

Energy Procurement Advisory Agreement

This Energy Procurement Advisory Agreement – hereafter “Agreement” – is dated as of January 1, 2024 – by and between the Township of North Bergen, (“Municipality”) – a New Jersey municipal entity, with offices located at 4233 John F. Kennedy BLVD, North Bergen NJ, 07047 and Taurus Advisory Group, LLC (“Consultant”) – an energy advisory consultant listed by the New Jersey Division of Local Government Services as an approved provider of online reverse auctions for the purchase of energy generation services with headquarters located at 27 Lawrence Road, Madison, NJ 07940.

Recitals

WHEREAS, Municipality desires to engage Consultant as its exclusive provider of specific energy consulting and procurement services related to electricity and gas accounts located within the corporate boundaries of the Township of North Bergen, New Jersey; and

WHEREAS, the Municipality requires that the Consultant’s scope of work – to be elaborated further within the Agreement – should include assistance with and/or execution of purchase of energy generation services for municipal utility accounts; retrofits, incentives, utility tariff/invoice review and other energy-related projects for Municipal facilities; and

WHEREAS, Consultant is registered with the New Jersey Board of Public Utilities as an Energy Agent, Energy Consultant, and Private Aggregator and is fully equipped with industry experience and proprietary technological capabilities unique to the NJDCA’s approved providers of online reverse auctions for the purchase of energy generation services; and

WHEREAS, Consultant is more than capable of fulfilling the scope of services required by the Municipality and desires to be so engaged.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements herein contained, the parties, intending to be legally bound, agree as follows:

Agreement

I. Scope of Services

Consultant will employ proprietary electronic data interchange (EDI) enabled platforms to assist them in the provision of the following services:

a. Municipal Energy Procurement and Management

*review current supply contract(s) – where applicable – and ensure smooth transition from current supply contract(s) to new supply contract or back to utility company

*assist municipality with energy budgeting and management

- *analyze account profile and generate procurement strategies
- *compile request for bids, generate online auction, and facilitate execution of supply contract(s) that project favorable results
- *correspond with supplier(s) and/or utility company as required in order to assist with contractual issues that may arise
- *perform spot tariff reviews if/when anomalies with utility bills arise and assist Municipality in rectifying said issues
- *track and show, upon request, energy cost, consumption, and savings of procured supply rate(s)

b. Energy Incentives & Special Projects

- *assist with review and application process for incentive programs offered by the State and utility company
- *analyze impact of installed retrofitting projects
- *assist Municipality in review of renewable energy and other energy-related sustainability projects
- *provide consultation regarding Sustainable Jersey offerings/programs/initiatives
- *review and/or solicit proposals for energy/weather-related projects aimed at streamlining budget, such as solar, energy cost fixing, and weather expense cost fixing

c. Compliance with RFP

- * Contractor agrees to comply with the terms and conditions set forth in the Municipality's Request for Proposals (RFP) for the 2024 contract year.

II. Term

This Agreement shall commence on January 1, 2024, and shall terminate on December 31, 2024.

III. Termination

Municipality may terminate this Agreement at any time, with or without cause (and no cause need be stated), by giving 45 days' written notice to Consultant.

In the event of the termination of this Agreement, either at the end of the term set forth in Article II, or the earlier termination under this Article, unless said earlier termination is for cause, Consultant will continue to have the right to receive the fees under Article IV for the duration of the then existing contract(s) between the Municipality and the energy supply company(ies) where said contract(s) were procured pursuant to the terms of this Agreement.

IV. Payment

Municipality shall never be invoiced for any of the services outlined herein. All services rendered by Consultant shall be covered by fees remitted from the Energy Supply Company or Companies (ESCO) that win the bids issued by the Consultant on behalf of the Municipality over the course of the term of service. Even in the event that no supply contract is ever executed, the Consultant agrees to perform all tasks outlined herein and shall not charge the Municipality for services rendered.

In the event that Consultant's work leads to the execution of energy supply contract(s) for municipal facilities, consultant shall earn fee(s) as set forth in Section 5, of their RFP response dated December 13 2023, a copy of which is attached hereto.

V. Indemnification.

- a. Professional Liability. Relative to any and all claims, losses, damages, liability and cost, the Consultant agrees to indemnify, defend and hold the Municipality, its officers, officials, and employees harmless from and against any and all suits, actions or claims for property losses, damages or personal injury claimed to arise from a negligent act, error or omission by the Consultant or its employees.
- b. Non-Professional Liability (General Liability). To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the Municipality, its officers, officials, employees or any combination thereof, from and against claims, damages, losses and expenses arising out of the acts or omissions of the Consultant, provided that such claim, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the work itself) including loss of use resulting therefrom, but only to the extent caused to in whole or in part by the acts or omissions of the Consultant, its agents, or anyone directly or indirectly employed by them.

VI. Insurance.

- a. The Consultant shall secure and maintain, at its own expense, errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim/annual aggregate to protect itself from any claim arising out of the performance of professional services and caused by negligent acts or omissions for which the Consultant may be legally responsible.
- b. In addition to errors and omissions insurance, the Consultant shall also secure and maintain, at its own expense, General Liability insurance in an amount not less

than one million dollars (\$1,000,000.00) per occurrence.

- c. The Consultant shall maintain said coverage for the entire contract period and for a minimum of one year after completion of the work under the contract.

VII. Compliance with the Law

Notwithstanding any other provisions of this Agreement, it is expressly agreed and understood that in connection with the performance of this Agreement that Consultant shall comply with all applicable federal, state, city and other requirements of law. The Consultant shall also at its expense secure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful fulfillment of its Services. The Municipality shall have the right to audit any records in the possession or control of the Consultant to determine the Consultant's compliance with the provisions of this paragraph.

VIII. Entire Agreement / Amendment.

This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreements between the parties. This Agreement may be amended or modified only by a written document executed by the duly authorized officers of the parties hereto. It is understood and agreed that this Agreement may not be changed, modified, or altered except by an instrument, in writing, signed by both parties in accordance with the laws of the State of New Jersey.

IX. Exclusive Agreement.

The Municipality agrees that during the term of this Agreement, it shall not directly or indirectly solicit, initiate or encourage submission of further proposals or offers from, enter into any agreements with, or accept the services of, any person or entity, for professional services that are substantially similar to the Services to be performed by the Consultant pursuant to this Agreement. The Consultant shall serve as the Municipality's exclusive provider of the Services during the term of this Agreement.

X. Confidential and Proprietary Information.

Notwithstanding anything to the contrary set forth herein, the Parties are not required to disclose information which they reasonably deem to be proprietary or confidential in nature. The Parties agree that any information disclosed by a Party and designated

as proprietary and confidential shall only be disclosed to those officials, employees, representatives, and agents of the other Party that have a need to know in order to administer and enforce this Agreement. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to a Party's corporate structure and affiliates, marketing plans, financial information, or other information that is reasonably determined by a Party to be competitively sensitive. A Party may make proprietary or confidential information available for inspection but not copying or removal by the other Party's representatives. Compliance by the Municipality with the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq., ("OPRA"), including compliance with an opinion or directive from the relevant New Jersey agencies under OPRA, or with a decision or order of a court with jurisdiction over the Municipality, shall not be a violation of this Section and Municipality shall have no duty to litigate or defend any action against it under OPRA.

XI. Disputes and Governing Law.

The Parties intend that this Agreement may be enforced at law or by suit for specific performance. This Agreement shall be governed by and construed in accordance with the federal laws of the United States of America and internal laws of the State of New Jersey applicable to contracts made and to be performed in such state.

XII. Severability

If any provision of this Agreement is held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid, mutually agreeable and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

XIII. Affirmative Action

Pursuant to N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127, as amended), and N.J.A.C. 17:27-1 et seq., Consultant agrees to the terms of the Mandatory Affirmative Action Language set forth in Exhibit A attached hereto.

XIV. New Jersey Business Registration Requirements.

Pursuant to N.J.S.A. 52:32-44, the Township ("Contracting Agency") is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a

valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the contractor shall provide the Contracting Agency with its proof of business registration and that of any named subcontractor(s).

Subcontractors named in a bid or other proposal shall provide proof of business registration to the bidder, who in turn, shall provide it to the Contracting Agency prior to the time a contract, purchase order, or other contracting document is awarded or authorized.

During the course of contract performance:

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

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

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

XV. Retention of Records

Pursuant to N.J.A.C. 17:44-2.2 (see also N.J.S.A. 52:15C-14(d)), Consultant shall maintain all documentation related to products, transactions or services under this Agreement for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

XVI. Successors and Assignees

The Municipality shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of Consultant. Consultant shall not assign or transfer its rights or obligations under this Agreement without prior written consent of the Municipality.

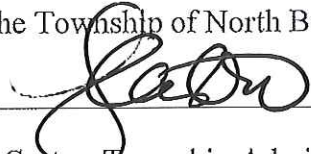
XVII. Execution in Counterparts

This Agreement may be executed electronically and in counterparts, each of which shall be deemed a duplicate original, but all of which together shall constitute one and the same instrument so long as it is signed by all parties.

(Remainder of page intentionally blank.)

IN WITNESS WHEREOF, parties hereto have caused this Agreement to be duly executed by their duly authorized officials.

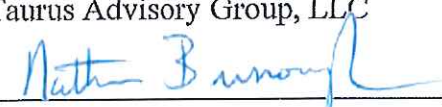
For the Township of North Bergen, New Jersey

BY: 

Janet Castro, Township Administrator

Dated: 2-6-24

For Taurus Advisory Group, LLC

BY: 

Nathan Burroughs, Managing Director

Dated: January 23, 2024



SECTION 5 - Rates/Fee Structure

Taurus will not invoice the client for any of the services rendered, as described herein. Taurus will earn commission to be paid on a transactional basis by the energy supply companies (ESCOs) engaged through its procurement activities on behalf of the client, according to the client's volumetric energy consumption thereby contracted, as follows:

- Taurus Advisory Group shall earn \$.0025/kWh for electricity contracted through services included in this agreement
- Taurus Advisory Group shall earn \$.025/therm for natural gas contracted through services included in this agreement

Suppliers compensating consultants per volume of energy procured is an industry standard practice. If questions regarding fee logistics arise, Taurus is more than willing to field such.



EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

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

GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES CONTRACTS

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, 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 will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

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

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

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

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

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

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

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1. et seq.