

EAST WINDSOR MUNICIPAL UTILITIES AUTHORITY

COUNTY OF MERCER

STATE OF NEW JERSEY

RESOLUTION NO. 2014-37

WHEREAS, there exists a need for the services of an engineering consultant on an as-needed basis in the event of needed back-up or conflict, for projects involving the East Windsor Municipal Utilities Authority (“Authority”); and

WHEREAS, the Township of East Windsor also requires the services of an engineering consultant on an as-needed basis in the event of needed back-up or conflict; and

WHEREAS, the Township solicited and received three proposals to provide said engineering consulting services for the Township; and

WHEREAS, the Authority wishes to retain the same engineering consultant on an as-needed basis in the event of needed back-up or conflict; and

WHEREAS, the provisions of the New Jersey Local Public Contracts Law, *N.J.S.A.* 40A:11-5(1)(a)(i) permits the award of a contract for “professional services” without competitive bidding and the contract itself must be available for public inspection.

NOW THEREFORE, BE IT RESOLVED by the East Windsor Municipal Utilities Authority as follows:

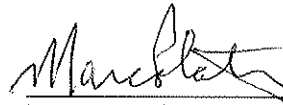
1. The Chairperson and Secretary of the East Windsor Municipal Utilities Authority is hereby authorized and directed to execute an agreement with ACT Engineers, 1 Washington Boulevard, Suite 3, Robbinsville, New Jersey, 08691 to serve as engineering consultants to the Authority on an as-needed basis in the event of needed back-up or conflict. The agreement authorized by this resolution is on file in the office of the Authority Secretary and may be inspected during regular office hours.

2. This contract is being awarded without competitive bidding as a “professional services” contract in accordance with the provisions of the New Jersey Local Public Contracts Law, *N.J.S.A. 40A:11-5(1)(a)(i)* for services to be performed by a person authorized by law to practice a recognized profession that is by law regulated.

3. A notice of this action shall be published in a newspaper of general circulation within the Township of East Windsor within 10 days of its passage as required by law.

CERTIFICATION

I, Marc A. Platizky, do hereby certify that foregoing is a true copy of a resolution adopted by the East Windsor Municipal Utilities Authority at a meeting held on the 14<sup>th</sup> day of October, 2014.



\_\_\_\_\_  
Marc A. Platizky, Secretary

## PROFESSIONAL SERVICES AGREEMENT

**THIS AGREEMENT**, entered into on this 14<sup>th</sup> day of October 2014, by and between the **EAST WINDSOR MUNICIPAL UTILITIES AUTHORITY**, a public body corporate and politic of the State of New Jersey, 7 Wiltshire Drive, East Windsor, New Jersey 08520 (hereinafter referred to as "**AUTHORITY**") and **ACT ENGINEERS**, 1 Washington Boulevard, Suite 3, Robbinsville, New Jersey, 08691 (hereinafter referred to as "**ACT**").

### **WITNESSETH:**

WHEREAS, there exists a need for professional engineering services by the **AUTHORITY** on an as-needed basis in the event of needed back-up or conflict; and

WHEREAS, the **AUTHORITY** has adopted a resolution authorizing the award of a contract for professional services to **ACT** without competitive bidding pursuant to the provisions of the New Jersey Local Public Contracts Law, *N.J.S.A. 40A:11-1 et sec.*

NOW, THEREFORE, IT IS AGREED by and between the **AUTHORITY** and the **ACT**, as follows:

1. The **AUTHORITY** hereby appoints **ACT** to serve as consulting engineers on as-needed basis and as its conflict engineer.
2. The **AUTHORITY** agrees to compensate **ACT** for its professional services in accordance with the schedule of hourly rates and charges attached hereto as Exhibit "A" and made a part hereof.
3. The appointment of **ACT** as a consulting engineer for the **AUTHORITY** shall be for a term commencing October 1, 2014 and ending June 30, 2015.
4. The work to be performer by **ACT** shall be coordinated through the office of the **AUTHORITY's** Executive Director or his designee.

5. The parties hereby incorporate by reference into this agreement the mandatory affirmative action standards set forth on Exhibit "B", attached.

6. ACT agrees to comply with the requirements of *N.J.S.A. 52:32-44* and file with the **AUTHORITY's** finance officer its New Jersey Business Registration Certificate as required by Exhibit "C", attached.

7. ACT agrees to comply with the requirements of the New Jersey "Local Unit Pay-to-Play Law" and the East Windsor Township Pay-to-Play Law with regard to political contributions.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals, the day and date first written above.

**WITNESS:**

  
\_\_\_\_\_  
Marc Platizky, Secretary

**EAST WINDSOR MUNICIPAL  
UTILITIES AUTHORITY**

By:   
\_\_\_\_\_  
Linda L. Moore, Chairperson

**ATTEST:**

\_\_\_\_\_

**ACT Engineers**

By: \_\_\_\_\_  
Robert Korkuch, PE, Vice President



1 Washington Boulevard, Suite 3  
Robbinsville, New Jersey 08691  
Telephone No. (609) 918-0200  
[www.actengineers.com](http://www.actengineers.com)

**SCHEDULE OF HOURLY RATES AND CHARGES FOR PROFESSIONAL SERVICES**

**TOWNSHIP OF EAST WINDSOR**

**2014**

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
• Principal	\$155
• Managing Professional	\$145
• Senior Project Professional	\$140
• Project Professional – P.E., L.S., P.P., and L.A.	\$130
• Sr. Staff Technical Representative	\$120
• Surveyor	\$ 100
• Staff Technical Representative	\$ 95
• CADD Designer	\$ 90
• Senior Construction Inspector	\$ 95
• Construction Inspector	\$ 85
• Technician	\$ 70
• Administrative Support	\$ 60
 <u>OTHER</u>	
• Survey Crew	\$160

Compensation for expenses and other charges shall be as follows:

Mileage	Current State Rate
Bulk Reproduction	At cost
Sub-contracted Services	At cost

## **EXHIBIT B**

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

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

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

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

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

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

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

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

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

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

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

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

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

## Exhibit "C"

### BUSINESS REGISTRATION AND SALES AND USE TAX REQUIREMENTS

P.L. 2004, c.57 (N.J.S.A. 52:32-44) imposes the following requirements on all bidders and subcontractors that **knowingly** provide goods or perform services for the successful bidder in fulfilling this contract:

- A. At the time of bidding, the bidder must provide a copy of its business registration certificate issued by the Department of the Treasury or such other form or verification that the bidder is registered with the Department of the Treasury, along with copies of the bidder's listed subcontractors' business registration certificates issued by the Department of the Treasury or such other forms or verifications that the listed subcontractors are registered with the Department of the Treasury.
- B. The successful bidder shall not enter into any contract with a subcontractor under this contract unless the subcontractor first provides proof of valid business registration to the successful bidder. Also, if the successful bidder subcontracts any of the work:
  1. The successful bidder shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the successful bidder. Subcontractors through all tiers of the project must provide written notice to their subcontractors to submit proof of business registration, and subcontractors shall collect such proofs of business registration.
  2. The successful bidder shall forward copies of proof of the subcontractors' business registrations to the contracting agency.
  3. The successful bidder shall maintain and submit to the contracting agency a list of subcontractors and their addresses that may be updated from time to time during the course of the contract performance.
  4. Before final payment is made by the contracting agency under this contract, the successful bidder shall submit to the contracting agency a complete and an accurate list of subcontractors, along with their proof of business registration (if not previously provided), used in the fulfillment of the contract. If no subcontractors were used, the successful bidder shall attest to same prior to final payment.
- C. A contractor or subcontractor who fails to provide proof of business registration or provides false information of business registration 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.
- D. For the term of this contract, the successful bidder and each of its 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," P.L. 1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.
- E. In the event the successful bidder subcontracts any of its work, said bidder shall include within its subcontracts the requirement that, for the term of this contract, the subcontractor and each of its 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," P.L. 1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

Information on the law and its requirements is available by calling (609) 292-9292.