

# REQUEST FOR PROPOSAL

## ENGINEERING CONSULTING SERVICES

### FOR A HYDROLOGIC AND HYDRAULIC STUDY OF FOOTE'S POND

#### ISSUE DATE

Wednesday, March 15, 2017

#### SUBMISSION DEADLINE

Tuesday, April 11, 2017

4:30 p.m.

**Issued By:**

**TOWN OF MORRISTOWN**

Engineering Division

File 16-026

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**TOWN OF MORRISTOWN  
COUNTY OF MORRIS  
STATE OF NEW JERSEY**

**NOTICE OF REQUEST FOR PROPOSALS**

**ENGINEERING CONSULTING SERVICES  
For a Hydrologic and Hydraulic Study of Foote's Pond**

Sealed proposals will be received by the Business Administrator of the Town of Morristown, in the Town Offices located at 200 South Street, 4<sup>th</sup> Floor, Morristown, New Jersey 07963-0914, on or before April 11, 2017, 4:30 p.m. for the following:

**Engineering Consulting Services for a Hydrologic and Hydraulic Study of Foote's Pond**

Successful applicants will be required to comply with the requirements of N.J.S.A. 10:5-31, et seq. (N.J.A.C. 17-27) (Equal Employment Opportunity) and N.J.S.A. 52:32-44, et seq. (New Jersey Business Registration) N.J.S.A. 19:44A-20.5 (Business Entity Disclosure) and Local Pay to Play Ordinance O-2-87.

The right is reserved to reject any or all proposals if it is deemed to be in the best interest of the Town of Morristown to do so.

All those interested in submitting proposals should review the request for proposals and submit all documentation requested. The requisite Disclosure Forms are attached hereto.

## **GENERAL INFORMATION AND SUMMARY**

### **Organization Requesting Proposal**

Town of Morristown  
Engineering Division  
200 South Street  
Morristown, NJ 07960

### **Contact Person**

Anthony M. DeVizio, P.E., P.L.S.  
Town Engineer  
Town of Morristown  
200 South Street  
Morristown, NJ 07963  
[a-devizio@townofmorristown.org](mailto:a-devizio@townofmorristown.org)  
(973) 292-4894

### **PURPOSE OF REQUEST**

The Town of Morristown (the “Town”) is seeking Proposals from qualified individuals and firms (“Proposers”) for Engineering Consulting Services to complete a hydrologic and hydraulic study of Foote’s Pond to evaluate existing conditions and several options for addressing the meadowing which has been occurring in and around the Pond. Proposals will be evaluated in accordance with the criteria set forth in this Request. The Town intends to select, at the Town Engineer’s discretion, a Proposal which best suites the needs of the Town.

### **PERIOD OF CONTRACT**

N/A

### **SCHEDULE**

One (1) unbound original, five (5) bound copies and an electronic version (pdf) of the Proposal, complete with all required information and completed forms, shall be submitted and received by the Business Administrator on or prior to the Submission Deadline. Guarantee of timely receipt of a Proposal by the Business Administrator is the sole responsibility of the Proposer. No exceptions will be made for cases of improper or late delivery of a Proposal by any person or service. Proposals will not be accepted by facsimile or email.

**The Submission Deadline for this Proposal is TUESDAY, APRIL 11, 2017 at 4:30pm (C.O.B.)**

**Questions will be received until the close of business (4:30 p.m.) 7 days before the deadline.** It is the sole responsibility of the Proposer to pose any questions to the Town in a timely fashion and with adequate time to provide the desired information. Questions posed near the Submission Deadline may not leave sufficient time be answered prior to the Submission Deadline.

Questions should be addressed to Contact Person listed above.

Following the Submission Deadline, the Town intends to evaluate Proposals and make recommendation for award by the Town Council within 30 days following the Proposal Deadline. This intended schedule shall be non-binding, however, and **all Proposals received shall remain valid for a minimum of one (1) year.**

## **PROPOSAL SCOPE AND REQUIREMENTS**

### **Project Background and Statement of Intent**

It is the intent of the Town via this RFP to hire a qualified individual or firm to complete a hydrologic and hydraulic study of Foote's Pond to evaluate existing conditions and several options for addressing the meadowing which has been occurring in and around the Pond. Options shall be evaluated on a cost vs. benefit (impact) basis giving consideration to the factors of ecological impact, hydraulic and hydrologic impact with respect to downstream and upstream flooding, recreational impact (use of the park), financial burden, and any other factors that the Proposer deems appropriate and that would be typical to a study of this type. **More particularly, the purpose of the study is to provide the following deliverables:**

- Baseline hydrologic and hydraulic models for the Pond and the section of the Great Brook downstream AND upstream of the Pond as appropriate;
- Determination of how the Pond currently affects the surrounding area and the watershed downstream and upstream of Foote's Pond. Include empirical data in tabular and graphic form;
- Hydrologic and hydraulic models for the Pond and the section of the Great Brook downstream of the Pond as appropriate for each of the options for approaching Foote's Pond which were outlined in the Morristown Environmental Commission's report; and
- Completion of a detailed report of the costs, feasibility, and benefit/impacts of implementing each of the options for approaching Foote's Pond outlined in the Scope of Services. Upstream conditions shall be modeled and analyzed if/as appropriate.

Foote's Pond is an approximately 2.5 acre palustrine open water habitat along the Great Brook. It sits within the northeast corner of the mostly wooded Foote's Park, Block 8901 / Lot 2 situate between James Street and Overlook Road in Morristown, NJ. The Property is bounded by the Thomas Jefferson Elementary School to the north, the Loyola Jesuit Center to the South, James Street and residences to the east, and the Temple B'nai Or and Overlook Road beyond to the west. It has a drainage area of approximately 295 acres

The pond was used for the purposes of ice production dating back to the mid to early 1800s. The property was deeded to the Town in 1939 and used for skating and passive recreation since that time. A substantial rehabilitation project for the pond and property was initiated in 1998, and a detailed analysis and design process was completed by Schoor-DePalma from 2003 to 2004 for NJDEP permitting, construction of nature trails, construction of the dock, reconstruction or removal of the dam, and dredging of one acre of the pond. The General Permits were authorized by the NJDEP in a letter dated February 10, 2005 and were valid for a period of five years. Detailed bid documents for the dredging project were developed in January 2008. Although most of the renovation work was completed, the dredging project did not move forward prior to the end of the permit period for reasons unknown, one of which may have been the lack of funding.

Princeton Hydro, LLC was retained by Morristown in 2010 to assess the physical and chemical properties of the sediment in the pond. Princeton Hydro developed the "Foote Pond Sediment Testing Report," dated April 2010. The Princeton Hydro Report indicated the presence of 30"-48" of sediments consisting of black silts, clays, and high organic contents. Polyaromatic hydrocarbons (PAH's) were deemed the primary contaminant of concern in the sediments and are the driving factor in the cost of disposal for the sediments. The Administration later retained a third party consultant, PK Environmental, to provide a review of the meadowing process as it related to Foote's Pond. The meadowing process, formally known as eutrophication, is described in PK Environmental's report entitled, "Habitat Suitability Analyses," dated October 14, 2016.

The Great Brook now introduces more NPS pollutants into the Pond from the developed upstream drainage areas, via extensive stormwater runoff from many sources including street systems, residential landscaping, golf course

maintenance, and commercially developed properties. NPS pollutants are the primary cause of accelerated eutrophication with negative impacts related to surface water quality and water supply, and the natural functioning of plant, animal, and aquatic wildlife.

The Administration further hired a third party consultant, Suburban Consulting Engineers, to provide a review and recommendation related to the Pond's current value as a stormwater attenuation measure and the effect of meadowing on the Pond's capacity as such. Suburban Consulting Engineers provided a report entitled, "Foote's Pond Watershed Analysis," dated October 10, 2016, commenting on some loss of storage volume above the mean water level due to silting and vegetative growth. Suburban further commented that "To abide by the conditions of these (dam and environmental) permits, the design storage volume is required to be maintained or calculations need to be provided proving that attenuation by the pond is not required within this watershed to maintain the stability and integrity of the downstream channel." A detailed hydrologic and hydraulic study was recommended, in addition to the following potential approaches to addressing the matter:

1. Return the pond to original design conditions by dredging (\$1,000,000);
2. Convert the pond to a dry detention basin and provide ongoing future maintenance (\$350,000);
3. Decommissioning of the dam with no further stormwater attenuation features (\$160,000); and,
4. Decommissioning of the dam with further stormwater attenuation features (\$235,000).

A preliminary study detailing the above was completed by the Morristown Environmental Commission and presented in the report entitled, "Environmental Review of Foote's Pond," dated October 25, 2016. The study concurred that a hydrologic/hydraulic study was required to develop a baseline for the Pond and areas downstream, and evaluate several options for approaching the meadowing, which has been occurring in and around the Pond.

### Scope of Services

The scope of services set forth in this Request for Proposals represents an outline of the services which the Town anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the Town to compare Proposals. The professional work and deliverables shall be in conformance with all Federal, State, County, and Local requirements, and general engineering principles and standards of practice. Any and all services typical to a study of this nature and/or necessary to provide the appropriate deliverables to satisfy the Statement of Intent herein shall be included as a part of each Proposal. The precise scope of services to be incorporated into the Professional Services Agreement shall be negotiated between the Town and the successful Proposer. All deliverables will be subject to review and approval by the Town and its agents.

The Scope of Services is as follows:

1. The Proposer shall review all pertinent info provided by the Town related to Foote's Pond, including but not limited to:
  - a. Dredging plan and accompanying data for the pond and dam by Schoor-DePalma, 2003-2004
  - b. Existing survey and wetlands delineation
  - c. Foote Pond Sediment Testing Report, by Princeton Hydro, April 2010
  - d. Habitat Suitability Analyses, by PK Environmental dated October 14, 2016
  - e. Foote's Pond Watershed Analysis, by Suburban Consulting Engineers, dated October 10, 2016
  - f. Environmental Review of Foote's Pond, by the Morristown Environmental Commission, dated October 25, 2016
  - g. FEMA FIRM data as published
2. The Proposer shall complete detailed data collection and topographic surveying around Foote's Pond which will include the following:
  - a. Field survey of the Foote's Pond basin, spillway, and necessary adjacent areas of sufficient detail to supplement the existing survey and other information available from the Town and other

- outside sources;
  - b. Field survey of the Great Brook Stream corridor between Foote’s Pond and an appropriate point downstream, and any upstream areas necessary; and,
  - c. Collection of existing data applicable to the areas in a. and b. above, as well as data on the water levels in each of the water bodies and their effect during rain events.
3. The Proposer shall determine the flood storage area and volume of Foote’s Pond and the 100-year flood elevation based on hydrologic and hydraulic analyses for the watershed and any existing data available;
  4. The Proposer shall perform detailed modeling of the Great Brook, downstream and upstream of Foote’s Pond as appropriate, in order to create a base model for the area. The base model shall be used to further model and evaluate options for addressing Foote’s Pond.
  5. Following the completion of the base model for the stream corridor, the Proposer shall model and evaluate the four (4) options proposed in the ” Foote’s Pond Watershed Analysis,” by Suburban Consulting Engineers dated October 10, 2016 as listed in the Proposal and Scope Requirements herein, and up to 2 additional options deemed viable by the Proposer, if any, to determine the effects each will have on the pond, and upstream and downstream corridors.
  6. The Proposer shall prepare and electronically submit weekly status update reports.
  7. The Proposer shall attend and be prepared to present progress and findings at up to 3 council meetings and 3 staff meetings as deemed necessary by the Town, and shall attend weekly conference calls to review status updates.
  8. The Proposer shall coordinate with municipal staff to obtain relevant technical details and information required to complete the study.
  9. The Proposer shall prepare a final engineering report with recommendations following completion of their study. The report shall include a detailed review of the costs, feasibility, benefits and/or impacts of implementing each of the options provided in order to help the Town Council determine how to proceed. There shall be a separate report prepared for each option which includes the stormwater modeling in graphic and tabular form, a preliminary estimate of costs and scheduling, a detail of additional engineering study, design, and permitting required, and any other info pertinent to the preliminary scoping, scheduling, and budgeting of that option’s implementation.

NOTE: All documents generated and received under this contract shall be provided to the Town of Morristown in digital (PDF, image, WORD, EXCEL, DWG, etc. as appropriate) format for a complete in-house file. Official documents with signatures and/or seals including plans, specifications, estimates, reports, approvals, etc. shall also be provided in paper form with original raised seal for the Town file. The fees provided by the Proposer shall include all costs associated with the provision of the above documents as stated, including 15 physical sets to supply the Mayor, Administrator and Council, The Environmental Commission, and the Engineering Division.

**PROPOSAL FORM OUTLINE**

The Proposal shall be structured as follows:

**Not-to-Exceed Proposed Costs of Services**

- |   |          |
|---|----------|
| 1. Review of Town-supplied Data         | \$ _____ |
| 2. Survey, Data Collection, and Mapping | \$ _____ |
| 3. Baseline Modeling and Analysis       | \$ _____ |
| 4. Modeling and Analysis of Options     | \$ _____ |
| 5. Meetings and Coordination            | \$ _____ |
| 6. Final Report and Recommendations     | \$ _____ |

**Total Proposal Fee:** \$ \_\_\_\_\_

**Standard Requirements of Technical Proposal**

Each Proposer shall meet the following requirements:

- A. The Proposer must be an established concern in civil engineering, hydraulics and hydrology with a minimum of five (5) years of experience in the specific tasks called out herein. Each professional in responsible charge shall have a minimum of 10 years of experience in his/her profession in areas of concentration applicable to the tasks defined herein.
- B. Neither the firm nor any individuals assigned to this engagement may be disbarred, suspended, or otherwise prohibited from professional practice by any federal, state, or local agency.
- C. Proposer must have the ability to perform the required services in a timely manner including familiarity with the design environment as requested by the Town.
- D. Proposer shall comply with the General Terms and Conditions required by the Town and enter into the Town's standard Professional Services Contract

Each Proposer shall submit One (1) unbound original, five (5) bound copies and an electronic version (pdf) of a Proposal which contains the following:

- A. A Statement of Interest
- B. The name of the Proposer or (firm or individual), name and contact information for a key contact, the names of the professionals in responsible charge of the work which must include a New Jersey Professional Engineer and Professional Land Surveyor, the principal place of business of the Proposer and, if different, the place where the services will be provided. Joint ventures or subcontracts for one or more of the required professionals shall be appropriately noted and the name of each Design Firm or Individual provided as applicable;
- C. The education, qualifications, experience, and training of all persons in responsible charge and all persons to be assigned to the Project along with their names and titles shall be supplied. The Proposer shall also submit a full company profile in addition to the preceding.
- D. A listing of all other engagements where services of the types being proposed were provided in the past five (5) years. This should include other municipal governments and other levels of government. Contact information for at least five (5) of the listed prior engagement must be provided. The Town may check references from any of the engagements listed.
- E. A not-to-exceed fee proposal for each service to be provided, together with a statement of the hourly rates for all personnel, a fee schedule for other expenses not included in the scope of work including excess printing, postage, etc., and an anticipated lump sum cost of these fees anticipated for the project.
- F. Documentation of insurance for professional liability coverage. Limits will be examined for suitability and the Town reserves the right to request modifications as necessary.
- G. A copy of a proposed form of Contract
- H. Required forms attached herein:
  - Business Entity Disclosure Form (Appendix A)
  - Political Contribution Disclosure Form (Appendix B)
  - Stockholder Disclosure Certification (Appendix C)
  - Americans with Disabilities Act of 1990 Acknowledgement Form (Appendix D)

**Proposal Evaluation**

The Town’s objective in soliciting this RFP is to enable it to select a firm or organization that will provide high quality and cost effective services to the citizens of Morristown.

The Town will select the most advantageous proposal(s) based on all of the evaluation factors set forth at the end of this Request for Proposal. The Town will make the award(s) that is in the best interest of the town.

Each proposal must satisfy the objectives and requirements detailed in this Request for Proposal. The successful proposer shall be determined by an evaluation of the total content of the proposal submitted. The Town reserves the right to:

- A. Reject all proposals for any reason.
- B. Select only portions of a particular proposal for further consideration; (However, proposers may specify portions of the proposal that they consider “bundled”.)
- C. Award a contract or contracts for the requested services at any time within one calendar year after review of the proposals and approval of same by the Town. Every proposal shall remain valid through this time period.

The Town shall not be obligated to explain the results of the evaluation process to any proposer.

**BASIS of AWARD**

Proposals will be independently evaluated for recommendation of award as follows:

<i><b>Factor</b></i>	<i><b>Weight Given</b></i>
1. <i>Responsiveness:</i>	
The Town will consider the materials submitted by the Proposer to determine compliance with the RFP and to assess the quality and depth of the proposed services and deliverables	40%
2. <i>Price:</i>	30%
3. <i>Responsibility &amp; Experience:</i>	30%
The Town will consider the materials submitted and other Evidence it may obtain via reference checks and other means to determine Proposer’s ability and history of successfully completing contracts of this type, meeting projected deadlines and experience in similar work.	
<b>Total Criteria Weight:</b>	<b>100%</b>

## **TERMS AND CONDITIONS**

### **Payment Terms**

The not-to-exceed amounts for the various tasks of the Proposal shall be paid on a percentage basis for the portions of each task actually completed and billed for at the time of payment processing, which shall occur monthly.

Other expenses as detailed in Paragraph E of the Standard Requirements of Technical Proposal shall be billed as actually incurred with receipts available at the request of the Town.

For any tasks billable by Proposer's Rate Schedule that are approved in excess of an accepted Proposal, travel time and expenses shall be billed as actually incurred, to a ceiling being the lesser of 30 miles or 30 minutes one-way.

### **Proposal Limitations**

This Request for Proposal is not intended to be an offer, order or contract and shall not be regarded as such, nor shall any obligation or liability be imposed on the Town by issuance of this Request for Proposals. The Town reserves the right to refuse any proposal submitted.

### **Termination of Contract**

The Town reserves the right to terminate the Contract at any time for any reason including, but not limited to failure to perform on the part of the Proposer, lack of funding or support for the project, etc.

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

### **Use and Ownership of Material**

Any specifications, drawings, sketches, models, samples, data, computer programs, documentation, technical or business information and the like ("Information") furnished or disclosed by the Town to the Proposer in connection with this Request for Proposal shall remain the property of the Town. When in tangible form, all copies of such information shall be returned to the Town upon request or upon expiration or termination of the Contract. Unless such information was previously known to the Proposer, free of any obligation to keep it confidential, or has been or is subsequently made public by the Town or a third party, it shall be held in confidence by the Proposer, shall be used only for the purposes of this Request for Proposal, and may not be used for other purposes except upon such terms and conditions as may be mutually agreed upon in writing.

Ownership of all data, materials and documentation originated and prepared for the Town pursuant to the contract shall belong exclusively to the Town. All data, report, computerized information, programs and materials related to this project shall be delivered to and become the property of the Town upon completion of the project. The selected Proposer shall not have the right to use, sell, or disclose the total of the interim or final work products, or make available to third parties, without the prior written consent of the Town. All information supplied to the Town may be required to be supplied on media compatible with the Town's computer operating system.

## **GENERAL TERMS AND CONDITIONS**

- A. The Town reserves the right to reject any or all Proposals, if necessary, or to waive any informalities in the Proposals, and, unless otherwise specified by the Proposer, to accept any item, items or services in the Proposals should it be deemed in the best interest of the Town to do so.

- B. The Town reserves the right to request clarification of information submitted and to request additional information and pricing from any Proposer
- C. In case of non-responsiveness or failure to perform by the successful Proposer, the Town may procure services from other sources.
- D. Any Proposal may be withdrawn up until the submitted date and time.
- E. The Proposer shall maintain sufficient insurance to protect against all claims under Errors and Omissions, Worker's Compensation, General, Professional and Automobile Liability.
- F. Each proposal must be signed by the person authorized to do so.
- G. Proposers are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27.
- H. Should any difference arise between the parties as to the meaning or intent of these instructions or specifications, the Town's decision shall be final and conclusive
- I. By submission of the Proposal, the Proposer certifies that the service to be furnished will not infringe upon any valid patent, trademark or copyright and the successful Proposer shall, at his/her expense, defend any and all actions or suits charging such infringement, and will save the Town harmless in any case of any such infringement.
- J. No Proposer shall influence, or attempt to influence, or cause to be influenced, any town officer or employee to use his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- K. No Proposer shall cause or influence, or attempt to cause or influence, any town employee to use his/her official capacity to secure unwarranted privileges or advantages for the Proposer or any other person.
- L. The Town shall not be responsible for any expenditure of monies or other expenses incurred by the Proposer in making its Proposal.
- M. All forms and checklists contained herein are a part of this Request for Proposals and shall be completed and submitted as part of this Proposal.

END OF TERMS AND CONDITIONS

## **PROPOSAL CHECKLIST**

**This checklist must be completed and submitted with your proposal.**

Please initial each below, indicating that your proposal includes the itemized document.

A Proposal submitted without the follow document is cause for refusal.

### INITIAL BELOW

- A. One (1) original, five (5) signed copies & electronic file of the complete Proposal \_\_\_\_\_
- B. Business Entity Disclosure Form (Appendix A) \_\_\_\_\_
- C. Political Contribution Disclosure Form (Appendix B) \_\_\_\_\_
- D. Stockholder Disclosure Certification (Appendix C) \_\_\_\_\_
- E. Americans with Disabilities Act of 1990 Acknowledgement Form (Appendix D) \_\_\_\_\_
- F. This Proposal Checklist, Completed \_\_\_\_\_

### **THE UNDERSIGNED HEREBY ACKNOWLEDGES THE ABOVE LISTED REQUIREMENTS**

Name of Proposer: \_\_\_\_\_

Person, Firm or Corporation: \_\_\_\_\_

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

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

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

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

**APPENDIX A**

**BUSINESS ENTITY DISCLOSURE CERTIFICATION  
PURSUANT TO CHAPTER 2, SECTION 2-87, PUBLIC CONTRACTING REFORM  
ORDINANCE, OF THE CODE OF TOWN OF MORRISTOWN, NEW JERSEY  
T O W N O F M O R R I S T O W N**

**Part I – Vendor Affirmation**

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify that \_\_\_\_\_ has not made and will not make any contributions pursuant to Chapter 2, Section 2-87, Public Contracting Reform Ordinance, of the Code of the Town of Morristown, that would bar the award of this contract in the one year period preceding \_\_\_\_\_ (date of award scheduled for approval of the contract by the governing body) to any of the following named candidate committee, joint candidates committee; or political party committee representing the elected officials of the Town of Morristown as defined pursuant to N.J.S.A. 19:44A-3(p), (q) and (r).

Mayor Timothy Dougherty	Councilperson Michael Elms
Councilperson Toshiba Foster	Councilperson Robert Iannaccone
Councilperson Stefan Armington	Councilperson Michelle Dupree Harris
Councilperson Hiliari Davis	Councilperson Allison Deeb
Morristown Democratic Organization	Morristown Republican Organization
Morris County Party Committee	Any other Committee referred to in the Ordinance

**Part II – Ownership Disclosure Certification**

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

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

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

Name of Stock or Shareholder	Home Address

**Part 3 – Signature and Attestation:**

The undersigned is fully aware that if I have misrepresented in whole or part this affirmation and certification, I and/or the business entity, will be liable for any penalty permitted under law. Name of Business Entity:

Signed: \_\_\_\_\_ Title: \_\_\_\_\_  
 Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Subscribed and sworn before me this ____ day of _____, 20____.	_____
	(Affiant)
My Commission expires:	_____
	(Print name & title of affiant) (Corporate Seal)

**BUSINESS ENTITY DISCLOSURE CERTIFICATION (Continued)**  
FOR NON-FAIR AND OPEN CONTRACTS Required Pursuant To N.J.S.A. 19:44A-20.8  
TOWN OF MORRISTOWN

The following is statutory text related to the terms and citations used in the Business Entity Disclosure Certification form.

**“Local Unit Pay-To-Play Law” (P.L. 2004, c.19, as amended by P.L. 2005, c.51)**

**19:44A-20.6 Certain contributions deemed as contributions by business entity.**

5. When a 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. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

**19:44A-20.7 Definitions relative to certain campaign contributions.**

6. As used in sections 2 through 12 of this act:

“business entity” means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

“interest” means the 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, as appropriate;

**Temporary and Executing**

12. Nothing contained in this act shall be construed as affecting the eligibility of any business entity to perform a public contract because that entity made a contribution to any committee during the one-year period immediately preceding the effective date of this act.

~~~~~

**The New Jersey Campaign Contributions and Expenditures Reporting Act (N.J.S.A. 19:44A-1 et seq.)**

**19:44A-3 Definitions.** In pertinent part...

p. The term "political party committee" means the State committee of a political party, as organized pursuant to R.S.19:5-4, any county committee of a political party, as organized pursuant to R.S.19:5-3, or any municipal committee of a political party, as organized pursuant to R.S.19:5-2.

q. The term "candidate committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) for the purpose of receiving contributions and making expenditures.

r. the term "joint candidates committee" means a committee established pursuant to subsection a. of section 9 of P.L.1973, c.83 (C.19:44A-9) by at least two candidates for the same elective public offices in the same election in a legislative district, county, municipality or school district, but not more candidates than the total number of the same elective public offices to be filled in that election, for the purpose of receiving contributions and making expenditures. For the purpose of this subsection: ...; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same elective public offices in a county; and the offices of mayor and member of the municipal governing body shall be deemed to be the same elective public offices in a municipality.

**19:44A-8 and 16 Contributions, expenditures, reports, requirements.**

*While the provisions of this section are too extensive to reprint here, the following is deemed to be the pertinent part affecting amounts of contributions:*

“The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2)

**APPENDIX B**  
**C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM**

**Public Agency Instructions**

This page provides guidance to public agencies entering into contracts with business entities that are required to file Political Contribution Disclosure forms with the agency. **It is not intended to be provided to contractors.** What follows are instructions on the use of form local units can provide to contractors that are required to disclose political contributions pursuant to N.J.S.A.

19:44A-20.26 (P.L. 2005, c. 271, s.2). Additional information on the process is available in Local Finance Notice 2006-1 ([www.nj.gov/dca/lgs/lfn/lfnmenu.shtml](http://www.nj.gov/dca/lgs/lfn/lfnmenu.shtml)).

1. The disclosure is required for all contracts in excess of \$17,500 that are **not awarded** pursuant to a “fair and open” process (N.J.S.A. 19:44A-20.7).
2. Due to the potential length of some contractor submissions, the public agency should consider allowing data to be submitted in electronic form (i.e., spreadsheet, pdf file, etc.). Submissions must be kept with the contract documents or in an appropriate computer file and be available for public access. **The form is worded to accept this alternate submission.** The text should be amended if electronic submission will not be allowed.
3. The submission must be **received from the contractor and** on file at least 10 days prior to award of the contract. Resolutions of award should reflect that the disclosure has been received and is on file.
4. The contractor must disclose contributions made to candidate and party committees covering a wide range of public agencies, including all public agencies that have elected officials in the county of the public agency, state legislative positions, and various state entities. The Division of Local Government Services recommends that contractors be provided a list of the affected agencies. This will assist contractors in determining the campaign and political committees of the officials and candidates affected by the disclosure.
  - a. The Division has prepared model disclosure forms for each county. They can be downloaded from the “County PCD Forms” link on the Pay-to-Play web site at [www.nj.gov/dca/lgs/p2p](http://www.nj.gov/dca/lgs/p2p). They will be updated from time-to-time as necessary.
  - b. A public agency using these forms **should edit them to properly reflect the correct legislative district(s).** As the forms are county-based, **they list all legislative districts** in each county. **Districts that do not represent the public agency should be removed from the lists.**
  - c. Some contractors may find it easier to provide a single list that covers all contributions, regardless of the county. These submissions are appropriate and should be accepted.
  - d. The form may be used “as-is”, subject to edits as described herein.
  - e. The “Contractor Instructions” sheet is intended to be provided with the form. It is recommended that the Instructions and the form be printed on the same piece of paper. The form notes that the Instructions are printed on the back of the form; where that is not the case, the text should be edited accordingly.
  - f. The form is a Word document and can be edited to meet local needs, and posted for download on web sites, used as an e-mail attachment, or provided as a printed document.
5. It is recommended that the contractor also complete a “Stockholder Disclosure Certification.” This will assist the local unit in its obligation to ensure that contractor did not make any prohibited contributions to the committees listed on the Business Entity Disclosure Certification in the 12 months prior to the contract. (See Local Finance Notice 2006-7 for additional information on this obligation) A sample Certification form is part of this package and the instruction to complete it is included in the Contractor Instructions. **NOTE: This section is not applicable to Boards of Education.**

*C. 271 POLITICAL CONTRIBUTION  
DISCLOSURE FORM  
(CONTINUED)*

## 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 filing 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 official 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.**

\* 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





**List of Agencies with Elected Officials Required for Political Contribution Disclosure**  
**N.J.S.A. 19:44A-20.26**

**County Name:**

State: Governor, and Legislative Leadership Committees

Legislative District #s:

State Senator and two members of the General Assembly per district.

County:

Freeholders

{County Executive}

County Clerk

Surrogate

Sheriff

Municipalities (Mayor and members of governing body, regardless of title):

|                                |                                      |
|--------------------------------|--------------------------------------|
| Mayor Timothy Dougherty        | Councilperson Michael Elms           |
| Councilperson Toshiba Foster   | Councilperson Robert Iannaccone      |
| Councilperson Stefan Armington | Councilperson Michelle Dupree Harris |
| Councilperson Hiliari Davis    | Councilperson Allison Deeb           |

**USERS SHOULD CREATE THEIR OWN FORM, OR DOWNLOAD  
FROM [WWW.NJ.GOV/DCA/LGS/P2P](http://WWW.NJ.GOV/DCA/LGS/P2P)**

**A COUNTY-BASED, CUSTOMIZABLE FORM.**

**APPENDIX C**  
**STOCKHOLDER DISCLOSURE CERTIFICATION**

**Name of Business:**

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

**OR**

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

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

- |                                                   |                                                        |                                                        |
|---------------------------------------------------|--------------------------------------------------------|--------------------------------------------------------|
| <input type="checkbox"/> Partnership              | <input type="checkbox"/> Corporation                   | <input type="checkbox"/> Sole Proprietorship           |
| <input type="checkbox"/> Limited Partnership      | <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Limited Liability Partnership |
| <input type="checkbox"/> Subchapter S Corporation |                                                        |                                                        |

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

Stockholders:

|                                                               |                    |
|---------------------------------------------------------------|--------------------|
| Name:                                                         | Name:              |
| Home Address:                                                 | Home Address:      |
| Name:                                                         | Name:              |
| Home Address:                                                 | Home Address:      |
| Name:                                                         | Name:              |
| Home Address:                                                 | Home Address:      |
| Subscribed and sworn before me this ____ day of _____, 2____. |                    |
|                                                               | _____<br>(Affiant) |
| (Notary Public)                                               | _____              |

**APPENDIX D**

**AMERICANS WITH DISABILITIES ACT OF 1990  
ACKNOWLEDGEMENT FORM**

This form is an agreement of the successful Vendor's obligation to comply with the requirements of 42 U.S.C. §121.01 et seq., referred to as the Americans Disability Act of 1990.

The undersigned Vendor hereby acknowledges receipt of the Americans with Disabilities Act of 1990 found at Appendix B of this packet.

The undersigned Vendor hereby certifies that he/she is aware of the commitment to comply with the requirements of 42 U.S.C. §121.01 et seq. and agrees to furnish any required forms as evidence of compliance.

The undersigned Vendor further certifies that he/she understands that his/her proposal shall be rejected as non-responsive and any contract entered into shall be void and of no effect if said Vendor fails to comply with the requirements of 42 U.S.C. §121.01 et seq.

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

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

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