



Atlantic City Convention and Visitor's Authority

Sealed Bid

Request to Provide

ELECTRIC GENERATION SERVICE SUPPLY

MARCH 31, 2010

Project #ACCVA 01-10

Issued By:

Atlantic City Convention Center & Boardwalk Hall, SMG, the authorized agent for Atlantic City
Convention and Visitors Authority (ACCVA)

AND

LPB ENERGY MANAGEMENT



ADVERTISEMENT

Request for Bids

Notice is hereby given that the operator of the Atlantic City Convention Center & Boardwalk Hall, SMG, the authorized agent for Atlantic City Convention and Visitors Authority (ACCVA) is seeking bids from qualified Respondents for the Purchase of Electricity Generation Supply Service.

On behalf of SMG & ACCVA, LPB Energy Management will be handling the bidding process. All comments and questions concerning the Request for Bids and the corresponding procedures and requirements must be done electronically via an Online Bidding platform beginning March 31, 2010 (EDT). All questions must be received no later than April 7, 2010 by 3 P.M.(EDT). To receive a login and password to the online platform, please send an email to Cullen.Hay@lpbenergy.com.

An online copy of submission of the bid documents is due electronically by April 16, 2010 by 1P.M. (EDT). Please reference the following building contact:

Atlantic City Convention Center
One Convention Boulevard
Atlantic City, NJ 08401
Att: Director of Facilities

All responses if not submitted by the time(s), date(s), and at the place designated in the bid will not be considered for an award. SMG reserves the right to reject proposals for any and all abnormalities to the bid process.

Proposal respondents are required to comply with the affirmative action requirements of P.L. 1975, c. 127. (NJAC 17:27)

Tentative Procurement Calendar

EVENT	DATE	TIME
Posting of Announcement	3/31/2010	
Posting of RFB on www.Lpbenergyonline.com	3/31/2010	
Deadline for Written Questions	4/7/2010	3:00 PM (EDT)
Posting of Answers to Written Questions	4/8/2010	5:00 PM (EDT)
Response Due Date and Time	4/16/2010	1:00 PM (EDT)
Completion of Evaluations (estimated)	Same Day	
Notification of Award (estimated)	Same Day	
Contract Start Date (estimated)	On or After May 1, 2010 meter read	

All notifications, releases, amendments to this RFB will be posted on LPB's FlexRFP Online Platform System (<http://www.lpbenergyonline.com>)

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Request for Bids

1.0 Information for Bidders

1.01 Intent

The Atlantic City Convention and Visitor's Authority and SMG as Authorized Agent for said Authority (ACCVA) intends to award a contract(s) for Purchase of Electricity Generation Supply Service (**Contract # ACCVA 01-10**).

The bidding process for this solicitation will be in five stages. A prospective Bidder must complete each stage after Stage 1 in a timely manner in order to be eligible to proceed to the next stage. The stages are:

1.02 Overview of the Bidding Process

Stage1: Bidder's Electronic Questions and Answers

ACCVA will accept questions and inquiries from all potential Bidders electronically via an Online Bidding Platform beginning on March 31, 2010 and concluding on April 7, 2010 at 3:00 p.m (EDT). To receive a login and password to the online platform, please send an email to Cullen.Hay@lpbenergy.com. ACCVA is utilizing FlexRFP (Online Bidding Platform) and its tools to administer this RFB and the receipt of questions, attachments and pricing. This process will supersede the traditional pricing process by providing an efficient online platform for: reviewing specific components of the RFB, submitting questions which will be responded to within 24 hours and the answers will be submitted to all potential bidders, and indicative and executable pricing rounds.

Questions should be directly tied to the RFB and asked in consecutive order, from beginning to end, following the organization of the RFB. Each question should begin by referencing the RFB page number and section number to which it relates.

Bidders are not to contact ACCVA directly, in person, by telephone or by email, concerning this RFB.

The cut-off date for electronic questions and inquiries relating to this RFB is indicated on the cover sheet. Addenda to this RFB, if any, will be posted on the Online Bid Platform website and may be posted before and after the cut-off date.

Stage 2 – Bid Pricing Due Date and Submission of Information and Qualification Documents

Bid Pricing Proposals should be submitted via the Online Bidding Platform. Please refer to instructions per section 3.0. In the event that a contract is not awarded for all of the electric



accounts included in the procurement as a result of the proposals received, the ACCVA may request refreshed price bids on a subsequent date(s). Qualified bidders will be notified of such additional bid date(s) when and if determined.

The conditions and requirements of these specifications are intended to be open and nonrestrictive for the purpose of: obtaining adequate participation of interested suppliers; uniformity in the submission of proposals; and, selection of the pricing offer(s) most favorable to the ACCVA.

Prospective Bidders must log onto the online platform, go to the Project Central tab, and attach all information and qualifications required to answer this RFB. Any Bidder who does not attach the necessary documentation required by ACCVA by the Bid Due date and time, will be deemed as unresponsive and will not be considered further for Contract award.

1.03 Description

The ACCVA currently has electric generation service supply contracts for third party supply for its three (3) BGS-Commercial and Industrial Price ("BGS-CIEP") accounts at various locations in New Jersey. Service for individual accounts under the current contracts expires on the first meter read date occurring on or after May 1, 2010.

The purpose of this Request for Bids (RFB) is to solicit bids from BPU-licensed electric power suppliers for supply of electricity to these hourly spot market-based Commercial and Industrial Energy Price (CIEP) accounts (listed in Attachment 1) commencing on these meter read dates and continuing for an initial term of either 12 or 24 months. For these accounts, the ACCVA is soliciting price proposals for either a 12 month or 24 month service term for the product structure defined in Appendix A.

The contract start date will be on or about May 13, 2010 which is the earliest of the scheduled expiration dates for the current supply contracts, with service to individual accounts commencing on the first meter read date occurring on or after that date. The contract end date will be on or about May 29, 2011, or May 29, 2012 (the last meter read date occurring in May, depending on whether a 12 month or 24-month term is selected by the ACCVA), with service to individual accounts ending on the 12 or 24 successive meter read date after the start date (depending on whether a 12-month or 24-month term is selected by the ACCVA). Licensed suppliers have the option of bidding on either the 12 or 24 month term or on both terms for Product Structure identified in Appendix A. Accounts are aggregated by utility tariff class; bidders may submit a bid proposal on any or all terms, and bids will be accepted and contracts awarded on that basis. The ACCVA reserves the right to award a contract for none or all of the utility tariff classes and accounts.

The ACCVA facilities in which electric supply service (BGS) is being sought are situated at two distinct locations to include The Atlantic City Convention Center and The Boardwalk Hall located in Atlantic City Electric's Service Territory. There are 3 TGS Tariff accounts totaling approximately 10.4 million kWh annually. A list of the specific accounts and service addresses

is provided in Attachment 1. A summary of the usage breakdown by utility tariff class is provided in Attachment 2.

Accounts associated with these facilities may be amended from time to time during the contract term. The ACCVA will use its best efforts to provide reasonable notice during the term of the contract of any changed operational circumstances that are known to the ACCVA and will have a material impact on usage at the individual facilities. The detailed individual historic load profiles by account (meter) for each ACCVA facility, including interval usage history and capacity and transmission obligations, are set forth in the online bidding platform Attachment 4 labeled Electrical Usage History, which is being provided to prospective bidders as an attachment in the Online Bidding Platform.

The ACCVA will select the product(s) and terms that are, in its judgment, most beneficial to the ACCVA. Awards for the product and term selected will be based on price, and there will be an initial qualification process prior to the acceptance of bid prices as specified in section 2.0 of the RFP. It is the intent of ACCVA to award all account classifications. Bids should be submitted accordingly.

By responding to this RFB, the bidder agrees that it will enter into a contract with ACCVA for all the accounts within the applicable tariff class(s) if it is selected as the successful bidder. In addition, the bidder agrees that, by submitting a bid in response to this RFB, the bidder has satisfied itself from its own investigation of the requirements to be met, that it will not make any claim for, or have a right to cancellation or other relief, without penalty of the contract, because of misunderstanding or lack of information.

Notwithstanding, the data contained in Attachment 4, the successful bidder(s) shall be required to provide sufficient electrical supply service to meet all the needs of ACCVA facilities accounts during the term of the contract and its obligation shall in no way be defined or limited by the quantities set forth in the Attachment 4, and ACCVA shall not be liable for any penalties for variance from the historical usage levels. As stated above, however, ACCVA will use its best efforts to provide reasonable notice during the term of the contract of any changed operational circumstances that are known to the ACCVA and will have a material impact on usage at individual facilities.

New Jersey rules provide for two billing options; 1) the customer may elect to receive two bills, one from the EDC and another from an Electric Generation Supplier, or 2) a single, consolidated bill for both electric supply and delivery. The ACCVA elects the dual-bill option. The successful bidder(s) must provide the ACCVA with a separate bill for electric supply service only.

The awarded contractor will be accountable and responsible for providing, managing, and controlling all aspects of the awarded services. ACCVA shall purchase its full, actual metered requirements for the awarded accounts from the successful bidder; however, ACCVA shall have no obligation to purchase any minimum amount of electricity from the bidder for any specific account.

ACCVA reserves the right to award, or to reject all bids, whichever shall be in its best interest. It is the ACCVA's intent that the contract will be awarded promptly by written notice by 3 PM

(EDT) on the same day of receipt of proposals. Bidder's prices shall be held firm until 3 PM (EDT) of the day of price submittal. If no notice of award is provided by ACCVA by 3 PM (EDT), bidder(s) will be permitted to refresh prices in accordance with the timetable(s) and procedure(s) subsequently issued by ACCVA.

This specification, together with the notice to bidders, information for bidders, proposal and all instructions and forms contained therein, including the form of contract, consulting fee agreement, as well as any addenda issued by the ACCVA in response to questions or concerns raised by bidders in accordance with this RFB, shall be deemed a part of, and incorporated by reference into, the agreement(s) between ACCVA and the successful bidder(s).

Neither this specification nor the contract itself is subject to negotiation once proposals are opened.

1.04 Key Events - Overview of the Staged Bidding Process

The bidding process for this solicitation is comprised of five stages. A prospective bidder must complete each stage in a timely manner in order to be eligible to proceed to the next stage.

Stage 1 – Bidder's Electronic Questions Due

Stage 2 – Bid Pricing Due Date and Submission of Information and Qualification Documents

1.04.1 Stage 1 – Bidders Electronic Question & Answer Period

ACCVA will accept questions and inquiries from all potential Bidders electronically via web form. To submit a question, please go to the web address provided in the acceptance of response email received from LPB Energy Management. Use the login and password supplied and you may submit questions.

Questions should be directly tied to the RFB and asked in consecutive order, from beginning to end, following the organization of the RFB. Each question should begin by referencing the RFB page number and section number to which it relates.

Bidders are not to contact ACCVA directly, in person, by telephone or by email, concerning this RFB.

1.04.2 Stage 2 – Bid Pricing Due Data and Submittal of Information and Qualification Documents

At the ACCVA's discretion, Stage 2 bids may be repeated in multiple rounds of submissions (referred to herein as a bid refreshment) until contracts are awarded for either a 12 or 24 month term. To the extent that multiple rounds of bid refreshment are conducted, the ACCVA will notify

qualified and approved bidders of the deadlines for submission of such Stage 2 refreshed bids.

A bid refreshment will consist of submittal of refreshed bid prices only, in accordance with the designated deadline(s) and procedure(s). The bid specifications will remain the same, and it will not be necessary for bidders to resubmit qualification documents. After each round of Stage 2 bidding, the ACCVA will notify all qualified bidders of any adjustments for future rounds of bidding.

Bidders' prices must be held firm until at least 4 **PM (EDT)** of the date of any Stage 2 Bid Proposal submission. It is expected that the ACCVA will determine a winning supplier, if any, and provide notification to the bidders, before the close of business on the same day that Stage 2 bid prices are submitted. Winning bidder(s) shall be held to their bid price so long as the ACCVA provides a Notice of Intent to Award Contract to the winning bidder(s) by 4 **PM (EDT)** of the date of any Stage 2 Bid Proposal submission. The Notice of Intent to Award Contract shall be a binding commitment by the ACCVA and Bidder at the bid price selected and awarded.

Following each round of Stage 2 Bid Proposal submission, the ACCVA will notify all eligible suppliers via e-mail within 48 hours of the status of acceptance/rejection of bids. See Section 4.0 for more information on Bid Evaluation.

The historical account usage data specified in Attachment 4 has been obtained from the respective EDC and is provided for the convenience of the bidders. Though efforts were made to assure that the data is complete and accurate, the ACCVA shall not be responsible for errors or omissions. All bidders are hereby authorized by the ACCVA to seek independent verification from the EDC if they so choose. The account data provided in this RFB is not intended to guarantee purchased quantities, but to set forth the ACCVA facilities' actual consumption history and to provide a reasonable means of estimation for bids.

ACCVA reserves the right to reject any or all bids. ACCVA reserves the right, with notification to bidders by addendum, to alter any or all bid requirements or specifications at its discretion, including changing bid due dates and deadline extensions. ACCVA will not be responsible for bids rejected as a result of missing documentation or misinterpretation of this RFB or any subsequent addenda.

1.04.2.1 – Submission of Qualifications Documents

1. The prospective bidders must attach one (1) original copy of its Information and Bidder's Qualification Documents directly to the FlexRFP platform by the Bid Pricing Due Date. In addition, the prospective bidder must completely and totally respond to all questions listed on the RFI tab, under Supplier questions section.

Qualification Submissions are due on the Bid Pricing Due Date specified on the cover sheet of this RFB. As discussed in this RFB in section's 1.02 & 4.0, and as required per section 2.0, bidders must submit sufficient documentation of their qualifications and responsibility to satisfy ACCVA that they can do the work required.

It is the intent of ACCVA will utilize the form of contract attached hereto as Attachment 6. This contract is referred to herein as the Electric Generation Service Purchase and Sales Agreement

or the Agreement. Suppliers must submit any exceptions to this contract before the deadline for written questions 4/7/2010 at 3pm (EDT). Exceptions that are deemed material by the ACCVA may result in that bid being rejected.

ACCVA reserves the right to consider and utilize any pre-approved supplier's electricity contract in lieu of the contract set forth per Attachment 6.

Any prospective Bidder who fails to timely submit the information and qualifications submission or fails to respond fully to a request for supplemental information, will be considered non-responsive to the bid submission requirements and disqualified from bidding.

1.04.3 BIDDER RESPONSIBILITY

The Bidder assumes sole responsibility for the complete effort required in submitting a Bid Proposal in response to this RFP. No special consideration will be given after Bid Proposals are opened because of a Bidder's failure to be knowledgeable as to all of the requirements of this RFP.

1.04 Bid Security

Unless otherwise notified, the ACCVA will not require bid security.

1.05 Performance Security

Unless otherwise notified, the ACCVA will not require Performance Security for this RFP.

1.06 Cost Liability

ACCVA shall not be responsible for any expenditure of monies or other expenses bidders incur before issuance of a contract, purchase order or agreement, and, thereafter, only as provided by Contract.

1.07 Insurance Requirements

The Supplier must secure and maintain insurance coverage during the term of this contract (unless an exception is provided herein) as follows:

1. Comprehensive, all risk general liability coverage for personal injury and property damage liability of not less than one million dollars (\$1,000,000) combined single limit for each occurrence/ two million dollars (\$2,000,000) aggregate; and
2. All statutory workers compensation and employer liability coverage required to be held by law; and

Within 10 days of the Notice of Intent to Award Contract, the Supplier shall provide the ACCVA with a Certificate of Insurance evidencing that said insurance is and will be in effect during the term of the contract and naming the ACCVA as an Additional Insured.

Each Certificate of Insurance shall contain a statement that the policy applies to all operations of

the project, which are undertaken by the insured during the performance of this contract. In addition, each Certificate of Insurance shall contain the following information or statements:

1. Name and address of insured.
2. A statement that the ACCVA, SMG, The Atlantic County Improvement Authority and the New Jersey Sports and Exposition Authority are additional insured under each policy listed.
3. The number and description of each policy in force on the date of the Certificate.
4. The Expiration Date of each policy shown as well as the amount of coverage for each policy.
5. The name and number of this contract as shown on the cover of this contract
6. A statement showing the method of cancellation. If cancellation may be effected by the giving of notice to the insured and the ACCVA by the insurer, the policy and Certificate must provide that cancellation shall not be effective until ten (10) days after receipt of such notice by the said ACCVA.

During the term of this contract, it shall be the responsibility of the Supplier to provide the ACCVA with additional Certificates of Insurance in compliance with the above showing current coverage when any insurance policy for the above listed coverage expires.

Submission of proof of the required insurance coverage in the form of a Certificate or Certificates of Insurance is a condition precedent to contract award. After receipt of a sufficient submissions required by these proposal specifications, the proposal will be accepted and a signed contract and a purchase order will be forwarded to the successful bidder.

2.0 QUALIFICATIONS OF BIDDERS CHECKLIST

As evidence of the bidder's qualifications, the bidder must submit information that includes at least the following items. Please see Appendices to this RFB for forms referenced below. One (1) copy of these documents must be submitted and attached to the FlexRFP Platform. by the Bid Pricing Due Date.

1. ____ **Appendix 1** - Bidder information, including the bidder's name, address, contact information, headquarters location, local office, telephone and fax numbers, and e-mail address(es).
2. ____ **Appendix 2** - Statement of Ownership, including the names and addresses of all stockholders in the corporation or partners in the partnership who own 10% or more of its stock of any class, or of all individuals' partners in the partnership who own a 10% or greater interest.
3. ____ **Appendix 3** - Moral Integrity;
4. A current New Jersey Board of Public Utilities retail supplier license number (provide as indicated in Appendix 1);
5. ____ Bidder's current environmental disclosure label;
6. ____ **Appendix 4** - Affirmative Action Employee Information Report;

7. _____ **Appendix 5** - Non-Collusion Affidavit;
8. _____ **Appendix 6** - Contractor Certification and Disclosure of Political Contributions
9. _____ A statement indicating that the bidder:
 - Is in compliance with EDC requirements and rules for retail access tariff and program rules, including EDI standards.
 - Is in compliance with all PJM, BPU, FERC and State of New Jersey laws, regulations and standards.
 - Meets the creditworthiness and operational standards of the EDC and the PJM.
 - Has the capability to provide a separate bill to the ACCVA for electric supply, as permitted by the BPU's two-bill option and as required by this RFB.
10. _____ New Jersey Business Registration Certificate

Bidders are advised that failure to provide the above listed information or to meet these established minimum bidder qualifications may result in automatic disqualification of their proposal. (refer section 1.04.2)

3.0 BIDDING RULES AND GUIDELINES

ACCVA will award contracts to the bidder with pricing most favorable to ACCVA for the product and term selected. ACCVA will enter into a contract only for the services that it needs.

ACCVA is soliciting unit price proposals for electric generation supply for one service product and for two different service terms, as described in Appendix A.

The ACCVA will utilize the form of contract attached hereto as Attachment 6. This contract is referred to herein as the Electric Generation Service Purchase and Sales Agreement or the Agreement. Suppliers must submit any exceptions to this contract. Exceptions that are deemed material by the ACCVA will result in that bid being rejected. ACCVA reserves the right to consider and utilize any pre-approved supplier's electricity contract in lieu of the contract set forth per Attachment 6.

All costs to provide Full Requirements Service up to the Delivery Point are to be included in the Bid Prices submitted in the Online Bidding. This includes, but is not limited to, the following: energy supply, capacity, transmission, ancillary services, balancing, fuel losses, supplier margin, consultant fee, New Jersey State sales tax and any other applicable fees and coordination costs. Bid Prices should be stated for Product Requirements Service only and should not include any utility distribution charges and other charges imposed by the Electric Distribution Company.

It should be noted that the historical usage and interval data included in the excel files are

based upon the best information provided to the ACCVA. This information is being furnished for informational purposes only, and may not be the actual metered usage to be used by the ACCVA during the term of the Agreement. In submitting a bid, the bidder acknowledges that it waives any and all of its claims and causes of action against Atlantic City Convention & Visitor's Authority, its members, and/or LPB Energy Management or any of their officers, directors, representatives, members, employees, principals.

3.01 Online Bidding Platform Offering

Bidders are to use the Online Bidding Platform to attach information and qualification documents required. In addition, it will be used for bidders submit their prices in accordance with the procedures described herein. The Online Bidding Platform contain blanks for the Supplier to enter prices, in dollars per kilowatt-hour, or as otherwise indicated, for each product for each tariff class in each service territory for a 12-month and/or 24-month time period commencing with the first meter read data occurring on or after May 1, 2010. Bidders may choose to bid on any or all products, and either the 12-month or 24-month period or may choose to bid on both terms. Bid prices (in \$/kwh) should be entered to 5 decimal places. Additional decimals will be truncated.

Bidders must fully complete and submit prices for those tariff class products for which an offering is being made. Should a Bidder wish not to submit an offer for a particular product and or term he/she should enter "NO BID" in the price entry cells for that product to avoid confusion or ambiguity.

Successful bidders cannot increase prices during the term of the contract.

Bidders may not make exceptions or amendments to the Online Bidding Platform. Bids that include alterations to the ACCVA's Offering requirements will be considered non-responsive and will be ineligible for award.

3.02 Bidding deadlines; expiration of bids

Unless otherwise noted by the bidder, bids shall automatically expire by 4 PM. (EDT) the same day as the bid deadline date (ex. initial bid prices shall be held firm until 4 PM (EDT) on 4/16/2010).

3.03 Questions regarding bidding Process

Bidders may contact LPB Energy Management via the web portal with questions and concerns regarding the bidding process. LPB Energy Management will answer those questions within a reasonable time period and all answers will be viewable by all qualified bidders.

Contact Info for LPB Energy Management

Cullen Hay

Email: cullen.hay@lpbenergy.com

3.04 Revisions to this RFP

If ACCVA deems it necessary to modify this RFB, revisions will be made by addenda and attached to the online platform. An email will be forwarded to all participants advising that an RFB addenda has been created and each Bidder should visit the online platform to retrieve.

3.05 Consultant Fee Agreement

The ACCVA has retained LPB Energy Management to assist in procuring Energy Generation Supply Service. The Supplier must enter into a separate agreement with LPB Energy Management whereby the Supplier will pay LPB Energy Management a fee of \$0.002/kWh of usage by the ACCVA (the "Consultant Fee"). **All Bid Prices must be inclusive of the Consultant Fee payable to LPB Energy Management.** See Attachment 5 to this RFB for the agreement to be entered into between the Supplier and LPB Energy Management.

3.06 Online Bidding & Response

Appendix A contains instruction for Online Bidding and Response for Stage 2.

4.0 Bid Evaluations

4.01 Successful Prequalification

ACCVA will evaluate bidder's information and qualification document submittals as well as review the bid responses and determine, for each of the terms whether any of the bid proposals provide benefits to ACCVA and which bid within the product and term deemed most beneficial represents the low bid. If ACCVA elects to award a contract for a product and term, it will award a contract to the bidder with the lowest bid price for the product and term deemed most beneficial (and where ACCVA has determined that all qualification documentation has been successfully provided). If no contracts for a specific product and term are awarded, then subsequent rounds of bidding (bid refreshment) may be conducted.

Appendix A

DEFINITION AND ONLINE BIDDING INSTRUCTIONS

The Online Bidding and Response for Bid Proposal Date Due will take place on Friday, 4/16/2010 ending at 1:00 PM (EDT).

To participate in the Online Bidding and Response, Suppliers must register and log-in to the online platform using the log in and password provided by LPB Energy Management. Once on the platform, Bidders should answer each question, attach all necessary files, and submit any questions which pertain to the RFB response. The platform is very simple and easy to use, but all questions regarding procedure should be directed to Cullen Hay at 713-979-9085 or by email at Cullen.Hay@lpbenergy.com.

For Online Bidding and Response purposes, each requested Pricing Option is referred to as a "Request for Bid" (RFB). The ACCVA will be requesting Fixed, Full requirements, prices for 12-month and 24-month time periods.

All bid prices must be held until 4:00 p.m. (EDT) on the date of bidding.

Product Offering

The ACCVA is seeking pricing for the Product Definition described below. The Product Definition is to be quoted for a term of 12 months and 24 months (note that the contract duration for each account may vary depending on meter read dates and/or expiration of current contract.) Service for individual accounts under the current contracts expires on the first meter read date occurring on or after May 1, 2010. The contract start date will be on or about May 13, 2010 which is the earliest of the scheduled expiration dates for the current supply contracts, with service to individual accounts commencing on the first meter read date occurring on or after that date. The contract end date will be on or about May 29, 2011, or May 29, 2012 (the last meter read date occurring in May, depending on whether a 12 month or 24-month term is selected by the ACCVA), with service to individual accounts ending on the 12 or 24 successive meter read date after the start date (depending on whether a 12-month or 24-month term is selected by the ACCVA).

The Product Definition shall include the following components: capacity, transmission, congestion, ancillary services, LMP adjustments, balancing, PJM fees, green fees, supplier margin, consultant fee of \$.002/kWh, and NJ State sales tax. Losses are to be included at the EDC defined loss rate for the Fixed 0.75MW ATC Energy Block. Pricing should not include any utility distribution charges. NJ state sales tax will be charged by the Supplier on the bill; the supplier will have the option to include sales tax as a separate line item on the bill. Note that for all options, locational capacity charges must be included in pricing, and will not be accepted by the ACCVA as a pass-through.)

Product Definition

Day Ahead Locational Marginal Pricing Index with Fixed Retail Adder to include a 0.75 MW ATC Energy Block, for AECO Zone Delivery

- The Fixed Retail Adder must include a firm, fixed bundled rate inclusive of the following components:
 1. Capacity
 2. Ancillaries inclusive of Balancing Operating Reserves, PJM and Green Fees
 3. Transmission
- The 0.75MW ATC Energy Block pricing must include Losses at the EDC loss Rate.
- Settled Energy outside of the 0.75MW ATC Block must be at the Day Ahead LPM Index for AECO Zone Delivery.

The Bidder shall include all Applicable fees and Taxes associated with the supply of the actual Participant Electric Generation Service requirements. ACCVA is not exempt from New Jersey State energy taxes. All applicable State fees and taxes shall be included in the bid price and shall be collected and paid by the Contractor to the State including Sales and Use Tax (SUT) as it applies to electric generation and supply. In the event the SUT tax is changed, higher or lower, or eliminated, the Contractor shall pass this through to the Participant's Accounts immediately. All costs must be included within the Price, and no adjustments.

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Appendix 1: Bidder Information

Bidder Name:

Address:

Contact Person:

Headquarters location:

Local Office Address:

Contact telephone number:

Contact fax number:

Contact e-mail:

New Jersey BPU Electric Supplier License No.:

How many years has your company been a retail supplier of electricity in the state of New Jersey?

All prospective contractors shall comply with P.L. 2004, c. 57(Chapter 57) requiring all businesses to submit proof of business registration in the state of New Jersey. A copy of the company's Business Registration Certificate, issued by the Department of the Treasury shall be submitted with their proposal.

"New Jersey Business Registration Requirements"

The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor.

Before final payment on the contract is made by the contracting agency, the contractor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment to the contract, or shall attest that no subcontractors were used.

For the term of the contract, the contractor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of



Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L. 2001, c.134 (C.52: 32-44 et.al.) or subsection e. or f. of section 92 of P.L. 19767, c.110 (C.5: 12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.”

Registration can be completed online at www.nj.gov/treasury/revenue/taxreg.htm. If additional information is needed, contact the Division of Revenue at 609.292.1730.

**STATE OF NEW JERSEY
BUSINESS REGISTRATION CERTIFICATE
FOR STATE AGENCY AND CASINO SERVICE CONTRACTORS**

DEPARTMENT OF TREASURY/
DIVISION OF REVENUE
PO BOX 252
TRENTON, N J 08646-0252

TAXPAYER NAME: ATLANTIC CITY CONVENTION CENTER AUTHORITY	TRADE NAME: ATLANTIC CITY CONVENTION & VISITORS
TAXPAYER IDENTIFICATION#: 000-000-000/000	SEQUENCE NUMBER: 0000000
ADDRESS: 2314 BOARDWALK ATLANTIC CITY NJ 08401	ISSUANCE DATE: 02/19/04
EFFECTIVE DATE: 07/01/66	<i>J.P. & Tully</i> Acting Director

FORM-BRC(08-01) This Certificate is NOT assignable or transferable. It must be conspicuously displayed at above address.

Appendix 2: Statement of Ownership

OWNERSHIP DISCLOSURE FORM					
	NUMBER : OPEN DATE : T- NUMBER : BIDDER :	PAGE			
INSTRUCTIONS: Provide below the names, home addresses, dates of birth, offices held and any ownership interest of all officers of the firm named above. If additional space is necessary, provide on an attached sheet.					
NAME	HOME ADDRESS	DATE OF BIRTH	OFFICE HELD	OWNERSHIP INTEREST (Shares Owned or % of Partnership)	
INSTRUCTIONS: Provide below the names, home addresses, dates of birth, and ownership interest of all individuals not listed above, and any partnerships, corporations and any other owner having a 10% or greater interest in the firm named above. If a listed owner is a corporation or partnership, provide below the same information for the holders of 10% or more interest in that corporation or partnership. If additional space is necessary, provide that information on an attached sheet. If there are no owners with 10% or more interest in your firm, enter "None" below. Complete the certification at the bottom of this form. If this form has previously been submitted to the Purchase Bureau in connection with another bid, indicate changes, if any, where appropriate, and complete the certification below.					
NAME	HOME ADDRESS	DATE OF BIRTH	OFFICE HELD	OWNERSHIP INTEREST (Shares Owned or % of Partnership)	
COMPLETE ALL QUESTIONS BELOW					
				YES	NO
1. Within the past five years has another company or corporation had a 10% or greater interest in the firm identified above? <i>(If yes, complete and attach a separate disclosure form reflecting previous ownership interests.)</i>				_____	_____
2. Has any person or entity listed in this form or its attachments ever been arrested, charged, indicted or convicted in a criminal or disorderly persons matter by the State of New Jersey, any other state or the U.S. Government? <i>(If yes, attach a detailed explanation for each instance.)</i>				_____	_____
3. Has any person or entity listed in this form or its attachments ever been suspended, debarred or otherwise declared ineligible by any agency of government from bidding or contracting to provide services, labor, material or supplies? <i>(If yes, attach a detailed explanation for each instance.)</i>				_____	_____
4. Are there now any criminal matters or debarment proceedings pending in which the firm and/or its officers and/or managers are involved? <i>(If yes, attach a detailed explanation for each instance.)</i>				_____	_____
5. Has any federal, state or local license, permit or other similar authorization, necessary to perform the work applied for herein and held or applied for by any person or entity listed in this form, been suspended or revoked, or been the subject of any pending proceedings specifically seeking or litigating the issue of suspension or revocation? <i>(If yes to any part of this question, attach a detailed explanation for each instance.)</i>				_____	_____
CERTIFICATION: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers or 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 the State of New Jersey and that the State at its option, may declare any contract(s) resulting from this certification void and unenforceable.					
I, being duly authorized, certify that the information supplied above, including all attached pages, is complete and correct to the best of my knowledge. I certify that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.					
COMPANY NAME: _____			_____ (Signature)		
ADDRESS: _____		PRINT OR TYPE {	_____ (Name)		
		{			
		{			



Appendix 3: Moral Integrity

STATE OF NEW)
JERSEY

: SS. :

COUNTY OF)
The

President or Vice President, Owner or Partner of (Company) being first duly sworn, deposes and says:

1. That the (Company) wishes to bid on (Contract) _____ with the Atlantic City Convention & Visitor's Authority on (Date) _____.
2. That (Company) wishes to demonstrate moral integrity to the satisfaction of the Atlantic City Convention & Visitor's Authority.
3. That, as of the date of signing this Affidavit, neither the (Company), nor any of its owners, officers, or directors are involved in any Federal, State, or Governmental investigations concerning criminal or quasi-criminal violations, except as follows: (if none, so state) _____
4. That neither the Company nor any of its owners, officers, directors have ever committed any violation of Federal or State criminal or quasi-criminal statute, except as follows: (If none, so state.) _____
5. That the State of Incorporation of the Company is State _____
6. That the names and dates of birth of the principals, shareholders, and officers of the Company are as follows:
7. That he is personally acquainted with the operations of the Company has full knowledge of the factual basis comprising the contents of this Affidavit, and that the contents are true.
8. That this Affidavit is made to induce the Atlantic City Convention & Visitor's Authority to accept bid on _____(Contract) knowing that the said Atlantic City Convention & Visitor's Authority relies upon the truth of the statements contained herein.

Sworn and subscribed to before me _____ Company
this _____ day of _____ 20

By: _____ Authorized Signature

Notary Public

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Appendix 4: Affirmative Action Employee Information

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. 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 ensure that such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The 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 where applicable agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with the Good faith efforts to meet targeted county employment goals established in accordance with **N.J.A.C. 17:27-5.2**, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to **N.J.A.C. 17:27-5.2**.

**MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. N.J.A.C. 17:27**

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

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 personal 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, 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 Division of Public Contracts Equal Opportunity Compliance as may be requested by the Division 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 Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**



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

GOODS AND SERVICES CONTRACTS (INCLUDING PROFESSIONAL SERVICES)

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

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

(a) A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);

OR

(b) A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;

OR

(c) A photocopy of an Employee Information Report (Form AA302) provided by the Division and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

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

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

The undersigned vendor certifies that he/she is aware of the commitment to comply with the requirements of N.J.S.A. 10:5-31 and N.J.A.C. 17:27 and agrees to furnish the required forms of evidence.

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

COMPANY: _____

SIGNATURE: _____

PRINT NAME: _____

TITLE: _____

DATE: _____

Appendix 6: Contractor Certification and Disclosure of Political Contributions

Background Information On September 22, 2004, then-Governor James E. McGreevey issued Executive Order 134, the purpose of which was to insulate the negotiation and award of State contracts from political contributions that posed a risk of improper influence, purchase of access or the appearance thereof. To this end, Executive Order 134 prohibited State departments, agencies and authorities from entering into contracts exceeding \$17,500 with individuals or entities that made certain political contributions. Executive Order 134 was superseded by Public Law 2005, c. 51, signed into law on March 22, 2005 (“Chapter 51”). On September 24, 2008, Governor Jon S. Corzine issued Executive Order No. 117 (“E.O. 117”), which is designed to enhance New Jersey’s efforts to protect the integrity of procurement decisions and increase the public’s confidence in government. The Executive Order builds upon the provisions of Chapter 51.

Two-Year Certification Process Upon approval by the State, the Certification and Disclosure of Political Contributions form (CH51.1R1/21/2009) is valid for a two (2) year period. Thus, if a vendor receives approval on Jan 1, 2009, the certification expiration date would be Dec 31, 2011. Any change in the vendor’s ownership status and/or political contributions during the two-year period will require the submission of new Chapter 51/EO117 forms to the State Review Unit. **Please note that it is the vendor’s responsibility to file new forms with the State should these changes occur.** Prior to the awarding of a contract, the agency should first send an e-mail to CD134@treas.state.nj.us to verify the certification status of the vendor. If the response is that the vendor is NOT within an approved two-year period, then forms must be obtained from the vendor and forwarded for review. If the response is that the vendor is within an approved two-year period, then the response so stating should be placed with the bid/contract documentation for the subject project.

Instructions for Completing the Forms **NOTE:** *Please refer to the next section, “Useful Definitions for Purposes of Ch. 51 and E.O. 117,” for guidance when completing the forms.*

Part 1: VENDOR INFORMATION

Business Name – Enter the full name of the Vendor, including trade name if applicable. **Business Type** -- Select the vendor’s business organization from the list provided. **Address, City, State, Zip and Phone Number** -- Enter the vendor’s street address, city, state, zip code and telephone number. **Vendor Email** – Enter the vendor’s primary email address. **Vendor FEIN** – Please enter the vendor’s Federal Employment Identification Number.

Part 2: PUBLIC LAW 2005, Chapter 51 / EXECUTIVE ORDER 117 (2008) DUAL CERTIFICATION Read the following statements and verify that from the period beginning on or after October 15, 2004, no contributions as set forth at subsections 1(a)-(c) have been made by either the vendor or any individual whose contributions are attributable to the vendor pursuant to Executive Order 117 (2008). **NOTE:** Contributions made prior to November 15, 2008 are applicable to Chapter 51 only.

Part 3: DISCLOSURE OF CONTRIBUTIONS MADE **Check the box at top of page 2 if no reportable contributions have been made by the vendor.** If the vendor has no contributions to report, this box must be checked. **Name of Recipient Entity** – Enter the full name of the recipient entity. **Address of Recipient Entity** – Enter the recipient entity’s street address. **Date of Contribution** – Indicate the date of the contribution. **Amount of Contribution** – Enter the amount of the reportable contribution. **Type of Contribution** – Select the type of contribution from the list provided. **Contributor Name** – Enter the full name of the contributor. **Relationship of Contributor to the Vendor** -- Indicate relationship of the contributor to the vendor, e.g. officer or partner of the company, spouse of officer or partner, resident child of officer or partner, parent company of the vendor, subsidiary of the vendor, etc. **NOTE:** If form is being completed electronically, click “Add a Contribution” to enter additional contributions. Otherwise, please attach additional pages as necessary.



Part 4: CERTIFICATION Check box A if the person completing the certification and disclosure is doing so on behalf of the vendor and all individuals and/or entities whose contributions are attributable to the vendor. Check box B if the person completing the certification and disclosure is doing so on behalf of the vendor only. Check box C if the person completing the certification and disclosure is doing so on behalf of an individual and/or entity whose contributions are attributable to the vendor. Enter the full name of the person authorized to complete the certification and disclosure, the person's title or position, date and telephone number.

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USEFUL DEFINITIONS FOR THE PURPOSES OF Ch. 51 and E.O. 117

• **“Vendor”** means the contracting entity.

• **“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 New Jersey or any other state or foreign jurisdiction. The definition also includes (i) if a business entity is a for-profit corporation, any officer of the corporation and any other person or business entity that owns or controls 10% or more of the stock of the corporation; (ii) if a business entity is a professional corporation, any shareholder or officer; (iii) if a business entity is a general partnership, limited partnership or limited liability partnership, any partner; (iv) if a business entity is a sole proprietorship, the proprietor; (v) if the business entity is any other form of entity organized under the laws of New Jersey or any other state or foreign jurisdiction, any principal, officer or partner thereof; (vi) any subsidiaries directly or indirectly controlled by the business entity; (vii) any political organization organized under 26 U.S.C.A. § 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (viii) with respect to an individual who is included within the definition of “business entity,” that individual’s spouse or civil union partner and any child residing with that person.¹

¹ Contributions made by a spouse, civil union partner or resident child to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides are permitted.

• **“Officer”** means a president, vice-president with senior management responsibility, secretary, treasurer, chief executive officer, or chief financial officer of a corporation or any person routinely performing such functions for a corporation. Please note that officers of non-profit entities are excluded from this definition.

• **“Partner”** means one of two or more natural persons or other entities, including a corporation, who or which are joint owners of and carry on a business for profit, and which business is organized under the laws of this State or any other state or foreign jurisdiction, as a general partnership, limited partnership, limited liability partnership, limited liability company, limited partnership association, or other such form of business organization.

• **“Reportable Contributions”** are those contributions, including in-kind contributions, in excess of \$300.00 in the aggregate per election made to or received by a candidate committee, joint candidates committee, or political committee; or per calendar year made to or received by a political party committee, legislative leadership committee, or continuing political committee.

• **“In-kind Contribution”** means a contribution of goods or services received by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, which contribution is paid for by a person or entity other than the recipient committee, but does not include services provided without compensation by an individual volunteering a part of or all of his or her time on behalf of a candidate or committee.

• **“Continuing Political Committee”** includes any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$4,300 to aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a

subsequent election, provided that the group, corporation, partnership, association or other organization has been determined by the Commission to be a continuing political committee in accordance with N.J.S.A. 19:44A-8(b).

• **“Candidate Committee”** means a committee established by a candidate pursuant to N.J.S.A. 19:44A-9(a), for the purpose of receiving contributions and making expenditures.

• **“State Political Party Committee”** means a committee organized pursuant to N.J.S.A. 19:5-4.

• **“County Political Party Committee”** means a committee organized pursuant to N.J.S.A. 19:5-3.

• **“Municipal Political Party Committee”** means a committee organized pursuant to N.J.S.A. 19:5-2.

• **“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 N.J.S.A. 19:44A-10.1 for the purpose of receiving contributions and making expenditures.

• **“Political Party Committee”** means:

1. The State committee of a political party, as organized pursuant to N.J.S.A. 19:5-4;
2. Any county committee of a political party, as organized pursuant to N.J.S.A. 19:5-3; or
3. Any municipal committee of a political party, as organized pursuant to N.J.S.A. 19:5-2.

Agency Submission of Forms

The agency should submit the completed and signed Two-Year Vendor Certification and Disclosure forms, together with a completed Ownership Disclosure form, either electronically to cd134@treas.state.nj.us or regular mail at Chapter 51 Review Unit, P.O. Box 039, 33 West State Street, 9th Floor, Trenton, NJ 08625. Original forms should remain with the Agency and copies should be sent to the Chapter 51 Review Unit.

Questions & Answers

Questions regarding the interpretation or application of Public Law 2005, Chapter 51 (N.J.S.A. 19:44A-20.13) or Executive Order 117 (2008) may be submitted electronically through the Division of Purchase and Property website at <http://www.state.nj.us/treasury/purchase/execorder134.htm>. Responses to previous questions are posted on the website, as well as additional reference materials and forms.

<http://www.state.nj.us/treasury/purchase/execorder134.htm#state>. **NOTE:** *The Chapter 51 Q&A on the website DOES NOT address the expanded pay-to-play requirements imposed by Executive Order 117. The Chapter 51 Q&A are only applicable to contributions made prior to November 15, 2008. There is a separate, combined Chapter 51/E.O. 117 Q&A section dealing specifically with issues pertaining to contributions made after November 15, 2008.*



State of New Jersey
Division of Purchase and Property
Two-Year Chapter 51 / Executive Order 117 Vendor Certification and
Disclosure of Political Contributions

For AGENCY USE ONLY

General Information

Solicitation, RFP or Contract No. _____ Award Amount _____

Description of Services _____

Agency Contact Information

Agency _____ Contact Person _____

Phone Number _____ Agency Email _____

Part 1: Vendor Information

Full Legal Business Name _____
 (Including trade name if applicable)

Business Type

- Corporation Limited Partnership Professional Corporation General Partnership
 Limited Liability Company Sole Proprietorship Limited Liability Partnership

Address 1 _____ Address 2 _____

City _____ State _____ Zip _____ Phone _____

Vendor Email _____ Vendor FEIN _____

Part 2: Public Law 2005, Chapter 51/ Executive Order 117 (2008) Certification

I hereby certify as follows:

1. On or after October 15, 2004, neither the below-named entity nor any individual whose contributions are attributable to the entity pursuant to Executive Order 117 (2008) has solicited or made any contribution of money, pledge of contribution, including in-kind contributions, company or organization contributions, as set forth below that would bar the award of a contract to the vendor, pursuant to the terms of Executive Order 117 (2008).
 - a) **Within the preceding 18 months**, the below-named person or organization has not made a contribution to:
 - (i) Any candidate committee and/or election fund of any candidate for or holder of the public office of Governor or **Lieutenant Governor**,
 - (ii) Any State, county, **municipal** political party committee; OR
 - (iii) Any **legislative leadership committee**.
 - b) **During the term of office of the current Governor(s)**, the below-named person or organization has not made a contribution to
 - (i) Any candidate, committee and/or election fund of the Governor or **Lieutenant Governor**, OR
 - (ii) Any State, county or **municipal** political party committee nominating such Governor in the election preceding the commencement of said Governor's term.
 - c) **Within the 18 months immediately prior to the first day of the term of office of the Governor(s)**, the below-named person or organization has not made a contribution to
 - (i) Any candidate, committee and/or election fund of the Governor or **Lieutenant Governor**, OR Any State, county, **municipal** political party committee of the political party nominating the successful gubernatorial candidate(s) in the last gubernatorial election.

PLEASE NOTE: Prior to November 15, 2008, the only disqualifying contributions include those made by the vendor or a principal owning or controlling more than 10 percent of the profits or assets of a business entity (or 10 percent of the stock in the case of a business entity that is a corporation for profit) to any candidate committee and/or election fund of the Governor or to any state or county political party within the preceding 18 months, during the term of office of the current Governor or within the 18 months immediately prior to the first day of the term of Office of Governor.

Part 3: Disclosure of Contributions Made

Check this box if no reportable contributions have been made by the above-named business entity or individual.

Name of Recipient _____	Address of Recipient _____
Date of Contribution _____	Amount of Contribution _____
Type of Contribution (i.e. currency, check, loan, in-kind) _____	
Contributor Name _____	
Relationship of Contributor to the Vendor _____	
Contributor Address _____	
City _____	State _____ Zip _____

If this form is not being completed electronically, please attach pages for additional contributions as necessary. Otherwise click "Add a Contribution" to enter additional contributions.

Part 4: Certification

I have read the instructions accompanying this form prior to completing this certification on behalf of the above-named business entity. I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

I understand that this certification will be in effect for two (2) years from the date of approval, provided the ownership status does not change and/or additional contributions are not made. If there are any changes in the ownership of the entity or additional contributions are made, a new full set of documents are required to be completed and submitted. By submitting this Certification and Disclosure, the person or entity named herein acknowledges this continuing reporting responsibility and certifies that it will adhere to it.

(CHECK ONE BOX A, B or C)

- (A) I am certifying on behalf of the above-named business entity and all individuals and/or entities whose contributions are attributable to the entity pursuant to Executive Order 117 (2008).
- (B) I am certifying on behalf of the above-named business entity only.
- (C) I am certifying on behalf of an individual and/or entity whose contributions are attributable to the vendor.

Signed Name _____ Print Name _____
 Phone Number _____ Date _____
 Title/Position _____

Agency Submission of Forms

The agency should submit the completed and signed Two-Year Vendor Certification and Disclosure forms, together with a completed Ownership Disclosure form, either electronically to cd134@treas.state.nj.us, or regular mail at Chapter 51 Review Unit, P.O. Box 039, 33 West State Street, 9th Floor, Trenton, NJ 08625. The agency should save the forms locally and keep the original forms on file, and submit copies to the Chapter 51 Review Unit.

IMPORTANT NOTICE

NEW “PAY-TO-PLAY” RESTRICTIONS TO TAKE EFFECT NOVEMBER 15, 2008

Governor Jon S. Corzine recently signed Executive Order No. 117, which is designed to enhance New Jersey’s efforts to protect the integrity of government contractual decisions and increase the public’s confidence in government. The Executive Order builds on the provisions of P.L. 2005, c. 51 (“Chapter 51”), which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.

Executive Order No. 117 extends the provisions of Chapter 51 in two ways:

1. The definition of “business entity” is revised and expanded so that contributions by the following individuals also are considered contributions attributable to the business entity:

Officers of corporations and professional services corporations, with the term “officer” being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1), with the exception of officers of non-profit entities;

Partners of general partnerships, limited partnerships, and limited liability partnerships and members of limited liability companies (LLCs), with the term “partner” being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1); and

Spouses, civil union partners, and resident children of officers, partners, LLC members and persons owning or controlling 10% or more of a corporation’s stock are included within the new definition, except for contributions by spouses, civil union partners, or resident children to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides.

2. Reportable contributions (those over \$300.00 in the aggregate) to legislative leadership committees, municipal political party committees, and candidate committees or election funds for Lieutenant Governor are disqualifying contributions in the same manner as reportable contributions to State and county political party committees and candidate committees or election funds for Governor have been disqualifying contributions under Chapter 51.

Executive Order No. 117 applies only to contributions made on or after November 15, 2008, and to contracts executed on or after November 15, 2008.

Updated forms and materials are currently being developed and will be made available on the website as soon as they are available. In the meantime, beginning November 15, 2008, prospective vendors will be required to submit, *in addition to the currently required Chapter 51 and Chapter 271 forms*, the attached Certification of Compliance with Executive Order No. 117.

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Certification on Behalf of A Company, Partnership or Organization and All Individuals Whose Contributions are Attributable to the Entity Pursuant to Executive Order No. 117 (2008)

I hereby certify as follows:

On or after November 15, 2008, neither the below-named entity nor any individual whose contributions are attributable to the entity pursuant to Executive Order No. 117 (2008) has solicited or made any reportable contribution of money or pledge of contribution, including in-kind contributions or company or organization contributions, to the following:

- a) Any candidate committee and/or election fund of the Governor;**
- b) A State political party committee;**
- c) A legislative leadership committee;**
- d) A county political party committee; or**
- e) A municipal political party committee.**

I certify as an officer or authorized representative of the Company or Organization identified below that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Name of Company, Partnership or Organization:

Signed: _____ **Title:** _____

Print Name: _____ **Date:** _____

(circle one) (A) The Company, Partnership or Organization is the vendor;

or

(B) the Company, Partnership or Organization is a Principal (more than 10% ownership or control) of the vendor, a Subsidiary controlled by the vendor, or a Political Organization (e.g., PAC) controlled by the vendor.

**Please note that if the person signing this Certification is not signing on behalf of all individuals whose contributions are attributable to the entity pursuant to Executive Order No. 117 (2008), each of those individuals will be required to submit a separate individual Certification.*



Individual Certification of Compliance with Executive Order No. 117 (2008)

I hereby certify as follows:

On or after November 15, 2008, I have not solicited or made any reportable contribution of money or pledge of contribution, including in-kind contributions or company or organization contributions, to the following:

- a) Any candidate committee and/or election fund of the Governor;**
- b) A State political party committee;**
- c) A legislative leadership committee;**
- d) A county political party committee; or**
- e) A municipal political party committee.**

I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Signed: _____

Print Name: _____ **Date:** _____

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Attachment 1: List of Accounts

EDC	Utility Tariff	Account#	Service Address
Atlantic City Electric	TGS	1172251-9991-0	1900 Bacharach Blvd Atlantic City, NJ 08401
Atlantic City Electric	TGS	1172251-9990-2	1 Atlantic City Expressway Atlantic City, NJ 08401
Atlantic City Electric	TGS	0507629-9999-8	Boardwalk and Mississippi Ave Atlantic City, NJ 08401

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Attachment 2: Summary of Annual Usage

EDC	Utility Tariff	Account#	Historical Annual kWh usage	Capacity Obligation	Transmission Obligation
Atlantic City Electric	TGS	1172251-9991-0	7,229,774	1372.02	277.87
Atlantic City Electric	TGS	1172251-9990-2	2,164,412	280.31	294.71
Atlantic City Electric	TGS	0507629-9999-8	4,219,780	778.89	603.15

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Attachment 3

Description of Factors that May Impact Prospective Electric Power Consumption as Compared to Historic Usage

1. The ACCVA recently installed a 2.386mw Solar System at the Atlantic City Convention Center. The Solar System is separately metered and has displaced approx 35% of usage during calendar year 2009 for the Atlantic City Convention Center. Account#(s) and Service Addresses to be affected are listed below. PLC and/or Capacity Obligation has been adjusted downward for the June 2010 planning year.

EDC	Utility Tariff	Account#	Service Address
Atlantic City Electric	TGS	1172251-9991-0	1900 Bacharach Blvd Atlantic City, NJ 08401
Atlantic City Electric	TGS	1172251-9990-2	1 Atlantic City Expressway Atlantic City, NJ 08401

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Attachment 4: Electric Usage History

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Attachment 5: Consulting Agreement

This Independent Contractor Agreement (“Agreement”) is entered into this the _____ day of _____, 20__ by and between _____ (“Supplier”) a _____ located in _____ and MRDB Holdings LP d/b/a LPB Energy Management (“LPB”) a Texas limited partnership located in Dallas, Texas, otherwise singularly referred to as “Party” or collectively referred to as “Parties”.

WHEREAS, Supplier is in the business of selling electric energy, natural gas and/or other energy commodities, as applicable (“Energy”) to consumers in certain states; and

WHEREAS, LPB is in the business of consulting with and for certain clients to identify and arrange for the sale of Energy from retail sellers such as Supplier; and

WHEREAS, each Party represents that it has the requisite skill and experience in performing the activities described hereinabove;

WHEREAS, the Parties desire to enter into an agreement pursuant to which LPB may facilitate an agreement for the sale of Energy from Supplier to LPB clients.

NOW, THEREFORE, in consideration of the promises made herein and for other good and valuable consideration, the Parties agree as follows:

- 1) **Term of Agreement:** This Agreement shall be for a month-to-month term, cancellable by either Party with or without cause, by giving the other Party thirty (30) calendar days notice. In the event of termination by either Party, the terms of this Agreement shall continue to apply with respect to any Confirmation of Compensation executed prior to the effective date of termination and LPB shall be paid for any client that LPB directly recruited prior to the effective date of termination for which an Energy sales agreement is executed by such client prior to the effective date of termination. Payment from Supplier to LPB shall terminate on the sooner of: a) the natural expiration of the initial term of the client Energy sales agreement executed prior to termination of this Agreement; or b) the termination of said client Energy sales agreement for any reason. In addition, if the client Energy sales agreement is terminated early for any reason entitling Supplier to an early termination payment, Supplier shall (to the extent allowed by applicable laws and regulations) include an amount representing LPB’s Commission in the early termination payment charged to such client and shall pay LPB its Commission out of such early termination payment paid by the client. For the purpose of the early termination payment, LPB’s Commission shall mean any Commission owed but not yet paid with respect to energy sales prior to the early termination date, plus Commissions which would have been payable to LPB with respect to the quantities that would have been sold to client under the Energy sales agreement (based on anticipated usage) had it not been terminated early.
- 2) **Services:** In its sole discretion, LPB may request that Supplier provide pricing and contract proposals to LPB for LPB clients. Supplier, in its sole discretion will determine whether to provide such pricing and contract proposals.
- 3) **Representation of Authorization:** LPB represents that LPB has written authorization from LPB clients: (a) to act on behalf of said clients with respect to the matters described hereunder, (b) to

receive client proprietary information, including but not necessarily limited to consumption data, that comes into the possession of Supplier by virtue of Supplier selling the applicable Energy to LPB clients, and (c) to be compensated by Supplier as herein described. LPB agrees to provide a copy of this authorization to Supplier upon request.

Supplier shall honor an authorized written statement from an LPB client that states LPB is client's sole or exclusive representative with respect to the procurement of Energy supply unless Supplier has received or does receive a similar written statement with a later date from client in which case Supplier shall exercise commercially reasonable efforts to contact the client to ascertain the client's true intent. Supplier shall notify LPB if client does not retain LPB as its sole or exclusive representative on this matter.

- 4) **Compensation:** For an Energy supply transaction entered into between Supplier and an LPB client, Supplier agrees to pay to LPB a compensation fee amount as shall be specified in a Compensation Confirmation, which shall be prepared by Supplier and shall be substantially in form of Exhibit A attached hereto. Each executed Compensation Confirmation shall become a part of and shall be subject to the terms and conditions of this Agreement, except to the extent as may be expressly provided otherwise in such Compensation Confirmation. Supplier shall pay LPB its compensation fee payment by the 25th of each calendar month for compensation that was earned and payable to LPB through the close of the prior calendar month.

Supplier understands LPB offers its clients several advanced services in addition to procurement of Energy supply ("Advanced Services"); and an LPB client may determine at any point to purchase Advanced Services from LPB. Supplier and LPB therefore agree that when a client of LPB directs Supplier to increase the price of Energy previously agreed upon between such client and Supplier, the Energy price shall be increased by an amount determined and authorized by client to reflect the provision of Advanced Services by LPB; and Supplier agrees to pay LPB (in accordance with the timing as described above for compensation fee payments) the amount of such increase requested and authorized by the client. Furthermore, Supplier agrees that receipt of such request and authorization from client to increase the price of Energy shall not trigger a right on the part of Supplier to renegotiate the previously agreed upon price of Energy, unless otherwise permitted by the applicable Energy sales agreement between client and Supplier, nor shall Supplier have any right to any portion of the fee increase requested and authorized by the LPB client for the Advanced Service(s). The Parties expressly agree the foregoing provision applies regardless of whether LPB was involved in the negotiation of the original client Energy sales agreement (being amended pursuant hereto) even if the amendment to such client Energy sales agreement results in Supplier having to pay fees to LPB as well as to one or more third parties.

- 5) **Limitations on Use of Information:** Any information, whether written, electronic, oral or otherwise, received by a Party from the other Party shall be used by the receiving Party solely in accordance with this Agreement. The receiving Party acknowledges that any of the information that it receives from the issuing Party is proprietary and confidential to the issuing Party and is, and shall remain, the property of the issuing Party. The information shall not be copied or otherwise reproduced without the prior written consent of issuing Party, and the information and any documentation or other information to the extent derived from it based upon the information provided by issuing Party shall be returned to issuing Party upon request.

The receiving Party and its employees and agents shall hold the information in strict confidence and shall not, without the prior written consent of the issuing Party, disclose or release the information to anyone other than its clients to whom the proposals apply. Any person within

receiving Party and any such agents having a legitimate need to access the information for the purpose of rendering services in accordance with this Agreement must agree to abide by the provisions of this Agreement before being granted access to the information and such Party shall remain responsible for any breach of this Agreement by any of the foregoing persons.

The confidentiality and non-disclosure obligations discussed herein shall not apply if, and to the extent that: (i) the information was known to receiving Party prior to its receipt from the issuing Party; (ii) the information is or becomes generally available to the public other than as a result of a disclosure by receiving Party or its directors, officers, employees, agents or advisors; (iii) the information is rightfully disclosed to receiving Party by a third party without restrictions provided that receiving Party reasonably believes that such source is not bound by a confidentiality agreement with or other obligation of secrecy to the issuing Party or another party; (iv) similar information was or is independently developed by receiving Party without access to issuing Party's information or (v) disclosure is required by any applicable law, regulation, or governmental judicial order.

The provisions in this paragraph shall survive the termination of this Agreement for a period of two (2) years.

- 6) **Indemnification:** Subject to Section 7, each Party shall indemnify and hold harmless the other Party, its employees, agents, and affiliates from any and all claims, demands, liabilities, losses, damages, and expenses, including but not limited to reasonable attorneys' fees, asserted by third parties to the extent caused by the gross negligence or willful misconduct of the indemnifying Party's employees, agents or affiliates. This provision shall survive the termination of this Agreement.
- 7) **Limitation of Liability:** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, OR SIMILAR DAMAGES, WHETHER IN CONTRACT, TORT OR OTHERWISE. NOTWITHSTANDING ANYTHING TO THE CONTRARY, LPB'S LIABILITY TO SUPPLIER AND/OR ANY PERSONS OR ENTITIES CLAIMING DERIVATIVELY THOROUGH IT SHALL NOT EXCEED THE COMMISSION LPB HAS BEEN PAID UNDER THIS AGREEMENT. This provision shall survive the termination of this Agreement
- 8) **Independent Contractor:** LPB is an independent contractor and nothing herein shall be construed as creating, at any time, the relationship of employer and employee between the parties hereto. LPB agrees that each of its own employees, officers and/or agents assigned to perform work or render services for Supplier under this Agreement shall be, for the duration of this Agreement and for any relevant time thereafter, employees, officers and/or agents of LPB solely, and LPB to the extent required by applicable law, shall be exclusively responsible for filing any and all returns and reports, and for withholding and/or paying applicable governmental taxes or other assessments based upon wages or employment, if any.
- 9) **Assignment:** Neither Party may assign, transfer or contract any of its rights or obligations herein, or assign any payments to be made to it under this Agreement without first obtaining the express written consent of other Party, which may not be unreasonably withheld, conditioned or delayed. In the event of assignment, the assigning Party shall not be relieved of any liability for its obligations herein. Notwithstanding the foregoing, either Party shall be permitted to assign this Agreement to a subsidiary, affiliate, financial institution, or lending institution or entity that is a successor to that Party by merger or consolidation or that acquires substantially all of that Party's assets, without the other Party's prior written consent. For purposes of this section

“affiliate” shall mean as such term is defined in rules promulgated pursuant to the Securities Act of 1933, as amended.

- 10) **Entire Agreement:** This Agreement shall constitute the entire agreement between the Parties with respect to this matter, and shall supersede all prior agreements, proposals, representations, or letters pertaining to the Services, whether written or oral. This Agreement may not be amended or modified except in a writing signed by both Parties hereto.
- 11) **Governing Law and Venue:** This Agreement shall be controlled by and interpreted in accordance with the laws of the State of Texas, without regard to any choice of law rules which may direct the application of laws of another jurisdiction.
- 12) **Notices:** All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when received by the party to whom notice is being given by: (a) registered or certified mail, postage prepaid and return receipt requested, (b) facsimile with verbal delivery confirmation or (c) reputable overnight courier providing for receipt delivery.

All notices, demands, requests, or approvals hereunder from Supplier to LPB shall be addressed to LPB at:

LPB Energy Management
12700 Park Central Drive
Suite 200
Dallas, TX 75251
Attn: Law Department
Fax No.: 972-383-8200

All notices, demands, requests, or approvals hereunder from LPB to Supplier shall be addressed to Supplier at:

Attn: _____

With a copy to:

- 13) **Waiver:** A waiver by a Party hereto of any breach of any term contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term contained herein, whether of the same or of a different character. In order for a waiver hereunder to be effective, such waiver shall be in writing signed by the Party granting such waiver.

-
- 14) **Public Announcements:** LPB and Supplier shall consult and cooperate before issuing any press release or public statement with respect to this Agreement or the transactions contemplated hereunder and no such announcements will be made without the express written consent of Supplier; provided, however, that this Section shall not prevent Supplier or LPB from complying with the requirements of applicable law or any order of any governmental authority.
 - 15) **Severability:** In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.
 - 16) **Attorney's Fees:** In the event of a default by either Party which results in a lawsuit or other proceeding for any remedy available under this Agreement, the prevailing Party shall be entitled to reimbursement from the other Party for its reasonable legal fees and expenses.
 - 17) **Captions and Schedules:** The captions in this Agreement are for convenience only, are not a part of this Agreement and in no way affect limit or amplify the terms or provisions of this Agreement.
 - 18) **Force Majeure:** The Parties hereto shall not be in breach of this Agreement, shall not be assessed with any damages or other liability, and the deadline for completion of its obligations herein shall be extended, to the extent performance is prevented due to any loss, liability, damage or delay created by acts of God, acts or omissions of the other party or of officers, agents, subcontractor's, employees or assigns of the other party, acts of civil or military authority, governmental priorities, fires, strikes or other labor disturbances, floods, inclement weather, epidemics, war, riot, acts of third parties having the effect of delaying performance of the Services, inability to obtain or delay in obtaining, due to causes beyond its reasonable control, suitable labor, material, or equipment, or the discovery of contamination, pollution or other hazardous materials at or about the work site, or other causes beyond the reasonable control of the Party seeking relief hereunder. In the event of any such delay, the time for performance shall be extended by a period equal to the time lost by reason of such delay.
 - 19) **Counterparts:** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed the day and year first above written.

**MRDB HOLDINGS LP,
a Texas limited partnership**

By: MRDB HOLDINGS GP LLC
its General Partner

By: _____

By: _____

Name: _____
(Print or Type)

Name: Matthew Berke

Title: _____

Title: President

Date: _____

Date: _____

Exhibit A

Compensation Confirmation

under the

Independent Contractor Agreement by and between _____ (“Supplier”) and MRDB Holdings LP d/b/a LPB Energy Management (“LPB”) dated _____ (the “Agreement”)

Pursuant to Section 4 of the Agreement, Supplier and LPB agree to the following compensation fee for the following transaction:

The compensation fee will become effective with respect to each Client service account number identified herein on the meter read date of: 1) the expiration of the existing term, for renewal clients; or 2) on the successful transfer to the Supplier, for all new clients or new customer locations.

Client: Atlantic City Convention & Visitor’s Authority

Energy (*specify electricity, natural gas, or other energy commodity*): Electricity

Client service account #(s): 1172251-9991-0, 1172251-9990-2, 0507629-9999-8

Additional service account list attached

Term: _____ months

Estimated average usage: _____ dekatherms per month (*if for natural gas*)

_____ kWh per month (*if for electricity*)

_____ per month (*specify quantity and units if for other energy commodity*)

Estimated start date: May 2009 meter read

Compensation fee: \$0._____ per dekatherm (*if for natural gas*)

\$0.002 per kWh (*if for electricity*)

\$0._____ per _____ (*if for other energy commodity*)

Agreed to:

Accepted by:

MRDB HOLDINGS LP,
a Texas limited partnership

By: _____

By: MRDB Holdings GP LLC
its General Partner

By: _____

Name: _____

(Print or Type)

Name: _____

(Print or Type)

Title: _____

Title: _____

Date: _____

Date: _____

Attachment 6: Electric Generation Service Purchase and Sales Agreement

BY AND BETWEEN

Atlantic City Convention & Visitor's Authority

AND

SELLER

DATED AS OF _____, 2010

ELECTRIC GENERATION SERVICE PURCHASE AND SALES AGREEMENT

This Agreement, made as of the day of , 2010 by and between the Atlantic City Convention & Visitor’s Authority, (“ACCVA” or "Customer") and _____ ("Seller") (collectively, Customer and Seller are referred to as the "Parties" and each as a "Party").

WHEREAS, Customer is a corporate body politic pursuant to the laws of the State of New Jersey; and

WHEREAS, Customer is currently purchasing electric generation service for its BGS-CIEP accounts from a third party supplier, and/or BGS-FP accounts from the utility with service of BGS-CIEP accounts under the existing contracts for the individual accounts terminating on the meter read dates generally occurring on or after May 1, 2010; and

WHEREAS, Customer has issued a Request for Bids For the Purchase of Electric Generation Service (“RFB”) DATED **March 31, 2010** pursuant to the “Electric Discount and Energy Competition Act,” P.L. 1999, c. 23 (“EDECA”) in connection with the selection of a supplier of full requirement electric generation service (also referred to herein as “electric supply”) for service commencing on the meter read dates coinciding with the scheduled termination dates for these contracts for each individual account in the awarded tariff class(s); and

WHEREAS, Seller has responded to the RFB and has been selected by Customer as the lowest responsible bidder for the following individual accounts in the indicated tariff classes:

_____;

and

WHEREAS, Seller agrees to sell to Customer, and Customer agrees to purchase from Seller, electric supply for use by Customer in its facilities and for the individual account(s) in the awarded tariff class(s) pursuant to the terms and conditions of the RFB, the third party supplier provisions of the Utility Tariff, and this Agreement.

NOW THEREFORE, for good and valuable consideration, the Parties hereby agree to be legally bound to the terms and conditions set herein.

ARTICLE I
DEFINITIONS

The following, capitalized terms used in this Agreement shall have the following meanings:

“Accounts” means the accounts for electric supply as metered by the customer’s EDC.

“Act” means the “Electric Discount and Energy Competition Act” (P.L. 1999, C. 23, N.J.S.A. 48:3-49 et al.)

“Actual Monthly Electricity Delivered” means, for an account, the amount of electricity, stated in kWh, actually delivered during a billing month by or on behalf of the Supplier and metered and consumed at an ACCVA facility for use at such account.

“Addenda” means a written or graphic document detailing changes to the specifications, which ACCVA will advertise and distribute to bidders in accordance with law.

“Agreement” means this Electric Generation Service Purchase and Sales Agreement.

“Ancillary Services” means the services that the PJM Interconnection, LLC (“PJM”) requires retail electric suppliers to purchase to maintain and support a reliable bulk power transmission system.

"Application" shall mean the application for basic generation service to an EDC Meter, submitted by Customer to the EDC.

“Basic Generation Service” (“BGS”) means electric generation service that is provided, pursuant to section 9 of the Act, to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services.

“BGS-CIEP Customer or Account” means a large commercial or industrial account or customer who would be interval-metered and served under any of the EDC’s BGS-Commercial and Industrial Energy Pricing hourly tariffs..

“Bidder” means a person, partnership, corporation, joint venture or other legal entity cognizable in the State of New Jersey, submitting a proposal for the purpose of obtaining a contract pursuant to the Request for Proposal.

“Bid Due Date” means the Stage 2 Bid Proposal due date as reflected in the RFB, and any refreshment date scheduled in the RFB or any refreshment date added to the RFB.

“BPU” means the New Jersey Board of Public Utilities.

“Cost Analysis” means the review and evaluation of each element of contract cost to determine reasonableness, relevance and reliability.

"Customer" shall mean ATLANTIC CITY CONVENTION & VISITOR’S AUTHORITY.

“Customer Care Services” means the services a Supplier provides to its customers to respond to customer inquiries and problems, by toll-free number of Internet service, or both.

"Customer Requirements" shall have the meaning set forth in Article III.

"Dual Billing" means a method of billing and payment, which is one bill, sent to the customer for the generation-only by the supplier and a separate bill sent to the customer by the EDC for distribution and other charges.

"Effective Date" shall be the earliest of the Start Dates for the accounts served by Supplier pursuant to this Agreement.

"Electric Distribution Company or "EDC" means a public utility, as that term is defined in N.J.S.A. 48:2-13, that transmits and distributes electricity to end users within this State.

"Electric Generation Service" means the provision of retail electric generation service and capacity, which is generated off-site from the location at which the consumption of such electric generation service and capacity is metered for retail billing purposes, including agreements and arrangements related thereto.

"Electric Power Supplier" (Bidder) means a person or entity that is duly licensed pursuant to the provisions of the Act to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of the Act.

"Emergency" means any situation or circumstance that presents a substantial risk of imminent damage to the public health, welfare, or the environment. Examples may include but are not limited to actions such as the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of toxic substances into the environment.

"End Date" means, for an individual account served under this Agreement, the date of the 12th meter read date (for a 12-month term) or the 24th meter read date (for a 24-month term) occurring subsequent to the Start Date.

"Facilities" means the buildings owned, leased or occupied by the Customer that receive electric generation service.

"FERC" means Federal Energy Regulatory Commission.

"Force Majeure" shall have the meaning set forth in Article VII.

"Full-Requirements, Firm, Fixed Price" means any price or cost bid which is not subject to increase during the period specified, unless otherwise provided by this Agreement, to serve the full, actual electric generation service requirements of the participating accounts in the designated tariff class. A full-requirements, firm fixed price is a price which includes all direct and indirect costs incurred by the supplier and proposed to be collected from the participants for the provision of the full electric generation service requirements of the participants including, but not limited to: energy, load balancing, price hedging, generation capacity, transmission capacity, ancillary services, line losses, overhead, fee or profit, clerical support, taxes, travel expenses, safety equipment, materials, supplies, labor, supervision, managerial support and all

documents, forms, and reproductions thereof.

"Initial Term" shall have the meaning set forth in Article II.

"kW" means Kilowatt, a standard measure of electrical capacity.

"kWh" means kilowatt-hour or 1,000 watts for one hour. This represents the customer's electricity usage over time.

"PJM" means the Independent System Operator that manages the wholesale, bulk power grid in the Mid-Atlantic region.

"Renewable Portfolio Standards" means the standards for renewable energy that must be met pursuant to the provisions of the Act. Pursuant to these standards, each electric power supplier or BGS provider serving retail customers in the State of New Jersey shall include in its power portfolio electricity generated from renewable energy sources.

"Renewal Date" means the day that the EDC reads the meter in the month specified in this Agreement; or, if no month is specified, the day the EDC reads the meter at the facilities in the month of the anniversary (or, for a 24-month term the 2nd anniversary) of the start date of this Agreement.

"RFB package" means all the documents contained in the Request for Bids issued by the ACCVA.

"Start Date" means, for each individual account covered by this Agreement, the first day occurring on or after May 1, 2008 that the EDC reads the meter at the customer's facilities and the Customer has become a customer of the supplier, and the applicable EDC has verified that the Customer is a customer of the supplier, in accordance with the rules and procedures adopted pursuant to the Act.

"Supplier" or "Seller" means the licensed Electric Power Supplier that has been selected the Customer's supplier as a result of the RFP process for the account(s) in the tariff class(s) subject to this Agreement.

"Tariff Class" means the schedule of rates that defines a particular class of service, the terms and conditions under which the service is provided, the effective date of the tariff and the date of approval by the specific regulatory agency.

"Term" shall have the meaning set forth in Article II.

"TPS" means a licensed third-party supplier including an electric power supplier as those terms are defined in the Act or herein, or a person acting on behalf of such supplier.

"Transmission Service" means the services provided by the PJM, LLC in accordance with FERC-approved tariffs and necessary to move high voltage electricity from a power plant to the distribution lines of the EDC.

"Utility" shall mean the EDC in whose territory a particular facility of the Customer served under this Agreement receives electric service.

"Utility Bill" shall mean the monthly invoice submitted by the Utility to Customer for services rendered under the Utility Tariff at a Utility Meter.

“Utility Billing Period” shall mean the monthly period determined by the Utility for measuring Customer's electric usage and submitting Utility Bills in connection therewith. When a calendar month is specified as the Utility Billing Period, said Period shall correspond to that calendar month that has the most days in said Period. For example, a Utility Period that commences December 24 and ends January 22 shall be the January Utility Billing Period.

“Utility Tariff” shall mean the applicable BPU approved tariff for the EDC, including the applicable third party supplier tariff contained therein.

ARTICLE II TERMS OF AGREEMENT

- 1 The Initial Term of this Agreement shall be for ____ (**either twelve (12), or twenty-four (24) (term of contract shall be at the discretion of the ACCVA)**) months taking effect at 12:01a.m on the Effective Date, and expiring concurrent with the (**either the 12th or 24th successive**) meter read date occurring after the Start Date for any account listed in Attachment 1 of the RFB package for the tariff class(s) awarded to and served by Seller (“End Date”), unless terminated sooner pursuant to the provisions of this Agreement. As such, this Agreement covers (**either twelve (12) or twenty-four (24)**) consecutive Utility Billing Periods from the Start Date for each Account awarded to and served by Seller.
- 2 In the event that the Utility does not accept all of the Applications, Seller may terminate this Agreement upon written notice to Customer, but only if the Customer Requirements are reduced, as a result of the Utility not accepting all of the Applications, to less than ninety (90) percent of what would have been the Customer Requirements had the Utility accepted all of the Applications.

ARTICLE III REQUIREMENTS AND TYPE OF SERVICE

- 1 During the Term of this Agreement (the Initial Term and Renewal Term, if applicable), Customer agrees to accept and purchase from the Seller, and the Seller shall provide and sell to the Customer, all of its required electric generation service for all accounts listed in Attachment 1 of the RFB package that have been awarded to Seller in the applicable tariff classes beginning on the Start Date and continuing until the service End Date.
- 2 Seller shall deliver the actual electric generation service requirements on a firm basis to the EDC's transmission grid without interruption at all times throughout the Term, subject only to an Event of Force Majeure described in Article VII
- 3 All electric supply delivered by Seller to meet the Customer Requirements shall meet all licensing requirements, standards, and regulations of the BPU, PJM, the Federal Energy Regulatory Commission (FERC) and EDC specifications and the laws of the State of New Jersey, particularly as they relate to providing electric generation service to the Customer.
- 4 Seller shall ensure that all arrangements with the EDC have been completed in time to commence delivery on the Start Date, including the completion of required paperwork, coordination of information systems, coordination of operations and ability to communicate electronically, including EDI compliance, if needed.

- 5 During the Term of the Agreement, Customer will use best efforts to notify Supplier in advance if there are anticipated changes to the electrical usage by several of the ACCVA facilities relative to historic usage.
- 6 Customer may, upon thirty days' written notice, amend Attachment 1 (customer accounts) by deleting any account at a facility at which Customer no longer conducts business or any other function. In such event, Seller shall be permitted to recover its cost, if any, consisting of the positive difference (if any) between the amounts that would have been payable to the Seller for that account for the remaining service term had the Customer purchased Electric Generation Supply from the Seller and the amount realized by the Seller in disposing, in a reasonable commercial manner, of the Electric Generation Supply not accepted by the Customer, utilizing the historical usage quantities for the applicable months as provided in the RFP attachments.
- 7 If during the course of the contract period, ACCVA decides to add a new facility, the Seller shall provide such additional electrical energy requirements for the remaining term of this Agreement, upon the mutual consent of the parties and at then-prevailing market prices as agreed to by the parties, under the terms and conditions provided for in this Agreement.

ARTICLE IV PRICE, BILLING, AND PAYMENT

- 1 In consideration for the services provided by Seller pursuant to this Agreement, Customer agrees to pay the Seller the price bid by Seller for the awarded account grouping multiplied by actual kWh usage for those accounts during each Utility Billing Period. Seller's bid sheet for the awarded product description and term is incorporated as part of this Agreement.
- 2 The quantities of electricity set forth in the Utility Bills applicable to any Utility Billing Period shall be final and conclusive for purposes of computing Customer's payments to Seller pursuant to this Article. If the quantities in the Utility Bill are subsequently adjusted or modified, subject to Customer's rights to question the utility's adjustment in accordance with BPU regulations the Seller's invoice may be adjusted accordingly. If Seller does not receive actual consumption data from the EDC on a timely basis, the Seller may use estimated data for billing purposes, subject to reasonable justification as requested by ACCVA and subject to adjustment on subsequent invoices when the actual consumption data is received.
- 3 Customer shall remit payment to Seller within thirty (30) days of Customer's receipt of Seller's Bills applicable to a Utility Billing Period. The payment obligation of Customer pursuant to this subsection shall survive the expiration of the Term.
- 4 Seller will be responsible for all costs, including applicable taxes associated with the supply of full requirement service. In no event shall Seller adjust the amounts it charges Customer on account of any costs it incurs (other than for energy priced at PJM spot prices for product options with a floating energy component) whether or not anticipated, or assess any additional charges, except for the following:
 - a) a direct pass through of a legislated sales tax increase or decrease subsequent to the Start Date.

- b) a FERC-approved change in the transmission rate
- 5 The contract price for electric generation service shall include all charges associated with purchase and transportation of the electric generation service to the specified interconnection between the PJM grid and the EDC's local distribution system, including all applicable taxes. Invoices shall be based on the Customer's usage as measured by the EDC meter(s) at the customer location, not the quantities delivered to the specified interconnection between the PJM grid and the EDC's local distribution system.
 - 6 Dual-bill option: Customer elects to receive and Seller must provide a separate billing statement for electric generation service only. The appropriate EDC must be notified by the Seller with adequate advance notice of the dual-bill choice by Customer so as not to jeopardize any switchover deadlines.
 - 7 Upon the request of the Customer, such request to include the specific reason for the request, the Seller will audit the electric generation service utility bills for these accounts. Customer will provide to the Seller whatever information is necessary to conduct this audit, to the extent not otherwise available to Seller. Any irregularities will be reported on the next monthly report.
 - 8 In addition, in the event that the ACCVA chooses a product that does not fix a price for the term of the agreement for some or all components of electric generation service, ACCVA shall retain the option to convert at any time to a fixed price for some or all of the remaining electricity requirements and/or term of the agreement at a price based upon then-prevailing market conditions, as agreed to by the mutual consent of the parties. The Seller shall use best efforts to monitor market conditions and to have its designated representative advise the designated ACCVA representative of changed market conditions to assist the Customer in its deliberations concerning potential conversions of floating price components to a fixed price. Upon the request of Customer, Seller shall provide an indicative price for such a fixed price product, subject to negotiation of a final agreed-upon price as provided for in the paragraph.
 - 9 The Parties shall retain billing and other records for a period of two (2) years following the expiration of the Term of this Agreement so as to permit either Party to confirm the validity of payment due or made; provided, however, that if either Party disputes the validity of any payments within one year of the expiration of the Term of this Agreement, the Parties will retain all records related to the dispute until it is finally resolved.
 - 10 A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice provided under this Contract or adjust any invoice for an arithmetic or computational error within twenty four (24) months from the date of the invoice or adjustment. Any invoice dispute or adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved; however payment of the undisputed amount shall continue and be due in accordance with the terms and conditions of this Agreement. Upon resolution of the dispute, any required payment shall be made within ten (10) business days of such resolution.
 - 11 In the event of a dispute regarding any invoice issue or payment due under this Contract, each Party shall have the right to verify, at its sole expense, the accuracy of the invoice or the calculation of the payment due by obtaining copies of relevant portions of the books and records of the other Party. The right of verification will survive the termination of this Contract for a period of two years after termination.

ARTICLE V TITLE AND POSSESSION

- 1 The Seller warrants title to all electricity delivered and warrants that it has the right to sell same and that such electricity is free from liens and adverse claims of every kind.
- 2 The Seller shall indemnify and hold harmless the ACCVA, SMG, The Atlantic County Improvement Authority, the New Jersey Sports and Exposition Authority and its facilities, as defined herein, their officers, agents, servants and employees, and consultants, against any and all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from any act or omission of the Supplier, its officers, agents, servants, employees, or subcontractors in the performance of the services detailed herein.
- 3 ACCVA shall indemnify and hold harmless the Seller against any and all claims, damages losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the operations of the EDC, the interruption, termination or failure of the EDC's local distribution system, or from incidents or acts occurring from and after the delivery point to the local distribution system.

ARTICLE VI TAXES

- 1 Except as provided in subsection (2), Seller shall be responsible for all production, severance, ad valorem or similar taxes levied on the generation, capacity, transmission of and all other activities associated with the delivery of electric generation service by Seller to the EDC's transmission grid under this Agreement and for resale to Seller.
- 2 The Price for Electric Generation Service shall include the 7% New Jersey State sales tax and shall be adjusted for any changes in the current 7% New Jersey State sales tax that are implemented subsequent to execution of this Agreement.

ARTICLE VII FORCE MAJEURE

- 1 Either Party may be excused from performing its obligations and not be in default under this Agreement due to an Event of Force Majeure, but only for the period during which, and to the extent that, such Event renders the Party unable to perform its obligations. The Party claiming excuse of performance pursuant to this Article shall give written notice to the other Party as soon as practicable after the occurrence of the event of Force Majeure.
- 2 Any suspension of performance pursuant to this Article shall not extend the Term of this Agreement.
- 3 An "Event of Force Majeure" shall be limited to the following occurrences:
 - a) a force majeure event described in the "General Terms and Conditions" of the Utility Tariff;

- b) a suspension, curtailment or discontinuance of service by the EDC or transmission service provider.;
 - c) a cessation of the use and occupancy of Customer's facility due to circumstances beyond the control of the Customer, for a period of up to 90 days.
- 4 An Event of Force Majeure will not include any events or consequences that result from a Party's negligence, willful misconduct, or economic hardship, including increases in the price or cost of electric supply to the Seller to serve the Customer.

ARTICLE VIII DEFAULT, SUSPENSION AND TERMINATION

1 Default

Events described in Paragraphs 2, and 3 of this Article --Suspension of Work and Termination --are and should be considered Events of Default under this Contract. Force Majeure events as provided for in Article VII herein shall not be considered Events of Default. The defaulting Party as defined in this Article VIII shall have three (3) business day period from the time of receipt of notification of default by the non-defaulting Party to cure the default, after which the non-defaulting Party may exercise its termination rights as provided in this Article VIII.

2 Suspension of Work

ACCVA, upon prior written notice to the Seller, may temporarily suspend service under the contract and, subject to EDC switching protocols, return accounts to EDC basic generation service, due to, but not limited to the following:

- a) Failure to maintain and/or timely renew required certifications, licenses or any other agreements which would affect the electric power supplier's ability to provide the services required under this contract.
- b) Failure to meet federal, state and/or PJM regulations concerning the delivery, purchase and selling, and interstate transportation of the commodity purchased under this contract.

3 Reasons for Termination

ACCVA may terminate its contract due to material fault or substantial failure of the Seller to meet the terms and conditions of this contract. In addition to a substantial failure to meet the specific terms and conditions of this Agreement, material faults and substantial deficiencies are as follows:

- a) Failure to address or rectify any of the items listed under which the contract was suspended.
- b) If the Seller is adjudged by a court of competent jurisdiction to be bankrupt or insolvent.
- c) If the Seller makes a general assignment for the benefit of creditors.
- d) If the Seller files a petition to take advantage of any debtor's act, or to

reorganize under the bankruptcy or similar laws.

- e) If the Seller disregards laws, ordinances, rules, regulation, or orders of any public body having jurisdiction, and such disregard materially impairs Seller's ability to perform under this Agreement.
- f) If the Seller fails to comply with local, state or federal laws, rules or regulations applicable to this contract and the work to be done hereunder.

The Seller may terminate this contract due to material fault or substantial failure of the Customer to meet the terms and conditions of this Agreement. Material faults and substantial deficiencies are as follows:

- a) failure of Customer to accept Electric Supply Service tendered by Seller under this Contract, except with regard to closed accounts for which the Customer has provided 30 days notice pursuant to Article III, Paragraph 6.
- b) failure of Customer to make payment on undisputed amounts due for Electric Supply Service within 15 days of notice from the Seller that such payment is late.

4 In the Event of Termination Upon receipt of a termination notice from Customer, the Seller shall

- a) Immediately stop all delivery of electric supply (unless the notice directs otherwise and subject to account drop/switch rules of the applicable EDC(s));
- b) Deliver or otherwise make available to ACCVA all data drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Supplier in performing this contract, whether completed or in process, except for proprietary work product or internal reporting documents.
- c) Complete performance of such tasks necessary to effectuate the termination of the Agreement, including rendering of invoices, final payments and necessary notifications to the applicable EDC(s).

5 Final Payment in the Event of Termination

In the event of termination, the Seller shall only be paid for actual services rendered up to the date of termination, and the defaulting Party shall be subject to a claim of damages as provided for in Article IX.

- a) No amount shall be allowed for anticipated costs or profit on unperformed services or other work.
- b) No amount shall be allowed for termination settlement costs incurred by the Seller at the time of termination.

6 Rights Not Affected

Where the Seller's services have been terminated, the termination shall not affect any

existing rights or claims of ACCVA.

ARTICLE IX DAMAGES

- 1 In the event of a Default by Seller and subsequent termination as provided in Article VIII, Customer shall procure Electric Generation Service from an alternate supplier at no more than the EDC's approved tariff price. The Seller hereby agrees to pay Customer direct damages, consisting of the benchmark usage volumes times the positive difference, if any, between the alternate supply price (including the cost of transportation and delivery) and the contract price, plus reasonable transaction costs., Seller shall not be liable for consequential, incidental, punitive, exemplary or indirect damages and lost profits.
- 2 In the event of termination resulting from the Customer's actions or failure to act as required as defined in Article VIII, Seller's damages shall consist of the positive difference (if any) between the amounts that would have been payable to the Seller under the Contract had the Customer purchased Electric Generation Service from the Seller, determined by applying the contract price to benchmark historical usage quantities for the applicable months as set forth in Attachment 4 of the RFP, and the amount realized by the Seller in disposing, in a reasonable commercial manner, of the Electric Generation Service not accepted by the Customer. Customer shall not be liable for consequential, incidental, punitive, exemplary or indirect damages and lost profits.
- 3 Net Out of Settlement Amounts: After Damages have been finally determined under this Article, the amounts of Damages due and owing will be reconciled with payments already made by the Parties. The non-defaulting Party shall quantify all amounts that are due to the non-defaulting party by netting out (a) all amounts that are due to the defaulting party under the Contract against (b) all amounts that are due from the non-defaulting party, so that all such amounts shall be netted out to a single liquidated amount payable by one Party to the other.

ARTICLE X ASSIGNMENT AND DELEGATION

- 1 Any Party hereto may assign or delegate in part or in entirety any of its rights, benefits, duties or obligations hereunder to:
 - (i) any Person, if it has received the prior written consent of the other party, which shall not be unreasonably withheld, delayed or conditioned;
 - (ii) to its legal successor, if it merges (whether or not it is the surviving corporation);
 - (iii) or to any Person to whom it has made any sale, lease, transfer or other disposition of any of its assets;
 - (iv) provided, further, that no Party may make an assignment or delegation described in clauses (ii) and (iii) without prior written consent of the other party if there is an outstanding default or breach by the assigning Party, or if the proposed assignee is not least as creditworthy as the assignor as of the effective

date of the contract.

- 2 Provided, however that no Party may make an assignment or delegation described in clauses (ii) and (iii), unless such Party delivers to the other Party hereto such written assumptions, affirmations and/or legal opinions as such other Party may reasonably request to preserve their rights and remedies hereunder; and,
- 3 Provided that no full or partial assignment or full or partial transfer of rights or obligations by either Party shall relieve it from the full liabilities and the full financial responsibility, as provided for under this Agreement, unless and until the assignee or transferee shall agree in writing to assume such obligations and duties.

ARTICLE XI COOPERATION

- 1 Upon execution of this Agreement, Customer and Seller shall each use its best efforts to cooperate reasonably in and obtain any and all approvals of the utility required of each Party to effectuate the purposes of this Agreement, and to resolve any issues with the Utility in connection with the delivery of electricity to Customer by Seller during the Term of this Agreement under the terms and conditions of the EDC Tariff.
- 2 Seller shall be responsible for any initial administrative charge assessed by the Utility pursuant the applicable EDC Tariff rate schedule or General Terms and Conditions in connection with the switch of Customer's accounts to electric generation service provided by Seller.
- 3 Customer shall not have any obligation to install at its cost and expense any special metering equipment, such as remote meter reading instrumentation and communications lines, in connection with this Agreement. Any such requirement imposed on Customer by Seller shall be grounds for Customer terminating this Agreement at its sole discretion, without liability to Seller other than outstanding payments due for services previously rendered.
- 4 Seller and Customer shall enter into any necessary agreements with the EDC in relation of the transportation of electric, in accordance with established tariffs or requirements of the Board. Specifically, electric power suppliers are directed to the "Third Party Supplier Agreement" with the EDC that is posted on the BPU's website, <http://www.bpu.state.nj.us/>.

ARTICLE XII MISCELLANEOUS

- 1 Seller shall be in full compliance with the applicable EDC(s)' Tariff for the full term of this Agreement. The RFB, any addenda or clarifications there to issued by the ACCVA, and Seller's response thereto is made a part of this Agreement and incorporated herein by reference.
- 2 This Agreement shall be governed and construed in accordance with the laws of the State of New Jersey. Seller hereby consents to the jurisdiction of the courts or administrative tribunals of the State of New Jersey, or the United States District Court, District of New Jersey, as sole venue for any causes of action brought under this Agreement.
- 3 Each Party represents that it has the corporate power and authorization to enter into this



Agreement as its legal and binding obligation, and that there is no pending or threatened litigation by or against it that will or has the potential to cause a material adverse impact on the Party's performance obligations under this Agreement.

- 4 Nothing in this Agreement shall be construed to place Customer in contractual privity with any producer, or the Utility pursuant to the Utility Tariff. Seller shall defend, indemnify and hold Customer harmless against any and all recourse claims in connection with such Seller contracts. This obligation shall include reimbursement of Customer's reasonable attorney's fees in connection with any such claim.
- 5 This is the complete and entire Agreement between the Parties. Any modifications or amendments to this Agreement shall be in writing and with the mutual consent of the Parties.

IN WITNESS WHEREOF, the duly authorized undersigned execute this Agreement as of the date first written above, each on behalf of his/her respective Party.

ATLANTIC CITY CONVENTION & VISITOR'S AUTHORITY

SIGNATURE

DATE

SIGNATURE

DATE

TITLE

TITLE

