

REQUEST FOR PROPOSALS
FOR
SANITARY SEWER SYSTEM AND DRINKING WATER
SYSTEM ENGINEER EVALUATION CONSULTANT

Issued by the
BOROUGH OF KEYPORT

Date Issued: August 1, 2024

Responses due by 12:00 P.M. EST on September 11th, 2024

**BOROUGH OF KEYPORT
OFFICE OF THE MUNICIPAL CLERK
70 WEST FRONT STREET
KEYPORT NJ 07735**

**REQUEST FOR
PROPOSALS FOR
SANITARY SEWER SYSTEM AND DRINKING WATER
SYSTEM ENGINEER EVALUATION CONSULTANT**

1.0 PURPOSE AND INTENT

The Borough of Keyport (the "Borough"), by means of this Request for Proposals for Sanitary and Drinking Water System Evaluation Engineer Consultant (the "RFP") is soliciting proposals from qualified firms interested in performing the services described herein as a Sanitary and Drinking Water System Evaluation Consultant (the "Consultant") to perform a for Keyport.

The Consultant will be engaged for a term of up to a maximum of 180 calendar days, commencing with the date of appointment which is expected to be on or about November 2024. The Borough reserves the right to extend the term of engagement for a period of six (6) months.

2.0

The Borough is seeking a Consultant to conduct a Sanitary and Drinking Water System Engineer Evaluation of specific manholes, pump stations and pipes that may be reused in the sale of said property. The Consultant will also prepare a financial analysis for determining the sale of the said property. Specific activities to be performed by the Consultant include, but are not limited to: Rate Analysis and Infrastructure Debt.

3.0 PROPOSAL SUBMISSION

8 (eight) copies of the proposal (one (1) unbound, original; seven (7) bound copies; one (1) copy in PDF format on a flashdrive) must be submitted marked "**SANITARY SEWER CONSULTANT**" and addressed to:

BOROUGH OF KEYPORT MUNICIPAL CLERK
70 West Front Street KEYPORT NJ 07735

Proposals must be received by September 11th at 12:00 p.m. Eastern Standard Time.

No faxed or email proposals will be accepted. Proposals received after the time and date listed above will not be considered.

The Borough will not be responsible for any expenses in the preparation and/or presentation of the proposals and oral interviews, if any, for the disclosure of any information or material received in connection with the solicitation, whether by negligence or otherwise.

The Borough reserves the right to request additional information if necessary, or to request an interview with firm(s), or to reject any and all proposals with or without cause, and waive any irregularities or informalities in the proposals submitted. The Borough further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all firms submitting proposals. In the event that all proposals are rejected, the Borough reserves the right to re-solicit proposals.

Responding firms may withdraw their proposals at any time prior to the final filing date and time, as indicated on the cover page to this RFP, by written notification signed by an authorized agent of the firm(s). The proposal may thereafter be resubmitted, but only up to the final filing date and time.

The responding firm assumes sole responsibility for the complete effort required in the RFP. No special consideration shall be given after proposals are opened because of a firm's failure to be knowledgeable about all requirements of this RFP. By submitting a proposal in response to this RFP, the firm represents that it has satisfied itself, from its own investigation, of all of the requirements of this RFP.

Documents and information submitted in response to this RFP shall become property of the Borough and generally shall be available to the general public as required by applicable law, including the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 etseq.

The Borough reserves the right to hold oral interviews with any or all of the firms submitting a proposal. The Borough expects to hold oral interviews, if any, on or about the week of September 16th. If held, each firm being requested to attend oral interviews will be notified by the Borough on or about September 12th.

Communications with representatives of the Borough concerning this RFP, by you or on your behalf, are **NOT** permitted during the term of the submission and selection process. Communications regarding this RFP in any manner **will result in disqualification** from consideration of the firm seeking the appointment as Consultant pursuant to this RFP.

4.0 QUESTIONS AND ANSWERS

Potential bidders will be permitted to ask questions regarding any aspect of this RFP via email. The Borough will also accept questions regarding any aspect of this RFP until 1:00 p.m. EST on August 29th, from all potential bidders. Questions should be directed via e-mail to:

Mclark@keyportonline.com

All answers to questions posed will be posted on the Borough website at www.keyportonline.com and/or through an addendum (if any) to this RFP made available to all potential bidders at the Borough website.

5.0 SCOPE OF SERVICES

The Scope of Services to be provided by the Consultant pursuant to this RFP is attached hereto as Attachment #1.

6.0 SUBCONTRACTING

The Borough encourages each firm responding to this RFP that to the extent that there are opportunities for such firm to subcontract services under this procurement, the firm will make good faith efforts to subcontract work to qualified small businesses in accordance with the Set Aside Contracting and Subcontracting Program, N.J.A.C. 17:13-4 et seq. and Executive Order No. 71 (McGreevey 2003).

The firm must identify any and all subcontractors in its Proposal (as defined below). Regardless if whether a firm uses a qualified small business subcontractor or a subcontractor that is not a qualified small business, the firm must use the subcontractor identified in the firm's Proposal to perform the services required, unless the firm requests the approval from the Borough for the substitution of a subcontractor who can also provide the services required, with such approval of the Borough to be in the Borough's sole decision.

7.0 THE PROPOSAL

The Proposal to be submitted by your firm consists of the Technical Proposal and the Cost Proposal. Additionally, the requested supporting documents listed must be included with the Proposal.

PLEASE NOTE: Payment for all services provided by the Consultant is subject to the availability and receipt of funds. This engagement is subject to termination for convenience by the Borough, without penalty to the Borough, if funds are not available by the Borough at any time during the term of this engagement.

7.1 INSTRUCTIONS FOR SUBMITTING A TECHNICAL PROPOSAL

The bidder shall describe its approach and plans for accomplishing the work outlined in the Scope of Services attached hereto as Attachment #1. The Technical Proposal must consist of the following:

- A. Cover Letter
- B. References
- C. Description of Firm's Prior Experience
- D. Management Overview and Approach
- E. Organization Chart
- F. Key Team Member List
- G. Resumes of Key Team Members
- H. Potential Problems

All of the above items must be addressed in the Technical Proposal in the same order as stated above. Each firm's Technical Proposal will be based upon the evaluation criteria enumerated in Section 10.0 below. The Technical Proposal should be submitted on 8 x 11-inch pages.

A more detailed description of the items required in the Technical Proposal follows:

7. I.A Cover Letter

The bidder must include a cover letter which indicates the full name and address of the firm and the branch office location (if any) that will perform the services described in this RFP. The bidder must indicate the name and contact information for the individual who will be the senior contact person for the responding firm for this engagement. The bidder must also indicate whether the firm is operating as an individual proprietorship, partnership, corporation or a joint

venture. The cover letter should also indicate the state of incorporation of the bidder and list all licenses obtained by the firm enabling it to operate. The cover letter must also include identification of any and all subcontractors of the bidder.

7.1. B References

The bidder must provide at least three (3) client references with contact names and telephone numbers.

7.1. C Description of Firm's Prior Experience

The bidder shall provide a description of those projects which demonstrate the firm's prior experience with sewer system evaluation projects of a similar size and scope as Keyport. The bidder shall also include in the description of such projects of a similar size and scope as KEYPORT the total value of the utility system evaluation study performed for such projects. The description of prior experience should include a demonstration of, but not limited to, the bidder's experience with utility system financial analysis.

7.1. D Management Overview and Approach

The bidder shall set forth its overall technical approach and plans to meet the requirements of the RFP in a narrative format. This narrative should convince the Borough that the bidder understands the objectives that the engagement is intended to meet, the nature of the required work and the level of effort necessary to successfully complete the engagement. This narrative should convince the Borough that the bidder's general approach and plans to undertake and complete the engagement are appropriate to the tasks and subtasks involved.

Mere reiterations of the tasks and subtasks set forth in the Scope of Services are strongly discouraged, as they do not provide insight into the bidder's ability to complete the engagement. The bidder's response to this section should be designed to convince the Borough that the bidder's detailed plans and proposed approach to complete the Scope of Services are realistic, attainable and appropriate and that the bidder's proposal will lead to successful completion of the engagement to provide the services requested pursuant to this RFP.

7.1. E Organization Chart

The organization chart must include all Key Team members, their labor category and titles for this engagement and the firm they represent. In the event the respondent firm is a "joint venture," the respondent firm must indicate from which participating firm each Key Team Member originates. For the purposes of this engagement, a "Key Team Member" is a principal,

partner or officer of the firm, or a project executive, project manager, senior principal, studio head or job captain identified in the Technical Proposal as having a responsible role in the successful completion of the services requested pursuant to this RFP and who generally spends or is expected to spend twenty (20) percent or more of his/her time on this engagement.

If the responding firm is a "joint venture", there must be included a clear statement of responsibility associated with each member and/or entity of the joint venture.

7.1. F Key Team Member List

The responding firm must list each Key Team Member and the percentage of time each Key Team Member will spend on this engagement, based upon a forty (40) hour work week.

7.1. G Resumes of Key Team Members

A resume of each Key Team Member must be included as part of the Technical Proposal.

7.1. H Potential Problems

The bidder should set forth a summary, to the extent possible, of any and all problems that bidder anticipates during the term of the engagement. For each problem identified, the bidder should provide its proposed solution.

7.2 INSTRUCTIONS FOR SUBMITTING A COST PROPOSAL

The bidder shall provide a complete fee schedule, which shall include the fixed fee per unit cost to complete each task and subtask listed in the Scope of Services, The bidder should also include a statement of any assumptions or exclusions underlying the bidder's Cost Proposal. The bidder shall also provide a total fixed fee based on the sum of all tasks and subtasks to be performed. This total fixed fee shall be the bidder's firm fixed price to perform the services requested pursuant to the RFP. Please use the total project cost space to present your firm's proposed fees for this engagement. If the Fee Schedule does not contain a specific category applicable to your firm's proposed fees, please append such additional information to the Fee Schedule Form.

The information provided will be taken into consideration as part of the selection process. Failure to submit all information required may result in the bid being considered non-responsive. Each bidder is required to hold its prices firm through the selection process and the appointment of the Consultant by the Borough.

8.1 On-site Hours of Work

On-site work will be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. No on-site work will be permitted on Federal holidays.

8.2 Property Damage Caused by the Consultant

The Consultant is responsible to repair/restore in kind, any damage to property resulting from the Consultant's activities in performing the tasks required by this engagement, including, but not limited to: damage to pavement, turf, curbing and vegetation.

9.0 MISCELLANEOUS DOCUMENTS

The following documents must be included with the Proposal in order for the Proposal to be considered responsive:

1. New Jersey Business Registration Certificate. A valid New Jersey Business Registration Certificate is required. If the firm is not already registered with the New Jersey Division of Revenue, the form should be completed, online, at the Division of Revenue website at: <http://www.state.nj.us/treasury/revenue/index.html>.
2. Chapter 51. Pursuant to Public Law 2005, Chapter 51 ("Chapter 51"), State departments, agencies and authorities, such as the Borough, are precluded from awarding contracts exceeding \$17,500 to vendors who make certain political contributions on and after October 15, 2004, to avoid any appearance that the selection of Borough contractors is based on the contractors' political contributions. Chapter 51 also requires the disclosure of all contributions to any political organization organized under 26 U.S.C. 527 that also meet the definition of a "continuing political committee" within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The firm selected to provide services to the Borough as the Consultant shall maintain compliance with Chapter 51 during the term of their engagement.
3. Chapter 271. Pursuant to Public Law 2005, Chapter 271, please be advised of your firm's responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission ("ELEC"), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c. 271, section 3) if your firm receives contracts in excess of \$50,000 from a New Jersey public entity, such as the Borough, during a calendar year. It is your firm's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at (888) 313-3532 or www.elec.state.nj.us.

4. Chapter 92. Pursuant to Public Law 2005, Chapter 92 ("Chapter 92), please identify the location by country where the services will be performed. Pursuant to Chapter 92, all services performed by firms selected pursuant to this RFP shall be performed within the United States of America.

5. Public Law 2006, Chapter 16 Political Contributions Certification. Pursuant to Public Law 2006, Chapter 16 ("Chapter 16"), the Borough is precluded from entering into a contract having an anticipated value in excess of \$17,500, with a "business entity", if, on or after September 1, 2004, or 18 months prior to the dissemination of a request for proposals, the business entity has made a contribution that is reportable by the recipient under P.L. 1973, c. 83 (N.J.S.A. 19:44A-1 et seq.) to the candidate committee of any person serving as a member of the Borough when the contract is awarded or to the State, county or municipal committee of the political party to which any person serving as a member of the Borough belongs when the contract is awarded. **Failure to submit the Chapter 16 political contributions certification shall be cause for rejection of your firm's proposal.**

A business entity that has entered into a contract, having a value in excess of \$17,500, with the Borough, shall not make, during the duration of the contract, a contribution that is reportable by the recipient under P.L. 1973, c. 83 to the candidate committee of any person serving as a member of the Borough or to the State, county or municipal committee of the political party to which any person serving as a member of the Borough belongs. **Please note: The selected firm will be required to submit a political contributions certification on an annual basis.**

For purposes of the Chapter 16 political contributions certification, a "business entity" has the same meaning as prescribed by section 5 of Public Law 2005, Chapter 51.

6. Standard Terms and Conditions. By submitting a Proposal, the firm agrees that if selected, it shall be bound by the Standard Terms and Conditions

7. **Note:** Required insurance coverages/policies to be held by the firm appointed as Consultant are set forth in the Standard Terms and Conditions.

8. Confidentiality Agreement. The firm appointed as Consultant will be required to enter into a confidentiality agreement with the Borough, the form of which will be provided to the firm to be appointed as Consultant at the conclusion of the selection process. The executed confidentiality agreement must be returned to the Borough prior to the commencement of performance by the Consultant. The form of the confidentiality agreement is not subject to negotiation and no proposed comments or revisions will be entertained by the Borough.

10.0 SELECTION PROCESS

10.1 All proposals will be reviewed to determine responsiveness. Non-responsive proposals will be rejected without evaluation. Responsive proposals will be evaluated by an evaluation committee pursuant to the criteria specified below. The Borough reserves the right to request clarifying

information subsequent to submission of the proposal, if necessary.

10.2 An evaluation by Mayor and Council will review and score each Technical Proposal pursuant to the criteria specified below in Section 10.3.

10.3 The criteria used to evaluate responsive Technical Proposals shall include, but not be limited to expertise, capacity, experience and personnel and may include the following evaluation criteria categories:

- (1) Bidder's general overview and approach in meeting the requirements of this RFP;
- (2) Bidder's detailed approach and plans to perform the services required by the Scope of Services;
- (3) Bidder's experience in successfully completing projects of a similar scope and size to that required by this RFP;
- (4) Qualifications and experience of Key Team Members assigned to work with the Borough;
- (5) Overall quality of response to RFP; and.
- (6) Quality of oral interview, if any
- (7) Disclosure of Prohibited Activities

10.4 The evaluation will be based upon the information provided to the Borough in response to this RFP and any necessary verification of such information provided thereof.

10.5 Proposals will receive a final technical ranking based on the Technical Proposal's evaluation, except that, at its sole option, the Borough may conduct interviews, and such interviews, when employed, shall determine the final technical ranking, based on the evaluation criteria.

10.6 Following the final technical ranking, the Cost Proposals will be opened and evaluated by Borough staff. Using the Cost Proposals as a guideline, the Borough shall negotiate engagement with the firm with the highest-ranked Technical Proposal, at a compensation level that the Borough determines to be fair and reasonable. Should the Borough be unable to negotiate a satisfactory engagement with any such firm, the Borough may select additional firms in order of their ranking and continue negotiations until an agreement is reached or, at its option, the Borough may reject any or all Proposals. The Borough reserves the right to negotiate and/or request best and final offers from the selected bidder, as the Borough may deem appropriate in its sole discretion.

10.7 Notwithstanding anything to the contrary, the Borough has no obligation to make an award and reserves the right to waive any non-material defects, reject all Proposals for any reason and terminate the selection process at any time.

A. TIMETABLE

A tentative timeline for the major milestones of this engagement are set forth below. This timeline is subject to change by the Borough, at the Borough's sole discretion, as events and conditions warrant.

Approval of Appointment of Consultant by Borough Mayor and Council	On or about October/November 2024
Project Initiation Meeting	On or about October/November 2024
Project Start Date	On or about November/ December 2024
Interim Report - Borough Council Meeting	February 2025
Final Report - Borough Board Meeting	March 2025
Final Report and project completion	March 2025

APPENDIX A

LETIER OF QUALIFICATION

(Note: TobetypedonRespondent's Letterhead. Nomodifications maybemade to this letter)

Date

Kimberly Humphrey, Administrator, QPA
Borough of Keyport
70 West Front Street
Keyport, NJ 07735

Re: LETIER OF QUALIFICATION

Dear Ms. Humphrey

The undersigned has/have reviewed my/our Qualification Statement/Proposal submitted in response to the Request for Qualifications (RFQ/RFP) issued by the Borough of Keyport ("Borough"), dated August 1, 2024, in connection with the Borough's need for a utility evaluation consultant.

I/We affirm that the contents of the enclosed Qualification Statement/Proposal (which Qualification Statement/Proposal is incorporated herein by reference) is accurate, factual and complete to the best of our knowledge and belief andthat the Qualification Statement/Proposal is submitted in good faith upon express understanding that any false statement may result in the disqualification of _____(Respondent).*

Signed

Printed: _____

Title: _____

If a joint venture, partnership or other formal organization other than a natural person is submitting a Qualification Statement/Proposal, this Letter of Qualification must be signed by an individual with the legal authority to bind the organization.

STANDARD TERMS AND CONDITIONS

By submitting a proposal in response to the Request for Proposal ("RFP") for services, the bidder certifies that it understands and agrees that all of the following terms, conditions and definitions (collectively, "Standard Terms and Conditions") are part of any contract(s) awarded as a result of the RFP unless specifically and expressly modified by reference in the RFP or in a writing executed by an authorized officer of the Borough of Keyport.

I. Definitions: As used in these Standard Terms and Conditions, the following terms shall have the definitions set forth in this paragraph. These definitions shall also apply to the entire contract unless otherwise defined therein.

"Borough" means the Borough of Keyport. The Borough is the intended beneficiary of the Contract.

"Bidder" means any person or entity submitting a proposal in response to the RFP to provide the Borough services specified in the RFP.

"Contract" means a mutually binding legal relationship obligating the Contractor to furnish services and the Borough to pay for them. The Contract consists of these Standard Terms and Conditions, the RFP, the proposal submitted by the Contractor, the subsequent written document memorializing the agreement (if any), any amendments or modifications and any attachments, addenda or other supporting documents of the foregoing.

The Contract and/or its terms cannot be modified or amended by conduct or by course of dealings. Thus, the "contract" does not include the aforementioned actions and such actions, or reliance thereon, afford no rights whatsoever to any party to the Contract. The Contract can only be modified or amended by a writing signed by an authorized officer of the Borough and of the Contractor.

"Contractor" means the person or entity which submits a proposal in response to the RFP and to whom (or which) the Contract is awarded.

"Request for Proposal" or "RFP" means a request for offers or proposals to provide the sought after services as specified herein.

"Shall" denotes a mandatory condition.

"State" means the State of New Jersey.

II. Applicability and incorporation of standard terms and conditions:

A. These Standard Terms and Conditions are automatically incorporated into the Contract unless the Contractor is specifically instructed otherwise in the RFP or in any other amendment

thereto. These Standard Terms and Conditions are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with the same unless the RFP specifically indicates otherwise.

B. All of the Borough's Standard Terms and Conditions will become part of the Contract awarded as a result of this RFP, whether stated in part, in summary or by reference. In the event the Contractor's terms and conditions conflict with the Borough's, the Borough's Standard Terms and Conditions will prevail, unless the Contractor is notified in writing of the Borough's acceptance of the Contractor's terms and conditions.

III. Contractor's Status and Responsibilities:

A. Contractor's Status: The Contractor's status shall be that of an independent contractor and not that of an employee of the State or the Borough.

B. Contractor's Certification as to its Representations: The Contractor certifies that all representations made by it in its proposal or other related and/or supporting materials are true, subject to penalty of law. Further, the Contractor agrees that the violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract may be cause for termination of the contract award. In addition, the Contractor's violation of any statute or regulation relating to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract shall serve as a legal bar to the Contractor's enforcement of its rights under the Contract including any and all claims at law or equity.

C. Contractor's Performance: The Contractor agrees to perform in a good, skillful and timely manner all services set forth in the Contract. The Contractor has an affirmative obligation to promptly notify, in writing, the Borough of any changes in circumstances which might affect the Contractor's ability to be awarded or to perform its obligations under the Contract.

D. Responsibilities of Contractor:

1. The Contractor is responsible for the quality, technical accuracy and timely completion and delivery of all services to be furnished by the Contractor under the Contract.
2. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services furnished under the Contract. The acceptance or payment for any of the services rendered under the Contract shall not be construed as a waiver by the Borough of any rights under the Contract or of any cause of action arising out of the Contractor's performance of the Contract.

3. The acceptance of, approval of or payment for any of the services performed by the Contractor under the Contract shall not constitute a release or waiver of any claim the Corporation has or may have for latent defects or errors or other breaches or warranty or negligence.
4. Except for those subcontractors identified in the Contractor's response to the RFP, the Contractor shall not hire, employ or otherwise engage subcontractors to furnish the performance contemplated by the Contract, unless the prior written approval of the Borough is obtained by the Contractor.
5. The Contractor's obligations under this clause are in addition to the Contractor's other expressed or implied assurances under the Contract or law and in no way diminish any other rights that the Borough may have against the Contractor.

E. Investigation: By submitting a proposal in response to the RFP, the bidder certifies and warrants that it has satisfied itself, from its own investigation, of the conditions to be met and that it fully understands its obligations and if awarded the Contract agrees that it will not make any claim for, or have right to, cancellation or relief from the Contract without penalty because of its misunderstanding or lack of information.

F. Cost Liability: The Borough assumes no responsibility and no liability for costs incurred by the bidder prior to the award of the Contract and thereafter only as specifically provided in the Contract.

G. Indemnity/Liability to Third Parties:

1. The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless the Borough, its officers, employees and attorneys from and against any and all claims, demands, suits, actions, recoveries, judgments, liabilities and costs and expenses which may arise out of the breach of any term of the Contract or the default thereunder by the Contractor, its employees, servants or agents and on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the services supplied under this Contract.
2. The Contractor shall hold and save the Borough, its officers, agents, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this Contract.
3. The Contractor further agrees that:

- a) Any approval by the Borough of the work performed by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract;
- b) The Borough assumes no obligation to indemnify or save harmless the Contractor, its agents, servants or employees for any claim which may arise out of its performance of the Contract; and
- c) The provisions of this indemnification shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the Borough from taking any other actions available to it under any other provisions of the Contract or otherwise at law or equity.

H. Availability of Records: The Borough has the right to request, and the Contractor agrees to furnish free of charge, all information and copies of all records and documents which the Borough requests. The Contractor shall allow the Borough to visit the office(s) of the Contractor periodically, upon reasonable notice, in order to review any document related to the Contract or to otherwise monitor work being performed by the Contractor pursuant to the Contract. Any failure by the Contractor to maintain or produce such records or to otherwise cooperate with the Borough may be, at the Borough's discretion, cause for termination of the contract award and/or suspension or debarment of the Contractor from the Borough.

I. Data Confidentiality: All data not otherwise publicly available contained in documents supplied by the Borough after the award of the Contract, any data not otherwise publicly available gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not) are to be considered confidential and shall be solely for the use of the Borough. The Contractor is required to use reasonable care to protect the confidentiality of the data. Any use, sale or offering of this data in any form by the Contractor, its employees, agents, servants or assignees will be considered in violation of the Contract and will cause the information to be reported to the State Attorney General for possible prosecution. Penalties for violations of this provision include, but are not limited to, termination of the contract award and/or legal action without the Borough being liable for damages, costs and/or attorney fees. The Contractor shall be liable for any and all damages arising from its breach of this confidentiality provision.

J. No Waiver of Warranties or Remedies at Law or Equity: Nothing in the Contract shall be construed to be a waiver by the Borough or any warranty, expressed or implied, except as specifically and expressly stated in a writing executed by an authorized officer of the Borough. Further, nothing in the Contract shall be construed to be a waiver by the Borough of any remedy available to the Borough under the Contract, at law or equity except as specifically and expressly stated in a writing executed by an authorized officer of the Borough.

- K. Publicity:** Publicity and/or public announcements pertaining to the services being furnished pursuant to the Contract shall be approved by the Borough.

IV. Contractual Relationship:

- A. Assignment:** The Contractor shall not assign or transfer its obligations or rights, under the Contract without the prior written consent of the Borough. Any assignment or transfer of the Contractor's rights under the Contract without the prior written consent of the Borough shall not relieve the Contractor of any duty; obligation or liability assumed by it under the Contract and shall be cause for termination of the contract award.

- B. Mergers, Acquisitions and Dissolution:**

1. **Merger or Acquisition:** If, subsequent to the award of any contract, resulting from the RFP, the Contractor shall merge with or be acquired by another firm, the Borough may terminate the contract award upon ten (10) days notice to the Contractor.
2. **Dissolution:** If, during the term of the Contract, the Contractor's partnership, joint venture or corporation shall dissolve, the Borough must be so notified. Upon receipt of such notice, the Borough may terminate the Contract, in which case the provisions of VI. C. and D. shall apply. If the Contractor is (1) a corporation, it must provide a copy of the corporate resolution to dissolve; (2) a partnership, the written statement of the partnership, general partner, receiver or custodian thereof that the partnership has dissolved; and (3) a joint venture, the written agreement of the principal parties thereto to dissolve the joint venture.

- C. Notice:** The Contractor shall promptly provide notice to the Borough of all information related to its merger, acquisition and/or dissolution.

V. Mandatory Compliance with Law: The Contractor's compliance with the legal requirements set forth in this paragraph as well as any other applicable laws, regulations or codes is mandatory and cannot be waived by the Borough. The list of laws, regulations and/or codes cited herein is not intended to be an exhaustive list and is available for review at the State Library, 155 West State Street, Trenton, New Jersey 08625.

- A. Corporate Borough:**

1. All New Jersey corporations must obtain a Certificate of Incorporation from the Office of the Secretary of State of New Jersey prior to conducting business in the State of New Jersey.

2. If a bidder is a corporation incorporated in a state other than New Jersey, the Contractor must obtain a Certificate of Borough to do business from the Office of the Secretary of State of New Jersey prior to receipt of the final contract award. Within seven (7) days of its receipt of a notice of intent to award, the successful bidder shall provide either a certification or notification of filing with the Secretary of State. Failure to comply may result in the Borough withdrawing the notice of intent to award.
3. If the bidder awarded the Contract is an individual, partnership or joint venture not residing in this State or a partnership organized under the laws of another state, then the bidder shall execute a power of attorney designating the Secretary of State as his true and lawful attorney for the sole purpose of receiving process in any civil action which may arise out of the performance of the Contract. The appointment of the Secretary of State shall be irrevocable and binding upon the bidder, his heirs, executors, administrators, successors and assigns. Within ten (10) days of receipt of this service, the Secretary of State shall forward same to the bidder at the address designated in the bidder's proposal.

B. Affirmative Action: During the performance of the Contract, the Contractor agrees to comply with the requirements of P.L. 1975, c.127 (N.J.A.C. 17:27), as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause .
2. The Contractor 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, sex, affectional or sexual orientation.
3. The Contractor 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 Borough's contracting

- officer, advising the labor union or worker's representative of the Contractor's commitments under the act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor agrees to comply with the regulations promulgated by the New Jersey State Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and the Americans with Disabilities Act.
 5. The Contractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the New Jersey State Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2, promulgated by the New Jersey State Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.
 6. The Contractor agrees to inform, in writing, appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
 7. The Contractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by applicable Federal Law and applicable Federal Court decisions.
 8. The Contractor 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, sex affectional or sexual orientation, and conform with the applicable employment goals, consistent with the status and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal Court decisions.
 9. The Contractor shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the Office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the New Jersey Administrative Code (N.J.A.C. 17:27).

- C. Americans with Disabilities Act:** The Contractor shall abide by the provisions of the Americans with Disabilities Act, 42 U.S.C., Sec. 12101, et seq.
- D. Bidders Warranty:** By submitting a proposal in response to the RFP, the bidder warrants and represents that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. The penalty for breach or violation of this provision may result in termination of the contract award without the Borough being liable for damages, costs and/or attorney fees or, in the Borough's discretion, a deduction from the Contract price or consideration the full amount or such commission, percentage, brokerage or contingent fee.
- E. Standards Prohibiting Conflicts of Interest:** The following prohibitions shall apply to all contracts made with the Borough.
1. No Contractor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity or other thing of value of any kind to any officer or employee of the State or the Borough, or special State officer or employee as defined in N.J.S.A. 52:13D-13b and e, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13f of any such officer or employee, or partnership, firm or corporation with which they are employed or associated or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
 2. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by an officer or employee of the Borough from any State Bidder or Contractor shall be reported in writing forthwith by the vendor to the State Attorney General.
 3. No Contractor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement express or implied, or sell any interest in such Contractor to any officer or employee of the Borough or special State officer or employee, or having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Borough or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g.
 4. No Contractor shall influence, or attempt to influence or cause to be influenced any officer or employee of the Borough in his official capacity in any manner which might tend to impair the objectivity or independence or judgment of said officer or employee.

5. No Contractor shall cause or influence, or attempt to cause or influence, any officer or employee of the Borough to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Contractor or any other person.
6. It is agreed and understood that the Borough reserves the right to determine whether a conflict of interest or the appearance of a conflict of interest exists which would under State law adversely affect or would be contrary to the best interest of the Borough.

VI. Termination of the Contract Award: The Borough may terminate the contract award at any time during the duration of the Contract, without penalty, subject to the following provisions:

A. For Convenience: Where circumstances change and/or the needs of the Borough change, or the Contract is otherwise deemed by the Borough to no longer be in the public interest or the services of the Contractor are no longer desired by the Borough, the Borough may terminate the contract award upon no less than thirty (30) days notice to the Contractor. In the event of such a termination of the contract award, the Contractor shall furnish to the Borough, free of charge, such close-out reports as may reasonably be required.

B. For Cause:

1. Where a Contractor fails to perform or comply with the Contract, the Borough may terminate the contract award upon ten (10) days notice to the Contractor.
2. The Borough's right to terminate the contract award for cause includes violation of state and federal law (as demonstrated by the Contractor's admissions of same or a final decision of an appropriate decision-making body), or any reason related to the ability of the Contractor to fulfill its contractual obligations. The Borough may also terminate any contract with a federally debarred contractor or a contractor which is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

C. Upon a termination of the contract award under this or any other paragraph herein, the Contractor shall be entitled to receive as full compensation for services rendered up to the date of termination for that portion of the fee which the services were actually and satisfactorily performed by it, as determined by the Borough, shall bear to the total services contemplated under the Contract, less payments previously made.

- D. Upon termination of the contract award, the Borough may acquire the services which are the subject of the Contract from another source and may charge the Contractor whose contract award has been terminated the difference in price, and the said Contractor shall be liable for same.

VII. Contractor Compensation: The Contractor shall submit invoices no more frequently than every 30 days. Supporting information containing specific details and proof of completion of the tasks and specific units completed shall be provided. Payment will not be made until the Borough has approved payment. Payment of the Contractor is subject to the availability and receipt of funds. The Contract is subject to termination for convenience by the Borough, without penalty to the Borough, if funds are not available and/or received by the Borough at any time during the duration of the Contract.

VIII. Insurance: The Consultant shall maintain, at its own cost and expense, the following insurance coverages/policies insuring the Consultant, its employees and agents. In each policy, the Consultant shall have incorporated a provision requiring written notice to the Borough at least thirty (30) days prior to the cancellation, non-renewal or material change of any insurance required under the Contract. Any and all deductibles shall be paid by the Consultant. The Consultant shall provide the renewal date of each policy and shall provide proof of renewal of each policy to the Borough. The types and minimum amounts of insurance required are as follows:

- A. Professional Liability Insurance (Errors & Omissions), with all coverage retroactive to the Consultant's date of appointment by the Borough, covering any and all bodily injury and property damage arising from the services performed under the Contract in an amount not less than \$1,000,000 per occurrence. Such coverage must be maintained for a period of five (5) years after the date of final payment by the Borough hereunder or if coverage is not commercially available for such period of time, then for such shorter period of time as such insurance is commercially available.
- B. Worker's Compensation Insurance and Employers Liability Insurance in accordance with the laws of the State of New Jersey and any other jurisdiction required to protect employees of the Consultant while engaged in the performance of services under the Contract. The coverage shall be statutory with an employer's liability coverage of \$1,000,000 for bodily injury, each occurrence, \$1,000,000 for disease for each employee, and \$1,000,000 for disease, aggregate limit. The policy shall name as additional insured's the Borough and the State of New Jersey.
- C. Commercial General Liability Insurance, including any and all bodily injury and property damage arising out of or in connection with the services performed under the Contract. The policy shall include coverage for contractual liability and shall be in an amount not less than \$1,000,000 per claim; for bodily injury and shall be

in an amount not less than \$500,000 per occurrence, \$1,000,000 aggregate; and for property damage and shall be in an amount not less than \$500,000 per occurrence. The policy shall name as additional insured's the Borough and the State of New Jersey. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.

- D.** Comprehensive Automobile Liability Insurance, including coverage for all owned and non-owned and hired vehicles, covering bodily injury and property damage. Such coverage shall be in the amount of \$1,000,000 combined single limit. The policy shall name as additional insured's the Borough and the State of New Jersey.

IX. Notices: All notices required under the Contract shall be in writing and shall be validly and sufficiently served by the Borough upon the Contractor, and vice versa, if addressed and mailed by certified mail to the addressee set forth in the Contract. Notice to the Borough shall be mailed to the following address:

Mailing and Overnight Delivery Address:
BOROUGH OF KEYPORT
70 WEST FRONT STREET KEYPORTNJ 07735

X. Claims: All claims against the Borough by the Contractor concerning interpretation of the Contract, Contractor performance and /or termination of the contract award shall be subject to the New Jersey Tort Claims Act N.J.S.A. 59:1-1, et seq. and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

XI. Applicable Law: This Contract and any and all litigation arising there from or related thereto shall be governed by the applicable law, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles.

TOTAL PROJECT COST \$ _____

WRITE TOTAL PROJECT COST IN WORDS:

Attachment #1

Scope of Work for Feasibility Engineer Analysis of Sanitary Sewer System Sale

1. Project Overview

The objective of this feasibility analysis is to assess the viability and implications of selling the Borough of Keyport Sanitary Sewer and Drinking Water System, which currently serves the Borough of Keyport in Monmouth County. This analysis will provide critical information to inform decision-making regarding the potential sale, including the system's operational, financial, and regulatory aspects.

2. Objectives

The key objectives of this feasibility analysis are to:

- Evaluate the operational condition and capacity of the sanitary sewer system.
- Analyze the financial implications of the sale.
- Assess the regulatory and compliance requirements associated with the sale.
- Identify potential risks and provide mitigation strategies.
- Deliver recommendations based on the analysis.

3. Scope of Services

The engineer will be responsible for the following services:

A. Operational Assessment

1. System Review

- Perform a comprehensive review of the existing sanitary sewer system, including:
 - Infrastructure components (pipes, lift stations, treatment facilities, etc.)
 - Operational status and maintenance records
 - Capacity and performance metrics

2. Inspection and Testing

- Conduct on-site inspections of key system components.
- Perform necessary testing to evaluate system condition, such as flow measurements, pressure tests, and material assessments.

3. Maintenance and Repair History

- Analyze historical data on maintenance and repairs to determine any recurring issues or concerns.

B. Regulatory and Compliance Review

1. Regulatory Requirements

- Identify and review relevant local, state, and federal regulations governing the sale of public utilities.
- Assess compliance with current regulations and any potential changes that could affect the sale.

2. Permit and Licensing

- Determine the necessary permits or licenses required for the sale and transfer of ownership.
- Evaluate any conditions or requirements imposed by regulatory agencies.

D. Risk Assessment

1. Identification of Risks

- Identify and assess risks associated with the sale of the sanitary sewer system, including:
 - Operational risks
 - Financial risks
 - Regulatory compliance risks

C. Deliverables

1. Feasibility Report

- Submit a comprehensive report that includes:
 - Executive Summary
 - Operational Assessment Findings
 - Regulatory and Compliance Review
 - Risk Assessment and Mitigation Strategies
 - Recommendations and Conclusions

2. Presentation

- Prepare and present a summary of findings and recommendations to governing body