant) (name of municipality)

in the County of _____ and State of _____, of full age,

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

I am _____ of the firm of _____ (name of
(title or position) firm)

_____ the bidder making this Proposal for the bid

entitled _____, and that I executed the said proposal with
(title of bid proposal)

full 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 the said proposal and in this affidavit are true and correct, and made with full knowledge that the Board of Trustees of Essex County College 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

_____.
(name of firm)

Authorized Bidder's Representative

Type or print the name of the representative

Subscribed and sworn before me this ____ day of _____, 2 ____.

(Affiant/Notary)

My Commission expires: _____

(Print name & title of affiant/Notary)
(Corporate Seal)

STATEMENT OF OWNERSHIP DISCLOSURE

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

Name of Organization: _____

Organization Address: _____

Part I Check the box that represents the type of business organization:

- ☐ Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- ☐ Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- ☐ For-Profit Corporation (any type) ☐ Limited Liability Company (LLC)
- ☐ Partnership ☐ Limited Partnership ☐ Limited Liability Partnership (LLP)
- ☐ Other (be specific): _____

Part II

- ☐ The list below contains the names and addresses of all stockholders in the corporation who own 10% or more of its stock, of any class, or of all individual partners in the partnership who own a 10% or greater interest therein, or of all members in the limited liability company who own a 10% or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

- ☐ No one stockholder in the corporation owns 10% or more of its stock, of any class, no individual partner in the partnership owns a 10% or greater interest therein, or no member in the limited liability company owns a 10% or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Address

PART III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS, OR LLC MEMBERS LISTED IN PART II

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner, or member owning a 10 percent or greater interest in any corresponding corporation, partnership, and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 have been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Address

PART IV Certification

I, _____ being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that the Board of Trustees of Essex County College is relying on the information contained herein and that thereby acknowledge that I am under continuing obligation from the date of this certification through the completion of any contracts with the College to notify the College in writing of any changes to answers and information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with Essex College and that the College at its option may declare any contract(s) resulting from this certification void and unenforceable.

Name of Authorized Agent

Title

Signature

Date

Subscribed and sworn before me this ____ day of _____, 2 ____.

(Affiant/Notary)

My Commission expires: _____

(Print name & title of affiant/Notary)
(Corporate Seal)

AFFIRMATIVE ACTION COMPLIANCE NOTICE

N.J.S.A. 10:5-31 and N.J.A.C. 17:27

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

The successful vendor 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 COPY 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;

OR

[] A COPY 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

[] A COPY OF A CERTIFICATE OF EMPLOYEE INFORMATION REPORT (CEIR) APPROVAL, ISSUED 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 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 Bi/Proposal 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.

I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT AND AUTHORIZED BY THE FOLLOWING SIGNATURE FOR COMPLIANCE AS SPECIFIED IF AWARDED THIS CONTRACT.

COMPANY NAME: _____

PRINT NAME: _____

TITLE: _____

SIGNATURE: _____

DATE: _____ Bid/Proposal # _____

EMPLOYEE OR RELATIVE DISCLOSURE REQUIREMENT

This form is to be completed by all bidders seeking the award of any contract. No bidder shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds by Essex County College, unless prior to the receipt of the bid or accompanying the bid, the bidder has submitted a statement setting for the information solicited below.

1. State if you or your employees (if known) are currently employed at Essex County College.

Yes _____ No _____

If so, please indicate the name and position held at Essex County College.

2. State if any shareholder who owns 10% or more of your stock, if a corporation or partner who holds 10% or more of an interest, if a partnership, is currently employed at Essex County College. Yes _____ No _____

If so, please indicate the name and position held at Essex County College

3. State if you, or any stockholder, who owns 10% or more of your stock, if a corporation, or any partner who owns 10% or more of an interest, if a partnership, as the case may be, has any relatives employed at the College? Yes _____ No _____

If yes, please indicate their names and the nature of the relationship (e.g., brother, cousin, parent, or child).

By: _____

(Name of Contractor)

(Address)

Subscribed and sworn to _____

(Type or print the name of the affiant along with the signature)

Before me this _____ day of _____, 20__

Notary Public of

My Commission Expires

PREVAILING WAGE QUALIFICATION FORM

Bidder's past record under the New Jersey Prevailing Wage Act (N.J.S.A. 34: 11-56.25 to 56.46 inclusive) and all acts amendatory thereof and supplemental thereto.

Special Instructions: Answer each question with a "yes" or "no" entered in the space provided and furnish additional information when required.

1. Has the bidder been notified by the Commissioner of Labor and Industry by notice issue pursuant to N.J.S.A. 34:11-56.37 that he or she has been blacklisted for failure to pay the prevailing wages as reacquired by the New Jersey Prevailing Wage Act? _____
2. Has any person having an "interest" in the Bidder within the meaning of N.J.S.A. 34: 11-56.38 been blacklisted as aforesaid? _____
3. Has any person having an interest in the Bidder within the meaning of N.J.S.A. 34: 11-56.38 had any "interest" as aforesaid, in any firm corporation or partnership been blacklisted as aforesaid? _____
4. If the answer to any of the aforesaid questions is "yes" annex a full statement showing the date of the action taken by the Commissioner of Labor and Industry, the subsequent action, if any, taken with respect to such action of the Commissioner, the name of the person, firm, corporation or partnership blacklisted by the Commissioner and nature, character, and extent of the interest existing between the bidder and the name which was blacklisted as aforesaid.
5. If awarded this contract, (pursuant to N.J.A.C. 12:60-2.1 and 6.1 effective March 1, 1992) the bidder agrees to provide "Certified Copies" of all applicable "Payroll Records" for each pay period within ten (10) days of the payment of wages. All records shall be made available for inspection to all interested parties during normal business hours by the College.

"Payroll Record" means a form satisfactory to the Commissioner, wherein is shown employee information such as name, address, social security number, craft or trade, together with the actual hourly rate of pay, actually daily, overtime, and weekly hours worked in each craft or trade, gross pay, itemized deductions and net pay paid to the employee; such record shall also include:

- A. Any fringe benefits paid to approved plans, funds, or programs on behalf of the employee; and
- B. Fringe benefits paid in cash to the employee

NOTE: The College reserves the right to withhold progress and/or final payment(s) until all records have been received by the Purchasing Department.

Acknowledgment of the above:

By: _____

Firm: _____

Title: _____

PUBLIC WORKS EMPLOYERS FORM

NOTICE FOR CERTIFIED PAYROLL RECORDS

Please be advised that effective February 18, 1992 Regulation N.J.A.C. 12:60-2.1 and 6.1 of the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et. seq requires that all public works employers shall submit a certified Payroll record to the public body or lessor which contracted for the public work project each payroll period within ten (10) days of the payment of wages.

The public body shall receive, file, and make available for inspection during normal business hours the certified payroll records. A copy of the certified payroll form may be obtained by contacting the New Jersey Department of Labor, Division of Workplace Standards, Public Contracts Section, CN 389, Trenton, NJ 08625-0389, telephone number (609) 292-2259.

I have read the above statement and am aware of my responsibilities:

Contractor Signature

Date

Payroll on this project will be on _____ **basis.**
Weekly *Bi-Weekly*

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

N.J.A.C. 17:27-1.1 et seq.

GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES CONTRACTS

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

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

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

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter 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 meet targeted county employment goals established in accordance with 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, 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 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 targeted 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, 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 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; or

Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance.

The contractor and its subcontractors 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.

This Agreement entered into as of the day and year first written above.

Name

Signature

Attest:

Secretary Name
(Seal)

Signature
(Seal)

Subscribed and sworn to _____
(Type or print the name of the affiant along with the signature)

Before me this _____ day of _____, 20 _____

Notary Public of
My Commission Expires

NOTE: THIS STATEMENT MUST BE COMPLETED, SIGNED, NOTARIZED, AND RETURNED WITH YOUR BID/PROPOSAL.

NEW JERSEY ANTI-DISCRIMINATION PROVISIONS

N.J.S.A. 10:2-1 ET SEQ.

Pursuant to N.J.S.A. 10:2-1, if awarded a contract, the contractor agrees that:

- a. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling, or furnishing of any such materials, equipment, supplies, or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- b. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling, or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- c. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- d. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

(name of firm)

Authorized Bidder's Representative

Type or print the name of the representative

Subscribed and sworn before me this ____ day of _____, 2 ____.

(Affiant/Notary)

My Commission expires: _____

(Print name & title of affiant/Notary)
(Corporate Seal)

AMERICANS WITH DISABILITIES ACT OF 1990

Equal Opportunity for Individuals with Disability

The contractor and the owner do hereby agree that the provisions of Title 11 of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C. *§121 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 there unto, 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 damages 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.

(name of firm)

Authorized Bidder's Representative

Type or print the name of the representative

Subscribed and sworn before me this ____ day of _____, 2__

(Affiant/Notary)

My Commission expires: _____

(Print name & title of affiant/Notary)
(Corporate Seal)

C 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a “fair and open” process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s.2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee*
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an “interest” ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey-based organizations, directly or indirectly controlled by the business entity and filed as continuing political committees, (PACs).

When the business entity is a natural person, “a contribution by that person’s spouse or child, residing therewith, shall be deemed to be a contribution by the business entity.” [N.J.S.A. 19:44A-20.26(b)] The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected officials and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed cover sheet) may be used as the contractor’s submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

¹ N.J.S.A. 19:44A-3(s): “The term “legislative leadership committee” means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c.65 (C.19:44A-10.1) for the purpose of receiving contributions and making expenditures.”

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Required Pursuant to N.J.S.A. 19:44A-20.26

**This form or its permitted facsimile must be submitted to the local unit
no later than 10 days prior to the award of the contract.**

Part I – Vendor Information

Vendor Name:			
Address:			
City:		State:	Zip:

The undersigned being authorized to certify, hereby certifies that the submission provided herein represents compliance with the provisions of N.J.S.A. 19:44A-20.26 and as represented by the Instructions accompanying this form.

Signature

Printed Name

Title

Part II – Contribution Disclosure

Disclosure requirement: Pursuant to N.J.S.A. 19:44A-20.26 this disclosure must include all reportable political contributions (more than \$300 per election cycle) over the 12 months prior to submission to the committees of the government entities listed on the form provided by the local unit. **Indicate “NONE” if no Reportable Contribution was made.**

☐ Check here if disclosure is provided in electronic form.

Contributor Name	Recipient Name	Date	Dollar Amount
			\$

☐ Check here if the information is continued on subsequent page(s)

CONTRACTOR QUESTIONNAIRE/CERTIFICATION

Name of Company _____

Street Address _____ P.O. Box _____

City, State, Zip _____

Business Phone Number () _____ Extension _____

Emergency Phone Number () _____ Fax Number () _____

E-Mail _____

FEIN No. _____

QUESTIONNAIRE

1. How many years have you been engaged in the contracting business under your present firm or trading name?
_____ Years

2. Have you ever failed to complete any work awarded to your company?

☐ Yes

☐ No

If yes, explain _____

3. Have you ever defaulted on a contract?

☐ Yes

☐ No

If yes, explain _____

4. Have you or other principals of your company been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any public works projects by any federal, state, or local agencies?

☐ Yes

☐ No

If yes, explain _____

Certifications

- Debarment

I certify that the entity listed on the form or any person employed by this entity, is not presently on the following:

- New Jersey Department of Treasury – Consolidated Debarment Report
- New Jersey Department of Labor – Prevailing Wage Debarment List
- Federal Debarred Vendor List – Excluded Parties List System

- Direct/Indirect Interest

I declare and certify that no member of the Essex County College, nor any officer or employee or person whose salary is payable in whole or in part by said College or their immediate family members are directly or indirectly interested in this bid or in the supplies, materials, equipment, work or services to which it relates, or in any portion of profits thereof. If a situation so exists where a College member, employee, officer of the College has an interest in the bid, etc., then please attach a letter of explanation to this document, duly signed by the president of the firm or company.

I certify that I am not an official or employee of Essex County College.

- Gifts; Gratuities; Compensation

I declare and certify that no person from my firm, business, corporation, association, or partnership offered or paid any fee, commission, or compensation, or offered any gift, gratuity, or other things of value to any school official, College member, or employee of the Essex County College.

- False Material Representation

I further certify that I understand that it is a crime in the second degree in New Jersey to knowingly make a material representation that is false in connection with the negotiation, award, or performance of a government contract.

Name of Company

President or Authorized Agent

Signature

DISCLOSURE OF INVESTIGATION AND ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, or litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition.

Investigation:

Indicate "NONE" in the "Person or Entity" field if no investigation where undertaken.

Person or Entity	
Date of Inception	
Caption of Action	
Brief Description of the action	
Current Status	
Disposition Status (if applicable)	

All Answers to the above shall be submitted and certified by the principal/partner of the bidding entity authorized to do so.

I certify that all answers submitted above are true and correct:

Name of Company _____

Officer of the Bidder's name _____

Officer of the Bidder's Signature _____

***Attach/Add Investigation Information**

**TRADE REFERENCES – FOR PROJECTS OF A SIMILAR SCOPE AND NATURE TO BE
PROVIDED BY EACH BIDDER FOR THE PROJECT CONTRACT**

Bidders are to provide evidence of satisfactory completion of work of similar nature as outlined in the bid from a **minimum of three (3) similar contracts** with educational institutions, preferably in New Jersey, **within the past five (5) years.** (Attach additional pages as necessary)

NAME OF COMPANY: _____

#1: PROJECT TITLE: _____

LOCATION: _____ \$VALUE: _____

CLIENT NAME: _____

CLIENT ADDRESS: _____

CLIENT PHONE NUMBER: _____ E-MAIL: _____

#2: PROJECT TITLE: _____

LOCATION: _____ \$VALUE: _____

CLIENT NAME: _____

CLIENT ADDRESS: _____

CLIENT PHONE NUMBER: _____ E-MAIL: _____

#3: PROJECT TITLE: _____

LOCATION: _____ \$VALUE: _____

CLIENT NAME: _____

CLIENT ADDRESS: _____

CLIENT PHONE NUMBER: _____ E-MAIL: _____

#4: PROJECT TITLE: _____

LOCATION: _____ \$VALUE: _____

CLIENT NAME: _____

CLIENT ADDRESS: _____

CLIENT PHONE NUMBER: _____ E-MAIL: _____

#5: PROJECT TITLE: _____

LOCATION: _____ \$VALUE: _____

CLIENT NAME: _____

CLIENT ADDRESS: _____

CLIENT PHONE NUMBER: _____ E-MAIL: _____

Signature _____ Date: _____

Name of Company _____

Street Address _____ P.O. Box _____

City, State, Zip _____

Business Phone Number () _____ Extension _____

Emergency Phone Number () _____

Fax Number () _____ E-Mail _____

FEIN No. _____

CONSENT TO THIRTY-DAY EXTENSION FOR AWARDING OF BID

In accordance with the provisions of N.J.S.A. 18A:64a-25.18, Essex County College hereby requests that any bidder who so chooses consent to the extension and holding of its bid price from sixty (60) to ninety (90) days. The ninety-day period shall be computed commencing with the date designated as the final date for receipt of the bid due date. The College, in its sole discretion, may award a contract or reject all bids at any date up until the expiration date. If the bidder consents to the extension, it may not make any claim for an increase in its bid, whether based on materials, labor, an extension of time, or any other factor.

If your firm agrees to consent to hold its bid pricing, please sign the below acknowledgment.

Acknowledged for: _____
(Name of Bidder/Company)

(Signature of Authorized Representative)

Date

Name (Print)

Title

ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA

NOTE: This form must be submitted whether or not addenda were issued. If no addenda were issued, check the “No Addenda were received box” and complete the signature section.

The undersigned Bidder hereby acknowledges receipt of the following Addenda:

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

_____ No Addenda were received or included with the bid package:

Acknowledged for: _____
(Name of Bidder/Company)

(Signature of Authorized Representative)

Date

Name (Print)

Title

VENDOR REGISTRATION FORM

MAILING ADDRESS FOR PURCHASE ORDERS:

Company Name (as recorded with IRS): _____ DBA: _____

Mailing Name: _____

Street Address: _____ Suite: _____ PO Box: _____

City: _____ State: _____ Zip: _____

MAILING ADDRESS FOR PAYMENTS (if different from above):

Company Name (as recorded with IRS): _____

Mailing Name: _____

Street Address: _____ Suite: _____ PO Box: _____

City: _____ State: _____ Zip: _____

SALES CONTACT INFORMATION:

Name: _____ Title: _____

Phone: _____ Fax: _____

E-mail: _____

Taxpayer Identification Number (TIN): _____

☐ Taxpayer Identification Number (TIN) for Profit Organizations

☐ Taxpayer Identification Number (TIN) for Non-Profit Organization

**NOTE: W-9 FORM MUST BE INCLUDED
NON-PROFIT ORGANIZATIONS - LETTER OF THE 501(C)(3) IS REQUIRED**

ACCOUNTS RECEIVABLE CONTACT INFORMATION:

Name: _____ Title: _____

Phone: _____ Fax: _____

E-mail: _____

THIS SECTION MUST BE FILLED

Check those that apply:

- ☐ SBE Small Business Enterprise
- ☐ MBE Minority Business Enterprise
- ☐ WBE Woman Business Enterprise
- ☐ MWBE Minority Woman Business Enterprise
- ☐ SMBE Small Minority Business Enterprise
- ☐ SMWBE Small Minority Women Business Enterprise
- ☐ SWBE Small Woman Business Enterprise
- ☐ Non-SBE/MBE/WBE/MWBE/SMBE/SMWBE/SWBE

Ethnicity:

- ☐ African American
- ☐ Asian American
- ☐ Caucasian American
- ☐ Hispanic American
- ☐ Multiple Ethnicities
- ☐ Native American
- ☐ Unspecified

MINORITY AND WOMEN OWNED BUSINESS DECLARATION FORM

Essex County College is attempting to identify vendors who qualify as a minority or women business in accordance with New Jersey Executive Order #34. If your business falls into one of the categories below and you would like to answer the following questions voluntarily, please do so. If your business does not fall into one of these categories, please leave this form blank.

Please be advised that Essex County College will continue to award all bid and purchase orders in accordance with the established New Jersey Statutes for Bidding and Contracts N.J.S.A.18A:64A-25.1 et seq.

The decision to complete this form will be done strictly on a voluntary basis. Essex County College guarantees that your company will not be penalized in any way if you choose not to participate.

COMPANY NAME: _____

Are you Minority-Owned business? **Yes** ☐ **No** ☐

If yes, please check the item that best describes your business

African American	<input type="checkbox"/>
Asian American	<input type="checkbox"/>
Hispanic American	<input type="checkbox"/>
Native American	<input type="checkbox"/>
Caucasian American	<input type="checkbox"/>
Other Minority	<input type="checkbox"/>

Are you a Women-Owned business? **Yes** ☐ **No** ☐

If yes, please check the item that best describes your business

Caucasian Woman	<input type="checkbox"/>
Minority Woman	<input type="checkbox"/>

Signature of Vendor

NOTE: All vendors are required to submit a New Jersey Business Registration Certification (P.L. 200, c.134 & P.L. 2004, c.57). Vendors conducting business with any State/County agency will be required to be registered with the New Jersey Division of Revenue. The vendor will be required to submit, as part of a public bid or prior to issuing a purchase order, a Business Registration Certificate issued by the Department of Treasury, Division of Revenue, with the State of New Jersey. If your business is not registered, you can go to the following website, <http://www.state.nj.us/treasury/revenue/busregcert.shtml>, or contact the New Jersey Division of Revenue to obtain information regarding how to register your business.

EQUIPMENT CERTIFICATION

The undersigned Bidder hereby certifies as follows:

The bidder owns, controls, or has proof of lease of all the necessary equipment required to accomplish the work described in the specifications. To the extent that said equipment is not currently owned or under lease by the bidder, attached hereto is documentation from that owner or leasing organization that states the equipment will be available as required by the bidder upon award of a contract.

Name of Bidder: _____

By: _____
(Signature)

Name of above: _____
(Print)

Title: _____

Date: _____

BIDDERS' CERTIFICATION

State of _____)

SS:

County of _____)

The undersigned, having knowledge of and authority to bind the BIDDER to the information herein, hereby swears, upon his oath, according to law,

1. I am the undersigned, who, on behalf of the BIDDER and with full authority to do so, has executed this Certification in connection with its Bid;
2. That the BIDDER is registered with the State of New Jersey, Department of the Treasury, Division of Revenue (ATTACH COPY OF BUSINESS REGISTRATION CERTIFICATE);
3. That the BIDDER is authorized by the New Jersey Department of the Treasury to perform work in New Jersey (ATTACH COPY OF CERTIFICATE OF AUTHORITY TO PERFORM WORK IN NEW JERSEY); and
4. The 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 within Bid;
5. 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 employee or bona fide established commercial or selling agencies identified as follows:

6. The BIDDER is not, as of this date, and has not been at any time within three (3) years immediately preceding the date on which Bids were received, included on the New Jersey State Treasurer's List of Debarred, Suspended or Disqualified Bidders; the BIDDER hereby acknowledges that it may be debarred, suspended or disqualified from contracting with the OWNER if it commits any of the acts listed in N.J.A.C. 7:1-5.2 and further acknowledges its obligation to notify the OWNER immediately if it appears that said BIDDER may be added to any such list.
7. All statements and representations contained in the BIDDER's Bid are true, complete and correct, and made with full knowledge that the OWNER shall rely upon same in awarding a public contract for the Work as defined in the Contract Documents.

Bidder's Authorized Representative
(MUST BE PRINCIPAL OWNER OR OFFICER OF BIDDER):

Signature

Print or Type Name and Title

Notary Public: Sworn and Subscribed before me on this ____ day of _____, 200__:

Notary's Signature

Print or Type Notary's Name

Commission expires: _____ Notary's Seal: _____

The College hereby certifies that the NJ State Treasury Department debarment list has been checked by the issuing buyer and the successful bidder is not debarred.

Signature

Print or Type Name and Title

SITE INSPECTION

Prior to submitting a bid, prospective contractors are required to visit the site and completely familiarize themselves with the location and/or existing equipment and general local conditions, which can affect the service to be performed. Failure to make such inspections will not relieve the contractor(s) of responsibility for estimating properly the difficulty or cost of successfully performing this contract.

Contractors shall sign this form and have it co-signed by an Essex County College designee. Failure to complete this form shall just cause for rejection of your bid.

Contractors shall contact the appropriate designee at each location for an appointment to inspect the site.

Main Campus

Contact: Jeff Shapiro at 973-877-4142 or 973-877-3141 via e-mail at shapiro@essex.edu.

SITE INSPECTOR NAME: _____
(Print)

INSPECTOR'S SIGNATURES: _____

COMPANY NAME: _____

PHONE #: _____

ECC AUTHORIZED PERSONNEL'S SIGNATURES: _____

DATE _____

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <div style="margin-top: 10px;"> <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate </div> <div style="margin-top: 10px;"> <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ </div> <p>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <div style="margin-top: 10px;"> <input type="checkbox"/> Other (see instructions) ► _____ </div>	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): <div style="margin-top: 10px;"> Exempt payee code (if any) _____ </div> <div style="margin-top: 10px;"> Exemption from FATCA reporting code (if any) _____ </div> <div style="margin-top: 10px; font-size: small;"> <i>(Applies to accounts maintained outside the U.S.)</i> </div>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-			-				
--	--	--	---	--	--	---	--	--	--	--

or

Employer identification number

		-							
--	--	---	--	--	--	--	--	--	--

Part II	Certification
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Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
 3. I am a U.S. citizen or other U.S. person (defined below); and
 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.
- Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►
----------------------	---------------------------------------

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

BUSINESS REGISTRATION CERTIFICATE (BRC)

The State of New Jersey rules generally **DOES NOT** allow the College to issue a **Purchase Order, nor can any payments be processed to vendors**, if a Business Registration Certificate is not provided.

NOTICE TO VENDOR

In accordance with provisions of P.L. 2004C.57, N.J.S.A. 52:32-44, any business entering into a contract (i.e. Purchase Order, Blanket Purchase Order, Fair, and Open Bid, etc.) with a local contracting agency is required to be registered with the New Jersey Division of Revenue and must provide proof of a Business Registration Certificate (BRC).

Essex County College is required to obtain, and maintain a record of BRCs from all vendors with purchases **15% of the Bidding Threshold**. The mandatory collection and record-keeping of this information promote transparency in the process of awarding public contracts.

- If you are a registered vendor, please furnish a copy. (see sample attached)
- You may obtain a certificate online by accessing the following link:
https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp
- If you are not registered, you will need to complete **FORM NJ-REG**.
- For more information on how to obtain a certificate, visit:
<http://www.state.nj.us/treasury/revenue/busregcert.shtml>
or by calling NJ State Treasury Department at (609) 292-9292.

STANDARD BID DOCUMENT REFERENCE						
Name of Form	COMBINED CERTIFICATION: PROHIBITED ACTIVITIES IN RUSSIA AND BELARUS & INVESTMENT ACTIVITIES IN IRAN					
Statutory Reference	P.L. 2022, c. 3 N.J.S.A. 52:32-55 et seq. N.J.S.A. 40A:11-2.1 N.J.S.A. 18A:18A-49.4					
Applicability		Y/N		Mandatory	Optional	N/A
	LPCL	Y	Goods and Services	X		
	PSCL	Y	Construction			X
Instructions Reference						
Description	<p>P.L. 2022, c. 3 prohibits the award, renewal, amendment, or extension of State and local public contracts for goods or services with persons or entities engaging in prohibited activities in Russia or Belarus. P.L. 2012, c.25 prohibits the award or renewal of State and local public contracts for goods and services with persons or entities engaged in certain investment activities in the energy or finance sectors of Iran.</p> <p>Before a goods and services contract can be entered into, vendors and contractors must certify that neither they nor any parent entity, subsidiary, or affiliate is listed on the New Jersey Department of the Treasury's list of entities determined to be engaged in prohibited activities in Russia or Belarus pursuant to P.L. 2022, c. 3 ("Russia-Belarus list") or in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 list").</p>					

The Certification form requires the insertion of contracting unit identification information which should be filled in (in italics on the form) prior to its use.



Prohibited Russia-Belarus Activities & Iran Investment Activities	
Person or Entity	
Part 1: Certification	
<p>COMPLETE PART 1 BY CHECKING <u>ONE OF THE THREE BOXES BELOW</u></p> <p>Pursuant to law, any person or entity that is a successful bidder or proposer, or otherwise proposes to enter into or renew a contract, for goods or services must complete the certification below prior to contract award to attest, under penalty of perjury, that neither the person or entity, nor any parent entity, subsidiary, or affiliate, is identified on the Department of Treasury's Russia-Belarus list or Chapter 25 list as a person or entity engaging in prohibited activities in Russia, Belarus or Iran. Before a contract for goods or services can be amended or extended, a person or entity must certify that neither the person or entity, nor any parent entity, subsidiary, or affiliate, is identified on the Department of Treasury's Russia-Belarus list. Both lists are found on Treasury's website at the following web addresses: https://www.nj.gov/treasury/administration/pdf/RussiaBelarusEntityList.pdf www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf.</p> <p>As applicable to the type of contract, the above-referenced lists must be reviewed prior to completing the below certification.</p> <p>A person or entity unable to make the certification must provide a detailed, accurate, and precise description of the activities of the person or entity, or of a parent entity, subsidiary, or affiliate, engaging in prohibited activities in Russia or Belarus and/or investment activities in Iran. The person or entity must cease engaging in any prohibited activities and provide an updated certification before the contract can be entered into.</p> <p>If a vendor or contractor is found to be in violation of law, action may be taken as appropriate and as may be provided by law, rule, or contract, including but not limited to imposing sanctions, seeking compliance, recovering damages, declaring the party in default, and seeking debarment or suspension of the party.</p>	
CONTRACT AWARDS AND RENEWALS	
<input type="checkbox"/>	<p><i>I certify, pursuant to law, that neither the person or entity listed above, nor any parent entity, subsidiary, or affiliate appears on the N.J. Department of Treasury's lists of entities engaged in prohibited activities in Russia or Belarus pursuant to P.L. 2022, c. 3 or in investment activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. (Skip Part 2 and sign and complete the Certification below.)</i></p>
CONTRACT AMENDMENTS AND EXTENSIONS	

<input type="checkbox"/> .	<p><i>I certify, pursuant to law, that neither the person or entity listed above, nor any parent entity, subsidiary, or affiliate is listed on the N.J. Department of the Treasury's lists of entities determined to be engaged in prohibited activities in Russia or Belarus pursuant to P.L. 2022, c. 3. I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. (Skip Part 2 and sign and complete the Certification below.)</i></p>
<p align="center">IF UNABLE TO CERTIFY</p>	
<input type="checkbox"/> .	<p><i>I am unable to certify as above because the person or entity and/or a parent entity, subsidiary, or affiliate is listed on the Department's Russia-Belarus list and/or Chapter 25 Iran list. I will provide a detailed, accurate, and precise description of the activities as directed in Part 2 below, and sign and complete the Certification below. <u>Failure to provide such will prevent the award of the contract to the person or entity, and appropriate penalties, fines, and/or sanctions will be assessed as provided by law.</u></i></p>
<p align="center">Part 2: Additional Information</p>	
<p>PLEASE PROVIDE FURTHER INFORMATION RELATED TO PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS AND/OR INVESTMENT ACTIVITIES IN IRAN.</p> <p>You must provide a detailed, accurate, and precise description of the activities of the person or entity, or of a parent entity, subsidiary, or affiliate, engaging in prohibited activities in Russia or Belarus and/or investment activities in Iran in the space below and, if needed, on additional sheets provided by you.</p>	
<p align="center">Part 3: Certification of True and Complete Information</p>	
<p><i>I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments there, to the best of my knowledge, are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity.</i></p> <p><i>I acknowledge that Essex County College is relying on the information contained herein and hereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with Essex County College to notify Essex County College in writing of any changes to the answers of information contained herein.</i></p>	

*I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with **Essex County College** and that **Essex County College** at its option may declare any contract(s) resulting from this certification void and unenforceable.*

Full Name (Print)		Title	
Signature		Date	

SAMPLE CERTIFICATE OF EMPLOYEE INFORMATION REPORT

		Certification 111XX	
CERTIFICATE OF EMPLOYEE INFORMATION REPORT			
INITIAL			
This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of 15-DEC-20XX to 15-DEC-20XX			
SAMPLE COMPANY, INC. 33 WEST STATE STREET TRENTON, NJ 08625		  State Treasurer	

CONTRACT LANGUAGE YOU MUST READ

CONTRACT TERMS AND CONDITIONS

The Bidder and the Owner agree to the following terms and conditions. The bid documents and the contract terms and conditions constitute the agreement between the parties.

The word “bid” / “proposal” / “quote” herein is intended to be all-inclusive of any and all types of bids, proposals, etc., to be submitted.

- A. It is the bidder's responsibility to present bids/proposals/quotes to the owner before or at the time and the place designated. Bids/Proposals may be hand-delivered or mailed; however, the owner disclaims any responsibility for bids/proposals forwarded by regular or overnight mail. Bids/Proposals sent by express mail or delivery service must either
 1. Include the designation, above on the outside of the express mail or service envelope; or
 2. Must be in a separate envelope inside the delivery envelope and the envelope marked as required above. Bids/Proposals/Quotes received after the designated time and date will be returned unopened.
- B. Sealed bids/proposals forwarded to the owner before the time of opening of bids/proposals 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/proposal. Once bids/proposals have been opened, they shall remain firm for sixty (60) calendar days.
- C. More than one bid/proposal/quote from an individual, any business entity, regardless of structure, or association under the same names shall not be considered.
- D. All prices and amounts must be written in ink or preferably machine-printed. Bids/Proposals/Quotes 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 cause for rejection by the owner following applicable law. Any changes, whiteouts, strikeouts, etc. in the bid/proposal must be initialed in ink by the person signing the bid/proposal.
- E. Each bid/proposal/quote form must give the full business name and address, business phone, fax, e-mail, and the contact person of the bidder, and be signed by an authorized representative as follows:
 1. Bids/Proposals/Quotes by partnerships 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.
 2. Bids/Proposals/Quotes 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.
 3. Bids/Proposals/Quotes by sole-proprietorship shall be signed by the proprietor.
 4. When requested, satisfactory evidence of the authority of the officer signing shall be furnished.
- F. Bidder should be aware of the following statutes that represent “Truth in Contracting” laws:
 1. N.J.S.A. 2C:21-34, et seq. governs false contract payment claims and representations by bidders. It is a serious crime for the bidder to knowingly submit a false contract payment claim and/or knowingly make a material misrepresentation.
 2. N.J.S.A. 2C:27-10 provides that a public servant commits a crime if said public servant solicits or receives a benefit directly or indirectly, for an official act performed or to be performed by a public servant, which is a violation of official duty.
 3. N.J.S.A. 2C:27-11 provides that a bidder commits a crime if a said person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.
 4. The bidder should consult the statutes or legal counsel for further information.
- G. **LICENSING**
The contractor represents that it possesses any license or permits that may be required to perform its Contract work.
- H. **OSHA**
The contractor shall comply with all applicable requirements of the Occupational Safety and Health Act, 29 U.S.C. 15, in the performance of the work and services of this Contract.
- I. **APPLICABLE STATE LAW REGARDING CLAIMS**
This Contract is subject to all provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.
- J. **Pay-to-Play Disclosure** - 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 www.elec.state.nj.us.

- K. Official Request for Bid/Proposal/Quotes packages is available from the owner's website at purchasing@essex.edu with a non-refundable fee mentioned on the Legal Notice to Bidders to prospective respondents. All addenda are posted on this site. Potential respondents are cautioned that they respond at their own risk if a third party supplied the specifications that may or may not be complete. The owner is not responsible for the third-party-provided documents. Respondents are urged to register their contact information on the owner's website so that the college can send any addenda to these specifications to them.

BID SECURITY AND BONDING REQUIREMENTS

A. BID GUARANTEE

Bidder shall submit with the bid/proposal 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, payable unconditionally to the owner. When submitting a Bid Bond, it shall contain Power of Attorney for the full amount of the 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 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. 18A:64A-25.16.

The Bid Bond shall include a valid Power of Attorney authorizing the Attorney-in-Fact to execute the documents. Failure to submit a bid guarantee shall result in the rejection of the bid/proposal.

B. CONSENT OF SURETY

Bidder shall submit with the bid a Certificate (Consent) of Surety with Power of Attorney for the 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. 18A:64A-25.17.

The Consent of Surety shall include a valid Power of Attorney authorizing the Attorney-in-Fact to execute the documents. Failure to submit a Consent of Surety form shall result in rejection of the bid/proposal.

C. PERFORMANCE BOND

The successful 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. For multi-year contracts, the Performance Bond may be resubmitted each year on the Contract Anniversary Date for the amount remaining on the contract.

Failure to submit this with the executed contract shall be cause for declaring the contract null and void pursuant to N.J.S.A. 18A:64A-25.17.

D. LABOR AND MATERIAL (PAYMENT) BOND

The successful 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. 18A:64A-25.17) in an amount not to exceed 100% of the project costs guaranteeing against the defective quality of work or materials for the period of one year.

REVISIONS AND ADDENDA

- A. The bidder understands and agrees that its bid/proposal/quote is submitted based on 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/proposal/quote documents with care and observe all their requirements. Ambiguities, errors, or omissions noted by bidders should be promptly reported in writing to the contracting agent. Any prospective bidder who wishes to challenge a bid/proposal/quote specification shall file such challenges in writing with the contracting agent no less than three business days before the opening of the bids/proposals. *Challenges filed after that time shall be considered void and have no impact on the county college or the award of a contract. In the event, that 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/proposal.*
- C. No oral interpretation and or clarification of the meaning of the specifications for any goods and services will be made to any bidder. Such request shall be in writing and addressed to the owner's representative stipulated in the specification. To be given consideration, *a written request must be received at least three (3) business days before the date fixed for the opening of the bid/proposal/quote for goods and services, and construction bids.*
- D. *All revisions and addenda to the specifications and notice will be in writing and will be provided through an advertisement in The Star-Ledger, sent to potential bidders who provided a physical mail address when obtaining a copy of the bid/proposal package, or had submitted a bid/proposal submission. All addenda so issued shall become part of the specification and bid/proposal/quote documents and shall be acknowledged by the bidder in the bid by completing the Acknowledgement of Receipt of Addenda form. The owner's interpretations or corrections thereof shall be final.*

When issuing addenda, the College shall provide required notice before the official receipt of bids/proposals/quotes to any person who has submitted a bid/proposal/quote or who has received a bid/proposal/quote package. They will be sent from certified mail or by certified facsimile transmission.

E. Discrepancies in Bids/Proposals/Quotes

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

F. Optional Pre-Bid/Proposals Conference

Attendance is not mandatory but is strongly recommended. Failure to attend does not relieve the bidder of any obligations or requirements

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. When a specification uses "brand name or equivalent," the listed brand name shall serve as a reference or point of comparison for the functional or operational characteristic desired for the good or service being requested. Where a bidder submits an equivalent, it shall be the responsibility of the bidder to document the equivalence claim. Failure to submit such documentation shall be grounds for rejection of the claim of equivalence.
- C. 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 actions or suits charging such infringement, and will save the owner harmless from any damages resulting from such infringement.
- D. 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.

INSURANCE REQUIREMENTS

- A. Prior to the commencement of any Work under this Agreement, and until completion and final acceptance of the Work, Contractor shall, at its own expense, maintain the following insurance coverage and limits of liability with carriers licensed and admitted to do business in the State of New Jersey:

- (1) Comprehensive general liability insurance on an occurrence basis which shall provide indemnity for bodily injury, and property damage, and shall include all major divisions of coverage and be on a comprehensive basis,

including, without limitation: protection for contractual liability including the indemnification provisions of Article 15.1 of this Agreement; premises/operations; products liability and completed operations liability, total pollution exclusion with hostile fire exception, explosion, collapse, underground property damage hazards, personal injury perils, and independent contractor liability. The commercial general liability insurance shall provide coverage for bodily injury and property damage claims arising from acts of the Contractor and subcontractors. The policy shall not include any endorsement restricting or reducing coverage without the Owner's approval. The minimum limits of liability shall not be less than a \$1,000,000.00 per occurrence limit, a \$2,000,000 general aggregate, and a \$2,000,000 products/completed operations aggregate. Products and completed operations aggregate must be maintained for five years after final payment is made by Owner to the Contractor.

(2) Workers' Compensation Insurance coverage to protect the employees of the Contractor and any subcontractor who will engage in the performance of this contract. The insurance shall include Employer's Liability Protection with limit of liability of not less than \$1,000,000 for bodily injury/occurrence, \$1,000,000 disease each employer, and \$1,000,000 disease aggregate limit. Including the employer's liability limit in the excess insurance will satisfy this limit requirement.

(3) Automotive Liability Insurance, covering contractor for claims arising from owned, hired, and non-owned vehicles with limits of not less than \$1,000,000 any one person and \$1,000,000 any one accident for bodily injury, and \$1,000,000 each accident for property damage, shall be maintained in full force for the duration of this Contract.

(4) Excess Liability Insurance with limits of \$5,000,000 per occurrence with a \$5,000,000 general aggregate, and \$5,000,000 products/completed operations. The excess insurance shall be in excess of the Contractor's primary general liability, commercial auto liability, and employer's liability.

B. The General Liability Insurance and Excess Insurance limits set forth above shall apply and be written exclusively, in total, to this project only. A per project endorsement for these coverage and limits must be included in each policy.

C. Bodily injury and property damage written under the insurance coverage shall be written as to provide coverage for special hazards as such hazards are incidental to subcontractors' work.

D. Essex County College and the Architect and/or Engineer shall be specifically named as Additional Insureds on all liability policies maintained by Contractor and all subcontractor's insurance policies for the duration of this Contract.

E. Contractor's General Liability Policy must use Endorsement CG 20 10 (10.01) or its equivalent in combination with Endorsement CG 20 37 (10.01) or its equivalent. The Contractor's General Liability Policy shall be primary and non-contributing to any other insurance available to the Owner and the Additional Insureds.

F. Contractor's General Liability policy must not include the following endorsements/exclusions or equivalent: CG 22 94 or CG 22 95 (Damage to Work Performed By Subcontractors Exclusion), CG 21 29 (Contractual Limitation Endorsement), or CG 24 26 (Amendment of Insured Contract Definition).

G. All insurance obtained by the Contractor shall include a waiver of subrogation by the Contractor. Contractor shall require all insurance policies obtained by subcontractors to contain a waiver of subrogation by subcontractors.

H. The coverages maintained by the Contractor shall be written by companies licensed to do business in the state of New Jersey and maintaining an AM BEST rating of A- or better with a financial rating of CLASS IX or larger.

I. Each insurance obtained by Contractor shall contain the following wording verbatim:

"Essex County College" is interested in the maintenance of this insurance and it is agreed that this insurance will not be cancelled, materially changed, or not renewed without at least thirty (30) days advance written notice to Essex County College, 330 University Avenue, Newark, New Jersey 07102, Attn: Christine A. Soto, Esq., General Counsel, by certified mail – return receipt requested."

J. Copies of all insurance policies and/or certificates of insurance evidencing insurance provided by the Contractor shall, prior to the commencement of any Work at the Site, be furnished to Owner at:

Essex County College
330 University Avenue
Newark, New Jersey 07102
Attn: Christine A. Soto, Esq.

In the event of failure of the Contractor to furnish and maintain said insurance and to furnish satisfactory evidence thereof, the Owner shall have the right (but not the obligation) to take out and maintain the same for all parties on behalf of the Contractor who agrees to pay the cost thereof to the Owner upon demand. The procurement of insurance by Owner on behalf of Contractor

shall not be deemed to be a waiver of the requirements of this Article 14, and shall not preclude the Owner from exercising other rights under the Contract Documents.

K. Waiver of Subrogation: The Contractor hereby, on behalf of itself and any of its insurance carriers, successors, assignees, subcontractors, suppliers and vendors, waives and relinquishes any and all rights of subrogation arising in any way from or related to this Agreement or the Project, including but not limited to claims against Essex County College, Architect and Engineer, their consultants, separate contractors, and any of their subcontractors, sub-subcontractors, agents and employees. The Contractor shall require of the Contractor's subcontractors, agents and employees, by appropriate written agreements, similar waivers in favor of the parties enumerated herein.

INDEMNIFICATION

To the fullest extent permitted by law, the Contractor will defend, indemnify and save harmless Owner, Owner's Representative, Architect, their affiliates and agents, their respective members, officers, directors, and employees, (each an "Indemnatee", collectively the "Owner Indemnitees") from and against any and all liability (including, but not limited to, statutory liability), loss, damages, interest, judgments, claims and liens growing out of, and any and all costs and expenses (including, but not limited to, attorneys' fees and disbursements) arising out of or incurred in connection with, any and all claims, demands, suits, actions, and/or proceedings which shall be made or brought against any of the Owner Indemnitees and without any contribution from any Indemnatee or insurer thereof for or in relation to: (a) any (or any alleged) injury to, or death of, any person or persons (including, but not limited to, officers, directors, and employees of any of the Owner Indemnitees or of Contractor or its Subcontractors) or any (or any alleged) damage to or loss of the use of property (including, but not limited to, property of any of the Owner Indemnitees) or otherwise, arising out of or in connection with the performance of the Work and which shall be (or shall be alleged to be) in whole or in part due to or the result of any act, omission, negligence, carelessness, or unlawful conduct on the part of Contractor, its agents, or subcontractors, or anyone directly or indirectly employed by any of them, or a default of Contractor in performance of any of its obligations hereunder; and (b) any infringement or alleged infringement of any patent, trademark, or copyright growing out of the performance of the Work and/or the use therein of any material, equipment, or process supplied by or through Contractor. The contractor's agreement to defend and indemnify extends to the Owner Indemnatee's concurrent or partial negligence, whether actual or alleged, to the fullest extent permitted by law. Notwithstanding anything to the contrary herein, the Contractor shall have no indemnity obligation under this paragraph to the extent such claim, loss, liability, damage, cost, or expense arises out of the sole proven negligence or unlawful conduct of an Owner Indemnatee.

The Contractor shall indemnify and hold harmless all of the Owner Indemnitees from and against any costs, and expenses (including reasonable attorney's fees) incurred by any of the Owner Indemnitees in enforcing any of the Contractor's defense, indemnity, and hold-harmless obligations under this Agreement.

LIABILITY FOR DEFECTIVE SERVICES:

Notwithstanding any payment or payments by Owner hereunder, Contractor shall be liable to Owner for all injuries sustained by Owner, its employees, officers, trustees, officials, directors, managers, and agents' employees, and any third party, by reason of any failure of Contractor to properly discharge its contractual obligations to Owner, its unsafe activities, its negligence, or its intention misconduct.

PRICING INFORMATION FOR PREPARATION OF BIDS/PROPOSALS

- A. The owner is exempt from any local, state, or federal sales, use, or excise tax. The owner will not pay for N.J. State Sales and Use Tax that is included in any invoices.
- B. Estimated Quantities: The owner has attempted to identify the item(s) and the estimated amounts of each item bid/proposal/quote to cover its requirements; however, 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. NO MINIMUM PURCHASE IS IMPLIED OR GUARANTEED.
- C. The contractor shall be responsible for obtaining any applicable permits or licenses from any government entity that has jurisdiction to require the same. All bids/proposals/quotes 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.
- E. In the event of a public emergency declared at the local, state, or federal level before the expiration of the contract, if the owner opts to extend the terms and conditions of the contract, the contractor agrees to extend the terms and conditions of this specification, whether existing or expiring for no longer than six months, for construction for the duration of the emergency.

APPLICABLE LAW

This Contract and all litigation arising from or related to the Contract shall be governed by the County Colleges Contracts Law, N.J.S.A. 18A:64A-25.1 *et seq.*, and shall be governed by the applicable laws, and regulations, of the State of New Jersey without reference to conflict of laws principles. The Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations. To the extent that applicable law requires that certain language be included in the Contract, such language shall be deemed included by reference.

CONTRACT MODIFICATIONS

The owner reserves the right to issue Contract modifications, subject to mutual agreement between the Parties as to an equitable adjustment of the Contractor's compensation. All such amendments shall be in writing. Where the Parties cannot agree upon an equitable adjustment, the Owner may direct that the modification be implemented and adjust compensation in a reasonable matter as the Owner sees fit. In such circumstance, Contractor shall comply with the modification and, if so inclined, pursue a claim against Owner. In order for the Contractor to pursue such a claim, it must have notified the Owner in writing of its intent to do so within seven business days of its receipt of the written directive from the Owner to proceed over the Contractor's objection. All Contract modifications must be signed by the Owner's Representative designated below on behalf of the Owner.

WAIVER BY OWNER

Notwithstanding any language found elsewhere in the Contract, the Owner shall not be deemed to have waived any right of Owner or requirement of Contractor unless such waiver is found in a writing signed by the Owner's Representative designated below and specifically and expressly stating the precise nature of the intended waiver. No such waiver by the Owner shall be implied.

INTERPRETATION

If any provision in this Contract is found to be ambiguous, it is agreed that such ambiguity need not be resolved against the drafter.

COUNTERPARTS

This Contract may be executed in any number of counterparts and all of such counterparts shall for all purposes constitute one agreement binding on the parties hereto, notwithstanding that all Parties are not signatories to the same counterpart. For purposes of this Contract, a counterpart signed by facsimile or other electronic means shall constitute an original. Any Party delivering an executed counterpart of this Contract by electronic means shall, if requested, also deliver an original executed counterpart, but the failure to deliver an originally executed counterpart shall not affect the validity of this Contract.

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 and N.J.A.C. 17:27 as administered by the Division of Purchase & Property Contract Compliance and Audit Unit (Division) and provided below. The contract will include the language included in this specification.

1. Goods, General Services, Professional Service, and Construction 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:

- a. A Letter of Federal Approval indicating that the vendor is under an existing federally approved or sanctioned affirmative action program. A copy of the approval letter must be provided by the vendor to the Public Agency and the Division. This approval letter is valid for one year from the date of issuance.
- b. A Certificate of Employee Information Report (hereafter "Certificate"), issued in accordance with N.J.A.C. 17:27. The vendor must provide a copy of the Certificate to the Public Agency as evidence of its compliance with the regulations. The Certificate represents the review and approval of the vendor's Employee Information Report, Form AA-302 by the Division.
- c. The successful bidder shall complete an Initial Employee Report, Form AA-302, and submit it to the Division with a check or money order for \$150.00 made payable to "Treasurer, State of NJ" and forward a copy of the Form to the Public Agency. Upon submission and review by the Division, the Report shall constitute evidence of compliance with the regulations

B. NEW JERSEY ANTI-DISCRIMINATION

The contract for this bid shall require that the Contractor agrees not to discriminate in employment and agrees to abide by all anti-discrimination laws including but not limited to N.J.S.A. 10:2-1 as included in Attachment B of this document.

C. AMERICANS WITH DISABILITIES ACT OF 1990

Discrimination on the basis of disability in contracting for the purchase of goods and services is prohibited. If awarded the contract, the Contractor is required to comply with requirements related to the Americans with Disabilities Act as provided in this specification as Attachment C. The Contractor is obligated to comply with the Act and to hold the owner harmless for any violations committed under the contract.

D. STATEMENT OF OWNERSHIP

N.J.S.A. 52:25-24.2 provides that no business organization regardless of the form of ownership shall be awarded any contract for the performance of any work or the furnishing of any goods and services, unless, **prior to the receipt of the bid or accompanying the bid** of said business organization, bidders shall submit a statement setting forth the names and addresses of all persons and entities that own ten percent or more of its stock or interest of any type at all levels of ownership. The disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, and member exceeding the ten percent ownership, has been listed.

The included Statement of Ownership shall be completed and attached to the bid proposal. This requirement applies to all forms of business organizations, including, but not limited to, corporations and partnerships, publicly-owned corporations, limited partnerships, limited liability corporations, limited liability partnerships, sole proprietorship, and Subchapter S corporations. Failure to submit a disclosure document shall result in rejection of the bid as it cannot be remedied after bids have been opened.

Not-for-profit entities should fill in their name, check the not-for-profit box, and certify the form. No other information is necessary.

E. PROOF OF BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, Essex County College is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor and each subcontractor that is required by law to be named in a bid/proposal/contract have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the Contractor shall provide the Contracting Agency with its proof of business registration and that of any named subcontractor(s). Subcontractors named in a bid or other proposal shall provide proof of business registration to the bidder, who in turn, shall provide it to the Contracting Agency prior to the time a contract, purchase order, or another contracting document is awarded or authorized.

During the course of contract performance:

1. the Contractor shall not enter into a contract with a subcontractor unless the subcontractor first provides the Contractor with valid proof of business registration.
2. the Contractor shall maintain and submit to the Contracting Agency a list of subcontractors and their addresses that may be updated from time to time.
3. the Contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of Taxation at (609) 292-6400. Form NJ-REG can be filed online at www.state.nj.us/treasury/revenue/busregcert.shtml.

Before final payment is made under the contract, the Contractor shall submit to the Contracting Agency a complete and accurate list of all subcontractors used and their addresses.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of business registration as required, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000, for each proof of business registration not properly provided under a contract with a contracting agency.

Emergency Purchases or Contracts

For purchases of an emergent nature, the Contractor shall provide its Business Registration Certificate within two weeks from the date of purchase or execution of the contract or before paying for goods or services, whichever is earlier.

F. DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

N.J.S.A. 52:32-55 prohibits State and local public contracts with persons or entities engaging in certain investment activities in the energy or finance sectors of Iran. Bidders must indicate if they comply with the law by certifying the form. Pursuant to N.J.S.A.18A:64A-25.43, the owner is required to notify the New Jersey Attorney General if it determines a false certification has been submitted.

G. DISCLOSURE OF RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-60.1, et seq. (P.L. 2022, c.3), Essex County College will not enter into a contract for work with any person, company, or firm that invests directly in companies owned or controlled by the government of Russia, Belarus, or its instrumentalities. Bidders must indicate whether they comply with the law by certifying the form.

H. PURCHASE ORDER REQUIRED

No contractor or vendor shall commence any project, provide any service or deliver any goods until he/she receives an approved purchase order authorizing work to begin or goods to be delivered.

I. DEBARMENT, SUSPENSION, OR DISQUALIFICATION – Federal Executive Orders #12549, #12689, and N.J.S.A. 52:32-44.1 (P.L. 2019, c.406).

Essex County College will not enter into a contract for work with any person, company, or firm that is on the State Department of Labor and Workforce Development; Prevailing Wage Debarment List, the State of New Jersey Consolidated Debarment Report; and the Federal Debarred Vendor List – Exclude Parties List System. (www.state.nj.us/treasury/debarred).

All bidders are required to submit a sworn statement indicating whether or not the bidder is, at the time of the bid, included on the State Department of Labor and Workforce Development; Prevailing Wage Debarment List, or the State of New Jersey Consolidated Debarment Report, or the Federal Debarred Vendor List – Excluded Parties List System.

J. QUALIFICATION OF BIDDERS – CONTRACTOR QUESTIONNAIRE CERTIFICATION FORM

Essex County College may make such investigations as it seems necessary to determine the ability of the bidder to perform the terms of the contract. The bidder shall complete a Contractor Questionnaire Certification Form and return same with the proposal and shall furnish all information to the College that the College may require to determine the Contractor's ability to perform the duties and obligations as outlined in these specifications.

All bidders are reminded that proposals may be rejected as not being responsive, therefore bidders are asked to complete the Questionnaire and to provide any supporting documents with the proposal package.

K. NOTICE OF EQUIPMENT AND MATERIALS CHANGES

The contractor shall notify Essex County College of impending changes in or discontinuation of models or specifications in materials or equipment known to him at the time of delivery and to deliver only the latest model and design of equipment specified at the time of delivery unless notified otherwise by the College.

L. WARRANTY

The Contractor will replace without charge for materials, labor, or transportation any and all parts found defective within one year from the date of final acceptance.

If equipment fails to function properly for any reason whatsoever (other than negligence on the part of a College employee) within the first thirty days after delivery, it shall be replaced with new equipment under the conditions of warranty and manufacturer's guarantee as stated for new equipment or replacement.

SERVICE

During the warranty period, the Contractor will furnish field service within a twenty-four (24) hour period. The Contractor will provide loaner equipment, comparable to the equipment furnished, at no cost to Essex County College, if any equipment breakdown occurs which cannot be repaired within the twenty-four (24) hour service period.

The Contractor shall provide at the time of delivery, service and operational manuals, schematics, parts lists, and any other technical data on each category of equipment purchased; listing the manufacturer's name, model number, and modifications. All the above data shall correspond to the equipment purchased.

Vehicles and equipment are to receive pre-delivery inspection and service according to the manufacturer's specifications.

Operation instructions and manuals will be provided by the Contractor's representative to Essex County College personnel at the time of equipment delivery.

M. DOCUMENTS

A certificate of ownership will be furnished.

Vehicles shall conform to Motor Vehicle Laws of the State of New Jersey and State inspection to be acquired before acceptance by the College.

In addition to equipment specified in basic specifications, vehicles shall be equipped with all other standard equipment as specified by the manufacturer and must be so equipped and constructed to permit Gross Vehicle Weight specified. Equipment shall be equipped following federal regulations, including OSHA.

N. AUTHORITY OF ESSEX COUNTY COLLEGE

On all questions concerning the interpretations of specifications, the acceptability, quality of materials of items furnished and work performed the classification of materials, the execution of the work, and the determination of payment due or to become due, the decision of the Essex County College Board of Trustees, or its designate, shall be final and binding.

O. FORCE MAJEURE

As used in this Agreement, an event of "Force Majeure" shall mean any event that: (a) prevents the affected Party (the "Affected Party") from performing its obligations under this Agreement or complying with any conditions required by the other Party under this Agreement, and (b) is unforeseeable and is beyond the reasonable control of and not the result of the fault or negligence of the Affected Party or such Affected Party's Personnel (or their Affiliates), and (c) could not have been prevented by the Affected Party's or its Personnel's (or their Affiliates) exercise of reasonable diligence. For purposes of clause (b) above, the following events shall be considered to be beyond the reasonable control of an Affected Party or its Personnel: war, civil insurrection, flash floods, hurricanes, tornadoes, typhoons, lightning strikes, earthquakes, epidemics, quarantines, embargoes, riots, and sabotage. Notwithstanding anything in this Section to the contrary, in no instance will the following be considered events beyond Contractor's reasonable control or constitute a Force Majeure event: (i) strikes or labor disturbances involving the employees of Contractor or any of its Subcontractors or caused by any violation by Contractor or its Subcontractors of any labor agreements; (ii) price fluctuations with respect to labor or materials, supplies or components of equipment related to items to be supplied by Contractor under this Agreement; (iii) mere economic hardship (including as suffered by the Affected Party or its Personnel or any of their Affiliates), or (iv) normal climatic conditions (based upon a one hundred year period) at the Project Site.

Burden of Proof. The burden of proof as to whether a Force Majeure event has occurred shall be upon the party claiming a Force Majeure event.

Excused Performance. If the Affected Party is rendered wholly or partly unable to perform its obligations under this Agreement because of a Force Majeure event, such Affected Party will be excused from whatever performance is affected by the Force Majeure Event to the extent so affected, provided that:

1. the Affected Party, within twenty-four (24) hours after knowing of the occurrence of the Force Majeure event, gives the other Party written notice describing the particulars of the occurrence;
2. the suspension of performance resulting from such Force Majeure event shall be of no greater scope and no longer duration than is reasonably required by the Force Majeure event;
3. no obligations of either Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence;
4. the Affected Party must continue to perform its obligations under this Agreement to the extent possible, and the Affected Party must use all reasonable efforts to overcome, mitigate and remedy the damages, delays, and effects of the Force Majeure and its inability to perform its obligations under this Agreement as a result thereof; and
5. when the Affected Party is able to resume the performance of its obligations hereunder, that Party shall give the other Party written notice to that effect and shall promptly resume such performance.

P. SUBCONTRACTS

Prior to awarding any subcontract, the Contractor shall notify the Owner and Architect or Engineer of the name of each proposed subcontractor and the amount of the subcontract. The owner shall have the right to reject any subcontractor who does not establish to the satisfaction of the Owner its experience, competence, and financial ability to perform the Work. Owner agrees to act diligently upon receipt from Contractor of the names of proposed subcontractors and shall not delay the award of any subcontract to a subcontractor deemed acceptable to Owner.

If Owner disapproves of a proposed subcontractor, it may direct the Contractor to award such work to an alternate subcontractor of the Owner's choosing provided that if an increase in the cost of performing the Work or furnishing the materials caused by the award of a such subcontract to the alternate subcontractor shall result, Owner, shall have the option

to permit the original subcontractor to work or approve a Change Order in accordance with "Changes in the Work" herein, and an appropriate adjustment of the Contract Sum.

By appropriate written agreement, the Contractor shall require each subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all obligations and responsibilities which the Contractor assumes toward the Owner. The Contractor shall make available to each subcontractor copies of the Contract Documents to which the subcontractor will be bound.

All subcontracts and purchase orders shall include provisions that: (a) they are assignable to Owner, or another contractor designated by Owner, without consent of the subcontractor; (b) that upon such an assignment becoming effective such subcontractor will be bound to Owner or such contractor designated by Owner as fully and in the same manner as such subcontractor is bound to Contractor under such subcontract; and (c) that upon such assignment becoming effective all sureties of the obligations of such subcontractor shall be bound to Owner or such contractor designated by Owner as fully and in the same manner as such sureties are bound to the Contractor. The assignment of such subcontracts shall not become effective unless an event of default has occurred hereunder and Owner has terminated this Contract.

The Contractor shall include in its subcontracts all requirements concerning affirmative action and equal employment opportunity set forth in "Equal Employment Opportunity and Affirmative Action Requirements" set forth, and require that subcontractors submit all applicable forms.

The Contractor shall include in its subcontracts the dispute resolution provisions herein.

Q. ASSIGNMENT

Owner and Contractor each bind themselves, their successors, assigns and legal representatives to the other party hereto, and to the successors, assigns, and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Contract Documents. However, the obligations of the Contractor arising hereunder may not be assigned without the Owner's prior written consent. Contractor further agrees to insert in all subcontracts the requirement that the subcontract shall not be assigned other than to the Owner or to another Contractor designated by the Owner without the Owner's prior written consent.

R. PROHIBITED INTEREST

No official of the College who is authorized in such capacity and on the behalf of the College to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any material or supply contract or any subcontract in connection with the furnishings of supplies and/or equipment, shall become directly or indirectly interested personally in this contract or in any part thereof.

S. THE COLLEGE RESERVES

The right to cancel part of all of the awards in the event of a failure by the Contractor to deliver the materials as required and/or the failure to furnish materials as specified.

In case of rejection or non-delivery, the College may procure the articles or services from other sources and hold the Contractor responsible for any excess cost occasioned thereby as well as up to 15% for any and all fees, legal and otherwise.

T. MAINTENANCE OR RECORDS

Pursuant to N.J.A.C. 17:44-2.2, the Contractor shall maintain all documents related to products, transactions, or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

DOCUMENT CHECKLIST

The bidder shall complete and sign the Bid/Proposal/Quote Submission Document Checklist and include it in the bid/proposal/quote submission. For construction bids, failure to submit the checklist is a fatal defect and the bid will be rejected. This document serves as a guide to bidders of the documents that are required to be submitted with the bid/proposal/quote.

A. NON-COLLUSION AFFIDAVIT

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

B. NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT

The manufacturer or supplier of chemical substances or mixtures shall label them in accordance with N.J. Worker and Community Right to Know Law (N.J.S.A. 34:5A-1 et seq., and N.J.A.C 8:59 et seq). All direct use containers shall bear a label indicating the chemical name(s) and Chemical Abstracts Service number(s) of all hazardous substances in the container, and all other substances which are among the five most predominant substances in the container, or their trade secret registry number(s)

pursuant to N.J.A.C. 8:59-5. "Container" means a receptacle used to hold a liquid, solid or gaseous substance such as bottles, bags, barrels, cans, cylinders, drums, and cartons. (N.J.A.C. 8:59-1.3). Further, all applicable Material Safety Data Sheets (MSDS) - hazardous substance fact sheets - must be furnished. All containers which are stored at an owner's facilities by the Contractor or subcontractors shall display RTK labeling. Vendors with questions concerning labeling should contact the New Jersey Department of Health and Senior Services Right to Know Program for assistance in developing proper labels. www.nj.gov/health/workplacehealthandsafety/right-to-know/.

C. 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 the wages. In the event it is found that any worker, employed by the Contractor or any subcontractor has been paid a rate of wages less than the prevailing wage required to be paid, the owner may terminate the Contractor's or subcontractor's right to proceed with the work, or such part of the work as to which there has been a failure to pay required wages and prosecute the work to completion.

The Contractor is also responsible for obtaining and submitting all subcontractors' certified payroll records within the aforementioned period. The Contractor shall submit said certified payrolls in the form outlined in N.J.A.C. 12:60-2.1(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

http://lwd.dol.state.nj.us/labor/wagehour/wagerate/pwr_construction.html.

D. 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 the bid, and proposals are received and before the award of the 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-subcontractors shall be registered before starting work on the project. It is the general contractor's responsibility that all non-listed sub-contractors at any tier have their certificate before 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 Jersey Prevailing Wage Act [N.J.S.A. 34:11-56.25, et seq.] It applies to contractors based in New Jersey or another state.

To register, a contractor must provide the State Department of Labor and Workforce Development with a full and accurately completed application form.

The form is available online at 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.

E. EQUIPMENT CERTIFICATION

Bidder shall certify on the Equipment Certification form that they control or have access to the equipment necessary to do the required work if awarded the contract. If the bidder does not own or lease the equipment, a certification from the owner of the equipment that the bidder will have access to the equipment is required with the bid/proposal.

METHOD OF CONTRACT AWARD

- A. The length of the contract shall be stated in the technical specifications. Please see Section "Termination of Contract" for additional information.
- B. Depending on the nature of the bid and as the college determines in its best interest, the college may award the bid as per N.J.S.A. 18A:64A-25.1 et seq.
- C. 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; material exceptions shall not be approved.
- D. The successful bidder/respondent shall complete the W-9 Form and submit it to the college before the contract award. The form is available at the following link: www.irs.gov/pub/irs-pdf/fw9.pdf.

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

CAUSES FOR REJECTING BIDS AND APPEAL OF DECISIONS

- A. No bid/proposal/quote shall be accepted which does not conform to the specifications. Nothing contained in this specification shall be construed as depriving any county college of the right to reject all bids/proposals.

- B. Bidder acknowledges that this bid and the award of a contract are governed by the County College Contracts Law, N.J.S.A. 18A:64A-25.1 et seq. and that any legal challenges to the bidding process, the award of contract, or the rejection of any bids shall be pursued before the Board of Trustees of Essex County College following P.L. 1994, Ch. 48, Sec 6f and the Rules Governing Hearings Before the Board of Trustees of Essex County College.
- C. If a Bidder challenges or protests the award of a Bid, it shall reimburse the Owner for all costs, expenses, and losses incurred by the Owner, including all attorney's fees, because of such challenge or protest, except to the extent that the Bidder may be adjudicated to be a prevailing party against the Owner as to such challenge or protest. Under no circumstances shall the Owner reimburse to any party any fees, costs, or expenses related to a bid challenge or protest.

TERMINATION OF CONTRACT

- A. **Termination for Convenience.** The owner may terminate this Agreement for convenience without cause at any time upon ten days' written notice. Upon receipt of the notice, the Contractor shall discontinue its Work, remove its equipment, materials, and employees from the site and take such action as necessary to terminate its agreements with subcontractors and suppliers. The Contractor shall then promptly deliver to the Owner a statement covering the balance owed under this Agreement for Work completed and materials ordered prior to receiving the notice of termination for convenience, for demobilization, and for any other costs for which it is liable to others by reason of such termination. Under no circumstances will Contractor be entitled to any lost profits by reason of termination for convenience. If the Owner terminates this Agreement pursuant to the provision entitled "Termination for Cause" and it is ultimately decided by a court of law or an arbitration panel that the Contractor has not failed to comply with any of the provisions of this Agreement or should not have had this Agreement terminated for cause, such termination shall be treated as a Termination for Convenience pursuant to this Clause and Contractor shall have no further or additional recourse in connection with such termination.
- B. **Termination for Cause.** The owner shall have the right to terminate this Contract after giving ten days' written notice of termination to the Contractor in the event of any default by the Contractor.
- C. **Default.** It shall be considered a default by the Contractor whenever the Contractor shall:
 - A. declare bankruptcy, become insolvent, or assign its assets for the benefit of its creditors;
 - B. disregard or violate provisions of the Contract Documents or fail to prosecute the work according to the agreed Schedule of Completion, including extensions thereof;
 - C. fail to provide a qualified superintendent, competent workers or subcontractors, or proper materials, or fail to make prompt payment therefor;
 - D. shall repeatedly refuse or fail to supply enough properly skilled workers or proper materials;
 - E. repeatedly disregards applicable laws, statutes, ordinances, codes, rules, and regulations, or lawful orders of a public authority.
- D. In the event of termination of the Contract by the Owner because of default by the Contractor, the Owner may take possession of the Work and all materials and equipment thereon and may finish the Work by whatever method and means it may select.
- E. Upon termination of the Contract by the Owner, no further payments shall be due to the Contractor until the Work is completed. If the unpaid balance of the contract price shall exceed the cost of completing the Work including all overhead costs, the excess shall be paid to the Contractor. If the cost of completing the Work shall exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The cost incurred by the Owner, as herein provided, and the damage incurred through the Contractor's default shall be certified by the Owner.

DISPUTE RESOLUTION PROCEDURES

- A. The Contractor shall give Owner written notice within three (3) days after the happening of any event which the Contractor believes may give rise to a claim by the Contractor or its subcontractors for an increase in compensation or an extension of the time of performance. Within ten (10) days after the happening of such event, the Contractor shall supply Owner with a statement supporting the claim, which statement shall include Contractor's detailed estimate of any change in compensation and the time of performance occasioned thereby. If requested by Owner in writing, the Contractor shall substantiate its claim with payroll documents, paid invoices, receipts, records of performance and other documents satisfactory to Owner and subject to Owner verification. Owner shall not be liable for, and the Contractor waives, any claim or potential claim of the Contractor of which the Contractor knew and which was not reported by the Contractor in accordance with the provisions of this Article. The Contractor agrees to continue performance of the Work during the time any claim hereunder is pending. Owner shall not be bound to any adjustments in compensation or time performance for the Contractor's claim unless expressly agreed to by Owner in writing.

- B. To the greatest extent permitted by law, notwithstanding the fact that a dispute, controversy or question shall have arisen in the interpretation of any provision of this Agreement, the performance of any Work, the delivery of any material, the payment of any moneys to the Contractor, or otherwise, the Contractor agrees that it will not directly or indirectly stop or delay any Work or part of its Work on its part required to be performed or stop or delay the delivery of any materials on its part required to be furnished hereunder, pending the determination of such dispute or controversy. Failure of the Contractor to continue proceeding diligently with the performance of Work shall constitute a material breach of contract, regardless of the ultimate decision on the dispute, it being understood and agreed that any controversy between the parties shall not be deemed a basis to delay or suspend the Work, unless directed otherwise by the Owner.
- C. All claims, disputes, and other matters in question between the Owner and the Contractor arising out of or relating to this Contract or any breach thereof, except for claims which have been waived by the acceptance of Final Payment, shall be submitted to mediation within thirty days after a final determination is made by the Owner with regard to the claim, dispute or matter. The mediator shall be selected by mutual agreement between the parties or by the American Arbitration Association if an agreement cannot be reached among the parties. The mediation shall be conducted at the Essex County College, Newark, New Jersey. The cost of the mediation shall be borne equally among the parties. The mediation shall be attended by an executive officer of the Contractor who shall have full authority to act for and bind the Contractor and with duly authorized representatives of the Owner. Mediation shall be a condition precedent to arbitration.
- D. All claims, disputes, and other matters in question between the Owner and the Contractor arising out of or relating to this Contract or any breach thereof, not settled by mediation, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association and applicable State statutes then in effect unless the parties mutually agree otherwise. The scope of the authority of the arbitrators in issuing any award shall be limited by any statute or regulation which governs the liability or damages from the Owner. The award rendered by the arbitrators in any such arbitration proceeding shall be final and binding, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
- E. The parties acknowledge that by choosing arbitration as their sole means of dispute resolution, they are waiving their right to trial, whether by jury or by a judge and agree to submit all statutory, contractual, and equitable claims that may arise out of this Contract and the performance of the Work to binding arbitration. The parties further acknowledge that they are choosing arbitration, in part, in order to expedite the disposition of any disputes and, toward that end, they agree to work cooperatively with the arbitrator to limit discovery while preserving their rights to effectuate a thorough prosecution of their claims and/or defense against any claims that may be raised in the arbitration.
- F. Notice of the demand for arbitration shall be filed in writing with the other party to this agreement and the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute, or another matter in question has arisen, and in no event shall it be made before the mediation has been requested or after the date when the institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
- G. The Owner, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided, however, that (1) the arbitration agreement governing the other arbitration permits consolidation, and (2) the arbitrations to be consolidated substantially invoke common questions of law or fact.
- H. The mediation and arbitration process shall not affect the Owner's right to terminate the Contractor's Work, in whole or part, whether for the Owner's convenience or due to the Contractor's default; and/or otherwise act in the public interest

DELIVERY

- A. Deliveries must be made within the time specified by the College on the order. Under no circumstances will a purchase order be valid for a period in excess of 90 days, unless otherwise specified. Such time shall be computed on the basis of the number of stated calendar days from the date on the order or as agreed prior to the date on the order. If delivery is not made within such time, the College reserves the right to cancel the order and upon specific agreement, a new purchase order may be issued or placed the order as stated herein. Packages will NOT be received by Essex County College unless all delivery charges have been paid.
- B. Bidders shall acquaint themselves with conditions to be found at the site and shall assume all responsibility at no cost to the College for placing and installing the equipment furnishings in the locations required. All finished surfaces shall be cleaned and polished by the Contractor prior to final payment.
- C. DELIVERY TIME. Unless otherwise stipulated:
 - 1. Deliveries shall be made between 8:30 A.M. and 4:00 P.M. Monday through Friday at the College Receiving Department or as otherwise specified.

NOTE: The College will be closed on Fridays during July and August; therefore, deliveries shall be made between 8:30 A.M. and 4:00 P.M. Monday through Thursday.

2. The College reserves the right to reject any delivery made before or after the aforesaid times unless the schedule(s) provides(s) for different delivery times.
 3. All areas affected by delivery shall remain unobstructed so “business” can operate as usual unless otherwise stated by the College.
- D. All containers are to be removed from the building(s) and campus.
- E. When the bid standard in the purchase order is “as per sample,” delivery shall conform to such sample when it was new and unused. Unless otherwise stated in the purchase order, deliveries must consist only of new and unused merchandise.
- I. The vendor accepts responsibility for damages to persons and property that may result from any act of his or his agent in making deliveries.
- J. Where possible all goods delivered are to be manufactured or produced in the United States or its territorial possessions.
- K. Open market orders are subject to audit by the Purchasing Department as to the reasonableness and justness of the prices charged.
- L. EXCESS ON ORDER Only the College reserves the right to require any specified additional delivery on any item in excess of the quantity originally ordered.
- M. NOTICE TO VENDORS. Vendors are authorized to ship only those items covered by the contract. If a review of material received indicates that material other than that covered by the contract has been ordered and delivered, the Director of Purchasing will take such steps as are necessary to have the material returned regardless of the time lapsed between the date of delivery and discovery of the violation. Full credit will be demanded. Compliance with this requirement is the full responsibility of the vendor. Violation of this clause may also result in the removal of the offending vendor’s name from the mailing list for a period of up to three years.

PAYMENT

- B. No payment will be made unless duly authorized by the owner’s authorized representative and accompanied by proper documentation.
- C. Payment will be made following the owner’s policy and procedures. Invoices shall specify, in detail, the period for which payment is claimed, the Purchase Order number, the services performed during the prescribed period, the amount claimed, and the correlation between the services claimed and this proposal.
- D. Purchase Order (P.O.) Number must appear on all invoices and must be submitted to the Accounts Payable Department at accountspayable@essex.edu.
- E. The owner may withhold all or partial payments on account of subsequently discovered evidence including but not limited to the following:
1. Deliverables not complying with the project specification;
 2. Claims filed or responsible evidence indicating the probability of filing claims;
 3. A reasonable doubt that the contract can be completed for the balance then unpaid.

When the above grounds are removed, payment shall be made for amounts withheld because of them.

- F. Public funds may be used to pay only for goods delivered or services rendered. The owner shall not pay penalties and/or interest on overdue bills unless otherwise required by law. No employee is authorized to sign a letter of credit or any other document that represents a legal commitment on the part of the owner to pay additional fees.
- G. **Owner’s right to withhold payment:** The owner shall have the right to withhold payment to the Contractor in the event that a 10-day cure notice has been issued to the Contractor and the required cure has yet to be fully implemented. Such payment withholding shall be in such amount to cover 120% of the Owner’s estimated cost of having to implement the needed cure at its cost. Where a termination notice has been issued to Contractor, no further payment shall issue to Contractor, except in accordance with the termination-for-cause provision elsewhere in this Contract. Where Contractor has caused the Owner to be exposed to third-party claims, Owner shall have the right to withhold payment in an amount equal to 120% of the estimated liability of the Owner on such claims.

CONTRACT RENEWAL OR EXTENSION

In the event, the Contract has an extension or renewal option by the Owner and the Owner determines that it is in its best interest to extend or renew the contract, the Contractor will be so notified in writing at least 30 days prior to the expiration date of the existing Contract. In the event that Owner determines to exercise the renewal or extension option, the Contractor agrees to provide the Services for the period of renewal or extension determined by the Owner. The Contractor agrees to pay at least the minimum wage, as such rate may be increased over the term of the Contract, as may be extended at the sole discretion of the Owner in accordance with the provisions of the Request for Bids.

OTHER PROVISIONS

- A. Both parties agree to comply with all requirements of the Federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as may be amended from time to time, and the corresponding HIPAA regulations for the confidentiality and security of medical information. If awarded the bid, the Contractor shall:
1. Not use or disclose protected health information other than as permitted or required by law
 2. Use appropriate safeguards to protect the confidentiality of the information
 3. Report any use or disclosure not permitted

The Contractor, by execution of the contract, shall thereby indemnify and hold the owner harmless from all liabilities, claims, actions, costs, and penalties that may be incurred as the result of the failure of the Contractor to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) or any other statute or case law protecting the privacy of persons using its services.

- B. The owner shall retain all of its rights and interest in all documents and property both hard copy and digital furnished by the owner to the successful bidder (contractor) to assist the Contractor in the performance of this contract. None of the documents and/or property shall, without the written consent of the owner, be disclosed to others or used by the Contractor, or permitted by the Contractor to be used by their parties at any time except in the performance of the resulting contract.

The Contractor shall not have the right to use, sell, or disclose the total of the interim or final work products, or make them available to third parties, without the prior written consent of the owner. Any information supplied to the owner may be required to be supplied on CD/DVD or USB flash drive media compatible with Microsoft Windows, and Microsoft Office Suite 2010 or greater.

- C. Under state and federal statutes, certain government records are protected from public disclosure (e.g., HIPPA, FERPA, and others). The owner, the Contractor, and any subcontractors have a responsibility and an obligation to safeguard from public access student and employee personal information with which it has been entrusted when disclosure thereof would violate a student's right under the federal Family Educational Rights and Privacy Act (FERPA) and the employee's reasonable expectation of privacy. All payroll, personnel, and health insurance-related files are confidential. According to the New Jersey Open Public Records Act (OPRA), the owner retains the right to make any public disclosure under the law unless a claim of confidentiality under OPRA is made and sustained by the college. Also, among government records deemed confidential is administrative or technical information regarding computer hardware, software, and networks that, if disclosed, would jeopardize computer security. The Contractor and any subcontractor(s) are prohibited from the sale or distribution of all supplied information to any third party.
- D. Proof of licensure for any activity regulated by the State of New Jersey and required to do the work required under this specification, for either the firm or the person responsible for the work, shall be provided as required by the owner.

CONSTRUCTION REQUIREMENTS

THE CONTRACT DOCUMENTS

- A. The Contract Documents consist of this Contract, the Bid Specifications and Bidder's Price Proposal, the Technical Specifications and Contract Drawings, all written modifications issued after execution of this Contract, and the exhibits and forms attached hereto. These documents form the Contract, and all are fully a part of the Contract as if attached to this Agreement or repeated herein.

The Contract includes the following:

- A. This Contract
 - B. Bidder's Price Proposal.
 - C. Technical Specifications.
 - D. Drawings
 - E. Establishment of Targeted Goals for Construction Contractors and Subcontractors
 - F. Initial Project Workforce Report, Form AA-201
 - G. Monthly Project Workforce Report, Form AA-202
- B. The Contract Documents are complementary and cumulative, and what is called for one shall be as binding as if called for by all. To the extent of any direct conflict or inconsistency between any of the Contract Documents, the Contractor shall immediately seek clarification from the Architect and notify the Owner that clarification has been requested. In the event that the Architect fails to clarify such discrepancy within a reasonable time under the circumstances, the Contractor shall proceed with the Work and give precedence to the Contract Documents in the following order of priority:
- i. Modifications issued after execution of this Construction Contract;
 - ii. This Construction Contract;
 - iii. Clarifications and/or Addenda issued prior to the execution of the Construction Contract, with the Clarifications/ Addenda bearing the latest date taking precedence;
 - iv. The Drawings and Specifications set forth in the Project Manual.

In resolving any conflicts among the Contract Documents, the Contract Documents shall be given precedence based on the order in which they are set forth immediately above and the more stringent requirements beneficial to the interests of the Owner shall control, as reasonably determined by the Owner

- C. The Contractor represents and warrants to the Owner that the Contractor has (a) examined the Contract Documents, the job site, the surroundings, and local conditions, and (b) made all investigations it deems necessary or appropriate for a full understanding of the scope of the Work to be performed, and (c) examined all other documents and data which it deems necessary or appropriate to establish the Contract Sum. The Contractor acknowledges that it considers the foregoing factors sufficient and is not relying upon any representations or warranties of the Owner except as expressly herein set forth.
- D. The Contractor shall carefully study and compare the Contract Documents with each other and with any other information furnished by the Owner and shall promptly report to the Owner and the Architect or Engineer errors, inconsistencies, or omissions discovered. The Contractor shall not be liable to the Owner or Architect for damage resulting from errors, inconsistencies, or omissions in the Contract Documents unless the Contractor recognized such error, inconsistency, or omission and knowingly failed to report it to the Architect or Engineer. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency, or omission that should reasonably have been recognized or have been discovered by a prudent and experienced Contractor in advance, without such notice to the Architect or Engineer, the Contractor shall assume complete responsibility for such performance and shall bear an appropriate amount of the attributable costs for correction.
- E. The Contractor shall take field measurements and verify field conditions and compare such field measurements and conditions with the Contract Documents before commencing activities. Errors, inconsistencies, or omissions discovered shall be reported to the Owner and Architect or Engineer at once.

THE WORK

- A. The Contractor shall perform all the work required by the Contract Documents, including the Technical Specifications and the Drawings (the "Work") for the Project, and complete the Work within the time frame set forth in the approved Project Schedule, which shall be prepared by Contractor and approved by Owner and Architect or Engineer as set herein.

- B. The intent of the Contract Documents is to include within Contractor's scope of Work the obligation to perform and to provide all labor, supervision, materials, supplies, insurance, tools, equipment, licenses, taxes, approvals, transportation, field surveying, and other services and items as are necessary to satisfactorily complete the Work. The intent of the Contract Documents is to also include within the Contractor's scope of work all testing required by the Project's Drawings and Specifications and all applicable building codes, state, county or municipal law. Further, the Owner in its sole discretion shall have the right to conduct additional testing to verify that the Work is performed in accordance with the Contract Documents. The Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by activities of the Architect, Owner's Representative or Owner, in the administration of this Contract, or by tests, inspections or approvals performed by persons other than the Contractor. Matters not expressly included in the Contract Documents, but which are reasonably inferable therefrom as being necessary to produce Work in accordance with the Contract Documents, shall be deemed as part of the Work. For purposes of this section, the scope of the Work shall be deemed to include: (1) items commonly associated with items of Work shown; and (2) items commonly associated with the indicated purpose or quality. Notwithstanding anything to the contrary herein, the Contractor shall not be obligated to pay for the cost of any permits necessary to perform the Work that are issued by any state, county, or municipal government entity.
- C. The Contractor agrees to furnish its best skill, judgment, and efficient business administration in performing its obligations under the Contract. The Contractor agrees to maintain an adequate supply of workers and proper materials on the job site at all times, to perform the Work in the best and soundest way, and to cooperate with the Architect or Engineer, in order to complete the Work expeditiously in accordance with the Contract Documents.
- D. The Contractor shall provide competent supervision of all phases of the Work and shall cause the Work to be performed in strict and complete compliance with the Drawings and Specifications and all things indicated and reasonably implied therefrom. The Contractor shall act as the project manager to coordinate all work by subcontractors, attend all job meetings with the Owner and Architect or Engineer and periodically render reports to the Owner and Architect or Engineer on the progress of the Work.
- E. Contractor shall furnish to Owner and Architect or Engineer, prior to commencement of work and within twenty days from date hereof, a Construction Progress Schedule is broken down by stages and, after the issuance of any Change Order, shall furnish to Owner a revision of such Schedule. The Progress Schedule shall indicate the dates for the starting and completion of the various stages of construction (and shall be revised as required by the conditions of the Work, subject to the Owner's approval). The Contractor shall maintain the progress of the Work in accordance with the Construction Progress Schedule, as the same may be revised. In order to comply with the Construction Progress Schedule, the Contractor will ensure that all subcontracts clearly state that the requirements of the Construction Progress Schedule must be met.
- F. The Contractor shall perform its obligations hereunder in strict compliance with all applicable laws, ordinances, rules, regulations, orders, statutes, codes, and requirements of the Board of Fire Underwriters and all federal, state, municipal, and other governmental entities having jurisdiction over the Project. The Contractor shall apply for and obtain all licenses and permits required in connection with the Work and, unless otherwise stated in the Contract Documents, shall be responsible for the fees associated with such permits. Contractor warrants that, when completed, the Project shall be in compliance with all laws in effect at the time of completion. Changes in costs reasonably incurred by Contractor resulting from changes in any governmental requirements effective after the date of this Agreement (including interpretation by governmental officials which increase or decrease costs) shall be covered by a Change Order.
- G. With respect to any work performed by Contractor for which Owner has agreed to issue a change order, Contractor covenants to maintain complete and accurate books of account showing the costs of the Project, which books shall, at all reasonable times, be open to inspection by Owner and Architect or Engineer.

TIME OF COMMENCEMENT, SUBSTANTIAL COMPLETION, AND LIQUIDATED DAMAGES

- A. **Substantial Completion.** Within ten calendar days from the delivery of a notice from Owner to Contractor to proceed (the "Notice to Proceed") Contractor shall commence performance of the Work and, subject to authorized adjustments, Substantial Completion shall be achieved.
- B. **Punch List Completion Within Sixty Days Of Substantial Completion.** The Contractor shall complete all Contract Work within sixty days after the Substantial Completion as determined by the Architect or Engineer. If there is any item of equipment that cannot be obtained and installed within the aforesaid period of time, the Contractor shall so inform the Owner and Architect upon receipt of notice of Substantial Completion, and request additional time, which may be considered for that specific item.
- C. **Liquidated Damages.** The Contractor acknowledges and agrees that time is of the essence. If the Contractor shall neglect, fail or refuse to achieve Substantial Completion by the date set forth above, as may be extended by written Change Order, the Contractor does hereby agree, as a part of the consideration for the awarding of this Contract, to pay to the Owner, as liquidated damages and not as a penalty, the sum of Five Hundred Dollars (\$500.00) for each calendar day beyond the date of Substantial Completion. Said amount of liquidated damages is agreed upon because of the impracticability and difficulty

of fixing and ascertaining the true value of damage which the Owner will sustain by failure of the Contractor to complete the Work in a timely fashion.

- D. **Delay:** If the Contractor is delayed in achieving Substantial Completion of the Work by Force Majeure, by the acts of or failure to act by the Owner, Owner's Consultant's or Owner's separate contractors, or by the failure of governmental entities to process or issue permits, approvals, licenses or ordinances within customary time periods, or other causes beyond the Contractor's control that delaying the Contractor in achieving Substantial Completion of the Work, in the extension of the Substantial Completion Date, Contractor shall give notice to Owner promptly and in no event later than three (3) calendar days of the delay causing event. Contractor's sole remedy for any (i) delay in the commencement, prosecution, or completion of the Work, (ii) hindrance, interference, suspension, or obstruction in the performance of the Work, (iii) loss of productivity, or (iv) other similar claims (items i through iv herein collectively referred to in this section as "Delays"), whether or not such Delays are foreseeable, shall be an extension of time to complete the Work. The Contractor further acknowledges and agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay (i) is not caused, or could not have been anticipated, by the Contractor, (ii) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay or reasonable likelihood that a delay will occur, and (iii) is of a duration not less than one (1) day. In no event shall the Contractor be entitled to any other compensation or recovery of any damages in connection with any Delays including without limitation, consequential damages, lost opportunity costs, impact damages, or other similar remuneration. Failure by Contractor to provide notice to Owner in accordance herein constitutes a waiver by Contractor of any right to a time extension.

CONTRACT SUM

- A. The Owner shall pay the Contractor for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, the total Contract Sum Such Contract Sum includes, without limitation, all labor, materials, tools, equipment, water, heat, power, transportation, facilities (temporary or otherwise), equipment rental costs and all other services necessary for the proper construction and completion of the Project in accordance with the Contract Documents.
- B. The Contract Sum is determined based upon a stipulated sum.
- C. The **Bid Price Proposal**, upon which the Contractor was determined to be the successful lowest responsible bidder to perform the Work as set forth in the **Technical Specifications**, and the **Drawings**. Any questions which arise as to the work to be performed under this Contract shall be determined by the Architect or Engineer with reference to the Bid Price Proposal Sheet, the Technical Specifications, and the Drawings.

PROGRESS PAYMENTS

- A. Based upon Applications for Payment submitted to the Architect or Engineer by the Contractor, issued in such form as acceptable to the Architect or Engineer, and Certificates for Payment issued by the Architect or Engineer, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the Contract Documents.
- B. **Schedule of Values.** The Contractor shall promptly prepare and present to the Owner a proposed Schedule of Values allocating the actual cost of the Work among the different elements of the Work. If requested by the Owner, the Contractor shall provide additional detail and supporting data as the Owner may require substantiating the accuracy of the Schedule of Values. The Contractor shall not front-end load its schedule of values by increasing any element thereof in excess of the actual cost, and such acts shall constitute a material breach of this Agreement. The Contractor's Schedule of Values shall be used in determining the amounts payable to the Contractor hereunder, but only after it has been acknowledged in writing by the Owner. The Schedule of Values may be amended when mutually acknowledged in writing by the Owner and Contractor.
- C. **Work Performed and Off-Site Materials.** Payments to the Contractor shall be based upon Work actually performed, installed, and approved by the Architect or Engineer and materials stored off-site, provided, however, that with respect to materials stored off-site, the following conditions shall have been satisfied: (a) Owner shall be furnished with an original invoice from the material supplier certifying that the price of such materials has been paid in full by Contractor; (b) Owner shall receive a warranty bill of sale for such materials; (c) Owner shall have received a certificate evidencing that such materials are insured against loss on an all risk basis with Owner listed as the named insured; (d) such materials shall be clearly and visibly marked and tagged so as to indicate that title thereto is vested in Owner; (e) Architect or Engineer shall have inspected and approved such materials for incorporation into the Project; (f) Owner shall have received an effective waiver of all liens and rights to assert liens from the owner and lessor of the property upon which such materials are stored; (g) Owner shall have received an Affidavit from Contractor certifying that such materials will be incorporated into the work; (h) a retainage of ten percent (10%) shall be withheld from each payment for stored materials, in addition to the normal retainage withheld.
- D. **Applications for Payment.** At least fourteen days before each payment is due, the Contractor shall furnish to the Architect or Engineer an itemized Application for Payment showing the value of Work performed through the end of the calendar

month. The Contractor acknowledges that the Architect's or Engineer's approval and/or signature of the Contractor's Application shall not relieve or decrease the Contractor's obligations under the Contract. Upon the Architect's or Engineer's approval of the Contractor's Application, the Architect or Engineer shall forward such Application to the Owner.

- E. **Certification Relating to Applications for Payment.** Each Application for Payment shall be notarized and bear the signature of the Contractor's Project Manager or of a more senior representative of the Contractor, which signature shall constitute the Contractor's representation to the Owner that the Work indicated in the Application has progressed to the level represented, has been properly and timely performed as required herein, that no Work has been included in the Application for Payment contrary to the request of the Owner, or contrary to any provision of the Contract Documents, that expenses and costs claimed in the Application have been actually incurred, that all obligations of the Contractor covered by prior Applications have been paid in full, and that, to the best of the Contractor's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to the Contractor that payment of any portion thereof should be withheld. Submission of the Contractor's Application for Final Payment shall further constitute the Contractor's representation to the Owner that, upon receipt from the Owner of the amount requested, all obligations of the Contractor to others incurred in connection with the Project will be paid in full within ten work-days of such receipt. In the event that the Owner becomes informed that any of the foregoing representations by the Contractor are wholly or partially inaccurate, the Owner may withhold payment of sums then or in the future otherwise due to the Contractor until the inaccuracy, and the cause thereof is corrected to the Owner's reasonable satisfaction.
- F. **Lien Releases and Verified List of Subcontractors.** Each Application for Payment shall be accompanied by the Contractor's and subcontractors' lien releases and partial waivers of lien **that are conditioned upon the Contractor's receipt of payment from the Owner** for the full amount of the payments made through the date of the Application for Payment and to be made under the current Application for Payment and the Work covered thereby. Provision of such lien releases and waivers of claim shall be a condition precedent to the Owner's duty to make payments to the Contractor. The Contractor's application for Final Payment shall be accompanied by final lien releases and waivers of claim from the Contractor and all subcontractors together with a verified list of all subcontractors, including suppliers of materials and systems incorporated into the Work. Provision of such final lien releases and waivers of claim and the verified list shall be a condition precedent to Final Payment to the Contractor.
- G. **Discharge of Lien Claims.** If any subcontractor refuses to furnish such evidence required by Owner, Contractor may be required to either withhold payment from such subcontractor or furnish a bond, as approved by Owner, in a form satisfactory to Owner, to indemnify them against any such lien. In the event a subcontractor or material supplier files a lien against the Project, the Contractor shall promptly cause such lien to be formally released, bonded against, or satisfied, and shall reimburse the Owner for all costs and expenses, including, but not limited to, reasonable attorneys' fees, and bonding and title indemnity expenses incurred by it in contesting, discharging, releasing or satisfying such lien or defending or otherwise participating in such suit. Owner shall have the right to retain out of any payment then or thereafter to become due to Contractor 150% of the amount claimed to indemnify Owner against any lien that may appear in favor of any person claiming by or under the Contractor, which amount shall include reasonable allowances for the estimated costs, including, but not limited to, attorneys' fees to defend any action in connection therewith or deposits which need to be made to have such lien released against the Project. Contractor shall similarly indemnify and protect and defend Owner in respect of any lien in favor of any person claiming by or under it, including, among others, its subcontractors or its and their material suppliers that may appear after final payment is made.
- H. **Payment of Applications for Payment.** Once the Contractor's Application for Payment has been certified by the Owner following approval by the Architect or Engineer, the Owner shall authorize payment to the Contractor at the next scheduled public meeting and issue payment during the Owner's next payment cycle following the meeting at which payment was authorized. If the Application is not in proper order or is not supported by all required documentation, then the Owner shall notify the Contractor of such deficiency, and the time for payment of such Application, or any applicable part thereof, shall be extended by the amount of time required to cure such deficiencies.
- I. **Withholding of Payment.** Any provision of the Contract Documents notwithstanding, the Owner shall not be obligated to make a payment or payments to the Contractor that is otherwise due if, and for so long as, any one or more of the conditions set forth in this paragraph exists:
- (i) Contractor's Application for Payment is not in the form or supported by the documentation required by this Agreement.
 - (ii) Any part of such payment is attributable to Work which is defective or not strictly conforming to the requirements of the Contract Documents.
 - (iii) Contractor has failed to make payments promptly to its subcontractors, consultants, employees, or others performing services in connection with the Project.
 - (iv) Reasonable evidence exists of damage or loss to Owner or to a third-party to whom Owner is or may be liable unless such liability has been accepted by Contractor's insurer.
 - (v) Reasonable evidence exists that the Work cannot be completed within the Contract Time and that the unpaid balance would be inadequate to cover actual damages or, if applicable, liquidated damages, for the anticipated delay.
 - (vi) Reasonable evidence exists that the Work cannot be completed for the unpaid balance of the Contract Sum.

- (vii) Contractor is in default of any material obligations under the Contract Documents, after written notice by the Owner of such default to Contractor, and the Contractor has been given a reasonable opportunity to cure such default.

In the event that any of the foregoing conditions exist, the Owner shall be entitled to withhold from any sum then due or thereafter to become due, including from retained sums, an amount sufficient in the reasonable judgment of the Owner to satisfy, discharge and defend against such claims and to make good any losses, prospective losses, costs, attorney's fees, and other expenses which may result from the existence of such conditions. All other amounts due to the Contractor shall be paid as and when due.

- J. **Retainage.** The owner shall withhold ten percent of each progress payment due to the Contractor. Upon completion of fifty percent (50%) of the Work, retainage will be reduced to five percent until Substantial Completion of the Work. Owner may retain any such additional sums following Substantial Completion as Architect recommends is required to complete the Work. All amounts retained by Owner shall be retained until Final Completion of the Work and Contractor has signed its General Release and Final Waiver of Lien; provided, however, that Owner may, at its option, reduce or release retention for those subcontractors mutually agreed to by Owner and Contractor who have completed their portion of the Work provided that (i) such work has been approved by Architect or Engineer; (ii) each such subcontractor has signed a General Release and Final Lien Waiver; (iii) the Work is progressing satisfactorily in accordance with the Construction Progress Schedule; and (iv) such reduction or release does not, in Owner's opinion, increase Owner's financial risk on the Project. As a condition of the release of any retention to a subcontractor before the completion of the project, the subcontractor shall agree that the period of duration of any warranties made by it will not commence until the completion of all the Work.
- K. **"Final Completion"** shall be defined as such time as Contractor obtains a final Certificate of Completion from Architect or Engineer, and the Contractor submits to the Owner and Owner approves: (a) Release and Final Lien Waivers from Contractor and all subcontractors and material suppliers, in form and substance satisfactory to Owner; (b) Contractor's affidavit that all payrolls, bills for materials and equipment, and other indebtedness incurred by, through or under Contractor in connection with the Work (excluding Work pursuant to warranties and guaranties), have been paid or otherwise satisfied or, if not so paid or satisfied, that amounts satisfactory to Owner, in Owner's sole discretion, have been withheld to protect itself from any claims resulting therefrom, including, but not limited to, attorney's fees; (c) all Contractor's as built drawings, records and related data have been delivered to Owner; (d) all guarantees and warranties to which Owner is entitled hereunder have been submitted; (e) all other customary permits, approvals, certificates and authorizations required by any authority having jurisdiction over the Project have been issued; and (f) all other documentation reasonably required by Owner has been supplied.
- L. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.
- M. Disputes regarding whether the Owner has failed to make payments in accordance with the Contract Documents may be submitted to the process of alternative dispute resolution set herein.

CHANGES IN THE WORK

- A. No one other than the Owner shall have the right to require or instruct the Contractor to make any changes, deletions, or addition to the Work that will result in a Change Order (as that term is defined in the General Conditions) or will result in a change to the Contract Sum. Any such changes, deletions, or additions authorized by Owner must be in writing and signed by a duly authorized representative of Owner which change order shall first be approved by a resolution of the governing body of Owner.
- B. The provisions of the Contract Documents shall not be changed, amended, waived, or otherwise modified in any respect except by an executed Change Order. No person is authorized on behalf of the Owner to orally change, amend, waive, or otherwise modify the terms of the Contract Documents or any of the Contractor's duties or obligations under or arising out of the Contract Documents. Any change, waiver, approval, or consent granted to the Contractor shall be limited to the specific matters stated in writing signed by the Owner, and shall not relieve the Contractor of any other duties and obligations under the Contract Documents. No "constructive" changes will be allowed.
- C. A Change Order is a written instrument signed by the Owner and the Contractor stating their agreement upon all of the following: (i) the change in the Work; (ii) the amount of the adjustment, if any, of the Contract Sum, and (iii) the extent of the adjustment, if any, of the Contract Time. A change in the Contract Sum or the Contract Time shall only be accomplished only by Change Order. No course of conduct or dealing between the parties, nor express or implied acceptance or alterations or additions to the Work, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.
- D. Owner, without invalidating this Agreement, may at any time direct changes in the Work, consisting of additions, deletions or other revisions. All such required changes in the Work shall only be memorialized in a written Change Order signed by

Contractor and by Owner, and executed in the manner set forth in the following sections. Contractor hereby waives any claim to additional compensation or an extension of time for additional Work performed without a corresponding fully executed Change Order.

- E. With respect to any change in the Work proposed by Owner, the Contractor agrees to exercise its best efforts to furnish to Owner within ten (10) calendar days of Owner's request, a signed Change Order Proposal, in a form satisfactory to Owner, setting forth in detail, with suitable breakdowns by trades and work classifications, and using the unit price and/or other costing method specified by Owner, Contractor's estimate of: (1) the cost or savings of the Change Order, which costs shall be at the best price obtainable for, and shall reflect the most economical manner of affecting, such change; and (2) the changes in the Project Schedule (including required interim or milestone dates, the Substantial Completion Date and/or Final Completion Date) which would result from implementation of Contractor's Change Order proposal. If Owner approves Contractor's Change Order proposal, Contractor shall issue a written change order to be signed by a duly authorized representative of Owner, which change order shall first be approved by a resolution of the governing body of the Owner, and the dates of Substantial Completion and Final Completion, the Contract Sum, and the Contract Documents, as the case may be, shall be adjusted, if required, in accordance with the terms of such Change Order. All other terms and conditions of this Construction Agreement shall remain in full force and effect.
- F. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, without limitation, all direct and indirect costs and consequential damages associated with such change and any and all adjustments to the Contract Sum and the construction schedule.
- G. The owner reserves the right to award separate contracts for the performance of any work not included in the Work described in the Contract Documents.

ADDITIONAL OBLIGATIONS OF CONTRACTOR

- A. The Contractor shall comply with the County College Contracts Law, N.J.S.A. 18A:64A-25.1 et seq., and all applicable New Jersey State Statutes, Administrative Regulations, and Proclamations, including the payment of any prevailing wage rates required by law.
- B. The Contractor acknowledges that the Work will be performed in and around an active college campus and that it must cooperate fully with the Owner and Architect or Engineer with respect to any and all directives required to ensure the safety of students, staff, and the public.
- C. The Contractor shall confine operations at the site to areas permitted by the Owner and Architect or Engineer and applicable ordinances and permits and shall not unreasonably encumber the site with its equipment and materials.
- D. The Contractor shall require all personnel, including subcontractors, working on the site to carry a photo ID identifying which entity the employee works for, and said ID shall be visible at all times the employee is on the site or College grounds.
- E. The Contractor shall keep the site and surrounding areas free from the accumulation of waste material and rubbish caused by its operations under this Contract. At the end of each working day, the Contractor is responsible for leaving the site in clean and good condition. At the completion of the Work, the Contractor shall remove from and about the Project any (including but not limited to solid waste, recycling, or any hazardous materials) waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials.
- F. Smoking, drinking of alcoholic beverages, and use of illegal drugs on or near the site are strictly prohibited.

CONTRACTOR' S WARRANTIES, GUARANTY, AND OBLIGATIONS TO REPAIR FAULTY WORK

- A. Unless a longer period of time is designated in the Contract Documents or required by existing law or judicial determination, the Contractor hereby guarantees all Work performed under the Contract Documents against defects due to faulty or defective materials or workmanship, or failure of the Work to conform to the Contract Documents, as shall appear within a period of one year from the date of Final Completion of the Project. The Contractor shall require a similar warranty in all subcontracts, including the requirement that the Owner is reimbursed for any damage or loss to the Work resulting from such defects. Contractor agrees to repair or remove or replace as directed by Owner all Work which is defective or which fails to conform to the Contract Documents; to repair, remove and replace as directed by Owner all damaged portions of the Work resulting from or which is incidental to defects in the Work as stated above, or failure of the Work to conform to the Contract Documents. All repairs, removals, and replacements must be commenced after written notice from Owner as soon as reasonably practicable having due regard to the circumstances and the nature of the defect and workmen and materials sufficient in the opinion of Owner, in Owner's sole discretion, must be furnished to ensure prompt completion thereof. Should Contractor fail to proceed in accordance with the provisions of this section, Owner without further notice to Contractor may furnish all labor and material necessary for said repairs, or removals and replacements. The Contractor agrees that the repair, replacement, or removal of such faulty or defective material or workmanship shall be at no cost to

Owner and further that Owner shall be reimbursed for any damage or loss to the Work resulting from such defects sustained by Owner.

- B. The Contractor shall deliver to the Owner all warranties and guarantees, together with appropriate assignments, as provided in the Contract Documents, at the time and in the manner that may be prescribed therein. Notwithstanding anything to the contrary in the General Conditions, the warranties and guarantees of the Contractor and all subcontractors and suppliers under this section shall extend to all materials purchased by the Contractor pursuant to the provisions thereof and shall be for the benefit of the Owner.
- C. The Contractor shall make repairs promptly upon notification by the Owner. If the Contractor fails to make the necessary repairs within three days after due notice from the Architect or Engineer, the College may make the needed repairs and the cost of same will be deducted from the Contract Balance, provided, however, that in case of an emergency wherein the opinion of the Architect or Engineer serious loss or damage may occur, College may make repairs without previous notice and at the expense of the Contractor.
- D. The Contractor shall promptly correct or remove from the premises all work, materials or equipment determined by the Architect or Engineer as failing to conform to the Contract Documents, whether such work or materials or equipment have been incorporated into the Project or not, and whether observed before or after Substantial Completion. The Contractor shall commence replacement and re-execution of the Work in conformance with the Contract Documents within three days of written notice. The Contractor shall bear the full expense of the replacement and re-execution of the Work, as well as making good all Work of whatever kind destroyed or damaged by such removal or replacement.
- E. Investigations, Tests, Reports: During construction or period of guarantees, if the Owner, Architect, or Engineer finds what appears to be defective work or improper functioning of any material, equipment, or systems installed, the Contractor will be liable for all reasonable inspection fees incurred by Architect or Engineer to inspect the work or material, equipment, or systems in question and install similar work and apparatus in conformity with requirements of the Contract, and to make tests and to file complete reports as directed to establish such conformity.

SAFETY

- A. In accordance with generally accepted construction practices, the Contractor shall be solely and completely responsible for conditions at the job site, including the safety of all persons and property affected directly or indirectly by the Contractor's operations during the performance of the work. This requirement shall apply continuously 24 hours per day until acceptance of the work by the Owner. The owner's responsibility to observe the Contractor's performance is not intended to include a review of the adequacy of the Contractor's safety measures in, on, or near the job site.
- B. The Contractor shall conform to and comply with all laws and regulations concerning occupational safety including the Occupational Safety & Health Act of 1970 and standards promulgated thereunder. The Contractor shall conform to regulations concerning Material Safety Data Sheets, labeling of hazardous materials, and training of employees.
- C. Hazardous Substances. "Hazardous Substance" means any and all chemicals, constituents, contaminants, pollutants, materials (including but not limited to petroleum or petroleum products), and wastes and any other carcinogenic, corrosive, ignitable, radioactive, reactive, toxic or otherwise hazardous substances, mixtures (whether solids, liquids, gases), daughter or degradation products or any similar substances now or at any time subject to regulation, control, remediation or otherwise addressed under all applicable environmental laws, codes, and regulations that are in effect or considered to be hazardous or otherwise harmful to human health or the environment under such environmental laws, codes, and regulations.
 - 1. Preventative Measures; Notice Requirements. The Contractor will take all measures necessary to prevent the release of any Hazardous Substances at the Project or adjacent areas in violation of applicable legal requirements. The Contractor will immediately notify the Owner of (a) any releases of Hazardous Substances that occur in connection with the performance of the Work; (b) any and all material violations and any and all investigations, actions, claims, suits, notices of violation, fines, penalties, orders, and other proceedings related to material violations or alleged material violations of any environmental laws, codes, regulations, including but not limited to Permits issued thereunder, which are asserted against Contractor or any of Contractor's Personnel in connection with the Work or their activities on or in connection with the Project; (c) and Contractor's discovery of any Hazardous Substances at the Project or adjacent areas.
 - 2. Contractor Releases; Removal Obligations. The Contractor will be responsible for removing from the Project and areas adjacent thereto, and for properly disposing of, in a manner acceptable to the Owner and in compliance with this Agreement, applicable legal requirements and all applicable Permits, all Hazardous Substances generated, released, or accumulated by Contractor or any Subcontractor in the course of performing the Work.
 - 3. Pre-Existing Hazardous Substances. In the event Contractor encounters on the Project material reasonably believed to be a Hazardous Substance that existed prior to the date of this Agreement, the Contractor will immediately cease performance of any Work in the area affected and report the condition to Owner in writing. The Contractor will not

thereafter resume the performance of the Work in the affected area except with the prior written permission of the Owner.

LIMITATIONS ON LIABILITY

- A. The Contractor agrees that there is no Contractual limitation upon its contractual liability to the Owner. Owner shall have no liability to Contractor for consequential damages, punitive damages, special damages, speculative damages, unforeseeable damages, lost profits, unabsorbed overhead, and delay damages.

LIMITATION OF ARCHITECT'S OR ENGINEER'S RESPONSIBILITY

- A. Neither the Architect nor Engineer's authority to act under this Contract, nor any decision made by the Architect or Engineer in good faith either to exercise or not exercise authority shall give rise to any duty or responsibility of the Architect or Engineer to the Contractor, any subcontractor, manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the work under the Contract.
- B. The Architect or Engineer will not be responsible for the Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto. The Architect or Engineer will not be responsible for the Contractor's failure to perform the Work in accordance with the Contract.
- C. The Architect or Engineer will not be responsible for the acts or omissions of the Contractor or any of its subcontractors, or the agents or employees of the Contractor or its subcontractors, or any other persons at the site or otherwise performing any of the work under the Contract.

NOTICE TO CONTRACTORS

The Essex County College requires as a condition precedent to acceptance of proposals, a sworn statement executed by, or on behalf of, the person, firm association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either 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 such contract. The form for this sworn statement is included in the proposal and shall be properly executed in order to have the proposal considered. Failure to execute the Equal Employment Opportunities, Non-Collusion Statement, Statement of Ownership Disclosure, Affirmative Action, Business Registration Certificate, and other specified prerequisites will automatically disqualify the proposal.