

CITY OF NEWARK AFFIRMATIVE ACTION

STANDARD OPERATING PROCEDURES

PURPOSE: TO ESTABLISH A PROCEDURE FOR EACH CONTRACTOR OR SUB-CONTRACTOR TO FOLLOW WITH REGARD TO EMPLOYMENT AND COMPLIANCE OF THE AFFIRMAVE ACTION PROGRAM.

PROCEDURE: SECTION I GENERAL INFORMATION
SECTION II CONTRACTORS RESPONSIBILITY
SECTION III PRE-AWARD DOCUMENTS
SECTION IV MEETING MANPOWER GOALS
SECTION V DAILY REPORTS
SECTION VI PAYROLL REPORTS

SECTION I

GENERAL INFORMATION

THE STANDARD OPERATING PROCEDURES MANUAL HAS BEEN REVISED FOR THE PURPOSE OF ACCUMLATING AND COMPLILING ALL COMPREHENSIVE INFORMATION TO ENSURE COMPLIANCE OF THE CITY OF NEWARK'S AFFIRMATIVE ACTION PLAN.

THE PROCEDURE IS MANDATORY AND APPLIES TO OWNERS, DEVELOPERS, GENERAL CONTRACTORS, SUPPLIERS AND VENDORS RECEIVING TAX ABATEMENTS, LAND LEASES, LOANS, GRANT CONTRACTS, CITY CONTRACTS AND/OR OTHER SPECIAL CONCESSIONS FROM THE CITY OF NEWARK.

1. THE OFFICE OF AFFIRMATIVE ACTION IS LOCATED IN CITY HALL, 920 BROAD STREET, ROOM B-25, NEWARK, NJ 07102, (973) 733-6394.
2. ALL GENERAL/PRIME CONTRACTORS AWARDED A CITY CONTRACT, DEMOLITION CONTRACT, AND/OR CONSTRUCTION PROJECTS, MUST ATTEND A PRE-AWARD CONFERENCE WITH THE CITY OF NEWARK'S OFFICE OF AFFIRMATIVE ACTION.
3. ALL GENERAL/PRIME CONTRACTORS MUST COMPLETE AND SUBMIT TO THE OFFICE OF AFFIRMATIVE ACTION, AN ENTIRE SET OF PRE-WARD DOCUMENTS AT LEAST ONE MONTH PRIOR TO CONSTRUCTION OR CONTRACT STARTING, ENSURING DATES AND DOLLAR AMOUNTS AS REQUIRED.
4. ALL SUPPLIERS/VENDORS MUST SUBMIT APPENDIXES A AND G IF CONTRACT OR PURCHASE ORDER IS IN EXCESS OF \$17,500. THE GENERAL/PRIME MUST INCLUDE ON THEIR APPENDIX G ALL SUPPLIERS AND/OR VENDORS.
5. ALL CONTRACTORS DOING ANY WORK FOR OR WITHIN THE CITY OF NEWARK MUST REGISTER WITH THE LICENSE BUREAU, CITY OF NEWARK, 920 BROAD STREET, ROOM B17, NEWARK, NEW JERSEY, PRIOR TO STARTING WORK.
6. ALL MINORITY BUSINESS ENTERPRISES AND WOMEN BUSINESS ENTERPRISES, CONTRACTORS, SUPPLIERS AND VENDORS, MUST BE REGISTERED WITH THE OFFICE OF AFFIRMATIVE ACTION, ROOM B-25, 920 BROAD STREET, NEWARK, NEW JERSEY 07102, (973) 733-6394 AND, CERTIFIED BY AN APPROVED GOVERNMENT AGENCY. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN DISALLOWANCE OF THE MBE DOLLARS FOR THAT SPECIFIC CONTRACTOR(S).

7. MINORITY BUSINESS ENTERPRISES (MBE'S) SHALL BE DEEMED INDEPENDENTLY OWNED AND OPERATED IF ITS MANAGEMENT IS RESPONSIBLE FOR BOTH ITS DAILY AND ITS LONG-TERM OPERATION, AND IF ITS MANAGEMENT OWNS AT LEAST 51 PERCENT INTEREST IN THE BUSINESS. IN ORDER TO BE ELIGIBLE AS A MBE, A BUSINESS MUST BE A SOLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION AT LEAST 51 PERCENT OF WHICH IS OWNED AND CONTROLLED BY PERSONS WHO ARE AFRICAN AMERICAN, HISPANIC, ASIAN AMERICAN, AMERICAN INDIAN OR ALASKAN NATIVE, WHICH ARE DEFINED AS FOLLOWS:

AFRICAN AMERICAN: HAVING ORIGINS IN ANY OF THE BLACK RACIAL GROUPS OF AFRICA.

HISPANIC AMERICAN: A PERSON OF MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICA OR OTHER NON-EUROPEAN SPANISH CULTURE OR ORIGIN, REGARDLESS OF RACE.

ASIAN AMERICAN: A PERSON HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLE OF THE FAR EAST SOUTHWEST ASIA, AND ASIAN SUB-CONTINENT, HAWAII OR THE PACIFIC ISLANDS.

AMERICAN INDIAN OR ALASKAN NATIVE: A PERSON HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLE OF NORTH AMERICA AND WHO MAINTAINS CULTURAL IDENTIFICATION THROUGH TRIBAL AFFILIATION OR COMMUNITY RECOGNITION.

8. MINORITY WORKERS ARE DEFINED AS FOLLOWS:

- A. AFRICAN AMERICAN: HAVING ORIGINS IN ANY OF THE BLACK RACIAL GROUPS OF AFRICA.
- B. HISPANIC AMERICAN: A PERSON OF MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN OR OTHER NON-EUROPEAN SPANISH CULTURE OR ORIGIN, REGARDLESS OF RACE.
- C. ASIAN AMERICAN: A PERSON HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLE OF THE FAR EAST, SOUTHEAST ASIA, INDIAN SUB-CONTINENT, HAWAII OR THE PACIFIC ISLANDS.
- D. AMERICAN INDIAN OR ALASKAN NATIVE: A PERSON HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLE OF NORTH AMERICA AND WHO MAINTAINS CULTURAL IDENTIFICATION THROUGH TRIBAL AFFILIATION OR COMMUNITY RECOGNITION.

9. NEWARK MINORITY RESIDENT EMPLOYMENT INCENTIVE PROGRAM

AS AN INCENTIVE TO REACH THE CITY OF NEWARK'S GOAL FOR EMPLOYMENT OF MINORITY RESIDENTS, AN INCENTIVE PROGRAM IS OFFERED IN THE FORM OF CREDITS AS FOLLOWS:

- A. A CREDIT OF FIVE PERCENT (5%) IN THE CONTRACT MBE DOLLAR COMMITMENT, IF A NEWARK DOMICILED JOURNEY WORKER/APPRENTICE IS ENGAGED IN THE PERFORMANCE OF THE CONTRACT.
- B. A CREDIT OF 2 MAN-HOURS FOR EVERY 8 MAN-HOURS WORKED BY THE NEWARK DOMICILED JOURNEY WORKER ON ANY GIVEN DAY.

CREDITS SHALL BE LIMITED TO EACH CONTRACTOR/SUB-CONTRACTOR AS EARNED AND LIMITED TO THE SPECIFIED CONTRACT. CREDITS SHALL NOT BE TRANSFERABLE.

SECTION II

CONTRACTOR'S RESPONSIBILITIES

1. THE GENERAL/PRIME CONTRACTOR IS RESPONSIBLE FOR THE AWARDING OF 25% OF THE TOTAL CONTRACT/PROJECT DOLLAR AMOUNT TO MINORITY CONTRACTOR(S) IN ACCORDANCE WITH THE CITY OF NEWARK'S AFFIRMATIVE ACTION ORDINANCE, CHAPTER 2, ARTICLE II, OF THE REVISED AFFIRMATIVE ACTION ORDINANCE OF THE CITY OF NEWARK, NEW JERSEY 1966, AS AMENDED AND SUPPLEMENTED.
2. ALL CONTRACTORS ARE REQUIRED TO FILE WITH THE CITY OF NEWARK'S LICENSE BUREAU, CITY HALL, B17, IN ACCORDANCE WITH ORDINANCE TO AMEND TO TITLE 8, BUSINESSES AND OCCUPATIONS OF THE REVISED ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY 1984 AS AMENDED AND SUPPLEMENTED ADDING THERETO CHAPTER 21, BUILDING CONTRACTORS (TO ESTABLISH REGULATIONS AND PROCEDURES FOR LICENSING OF BUILDING CONTRACTORS).
3. THE GENERAL/PRIME CONTRACTOR IS RESPONSIBLE FOR EACH OF HIS/HER SUB-CONTRACTOR'S COMPLIANCE WITH THE CITY OF NEWARK'S AFFIRMATIVE ACTION ORDINANCE. WHEN AWARDING SUB-CONTRACTS, THE GENERAL/PRIME CONTRACTOR IS REQUIRED TO STIPULATE THE REQUIREMENTS IN MEETING THE AFFIRMATIVE ACTION ORDINANCE.
4. THE GENERAL/PRIME CONTRACTOR HAS THE RESPONSIBILITY OF SUBMITTING ALL DOCUMENTS, MANPOWER AND PAYROLL REPORTS AS REQUIRED BY THE STANDARD OPERATING PROCEDURES MANUAL IN ACCORDANCE WITH THE CITY OF NEWARK'S AFFIRMATIVE ACTION ORDINANCE.
5. ALL MINORITY CONTRACTORS, SUPPLIERS AND VENDORS MUST BE REGISTERED WITH THE OFFICE OF AFFIRMATIVE ACTION, ROOM B-25, CITY HALL, 920 BROAD STREET, NEWARK, NEW JERSEY 07102, (973)733-6394, AND CERTIFIED BY AN APPROVED GOVERNMENT AGENCY. FAILURE TO COMPLY WITH THIS REQUIREMENT MAY RESULT IN DISALLOWANCE OF THE MBE DOLLARS FOR THAT SPECIFIC CONTRACTOR(S).
6. ALL CONSTRUCTION CONTRACTS AWARDED BY THE CITY OF NEWARK AND ALL AGREEMENTS ENTERED INTO BY THE CITY OF NEWARK AS SET FORTH IN THE CITY OF NEWARK'S ORDINANCE (2:2-40.3) SHALL PROVIDE MONETARY PENALTIES TO-BE IMPOSED FOR VIOLATION OF THE PROVISIONS OF THE ORDINANCE AND THE AFFIRMATIVE ACTION PLAN FOR CONSTRUCTION RELATING TO MINORITY BUSINESS ENTERPRISES AS FOLLOWS:

CONTRACT AMOUNT

PENALTY PER DAY
NON-COMPLIANCE

\$10,000 - \$199,000.00	\$250
\$200,000 - \$499,000.00	\$500
\$500,000 - \$1,499,000	\$600
\$1,500,000 - \$2,999,000	\$700
\$3,000,000 - \$4,999,000	\$800
\$5,000,000 - AND ABOVE	\$1200

7. FAILURE TO COMPLY WITH THE AFFIRMATIVE ACTION PLAN FOR CONSTRUCTION MAY RESULT IN:
- A. REQUIRING THE CONTRACTOR OR DEVELOPER TO ENFORCE HIS/HER OBLIGATION UNDER CONTRACTS WITH SUB-CONTRACTORS.
 - B. COMMENCING AN ACTION OR PROCEEDING IN ARBITRATION AS A THIRD PARTY BENEFICIARY.
 - C. WITH-HOLDING CONTRACT PAYMENTS.
 - D. RECOMMENDING TERMINATION OR SUSPENSION OF THE CONTRACT, IN WHOLE OR IN PART, TO THE MUNICIPAL COUNCIL.
 - E. DIRECTING THAT THE CONTRACTOR NOT BE PERMITTED TO BID ON CITY CONTRACTS FOR A SPECIFIED PEIROD OF TIME, NOT LESS THAN ONE YEAR OR MORE THAN FIVE YEARS.
 - F. DIRECTING THAT THE DEVELOPER/CONTRACTOR NOT BE PERMITTED TO PARTICIPATE IN CONSTRUCTION GRANTS IN CONNECTION WITH TAX ABATEMENTS, GRANTS, LOANS OR OTHER SPECIAL CONSIDERATION BY THE CITY OF NEWARK FOR A SPECIFIED PERIOD OF TIME, NOT LESS THAN ONE YEAR OR MORE THAN FIVE YEARS.
 - G. IMPOSING SUCH MONETARY PENALTIES FOR NON-COMPLAINCE, AS SET FORTH IN THE CONTRACT.
 - H. TAKING ANY AND ALL OTHER ACTIONS AVAILABLE BY OR EQUITY FOR THE BREACH OF MATERIALS CONDITION OF A CONTRACT.
8. ON ALL MUNICIPAL PROJECTS IN EXCESS OF \$2,500,000 THE AWARDING AGENCY WILL INCLUDE IN ITS AUTHORIZED APPROPRIATION ONE-HALF OF ONE PERCENT OF ITS TOTAL PROJECT DEVELOPMENT COST, TO BE USED IF NECESSARY TO

FINANCE THE COST OF OUT REACH AND TRAINING PROGRAMS FOR MINORITY CRAFT WORKERS. IF, IN THE OPINION OF THE MAYOR OF THE CITY OF NEWARK, THIS FUNDING REQUIREMENT THREATENS THE FEASIBILITY OF A PROJECT, THE MAYOR MAY REQUEST FROM THE STATE OFFICE OF AFFIRMATIVE ACTION A WAIVER OF SOME OR ALL OF THIS ONE-HALF PERCENT FUNDING REQUIREMENT.

SECTION III

CITY OF NEWARK'S AFFIRMATIVE ACTION PROGRAM

STANDARD OPERATING PROCEDURE

PRE-AWARD DOCUMENTS

- A. STATEMENT OF COMPLIANCE
- B. LETTER TO SUB-CONTRACTOR
- C. DESIGNATION OF COMPLIANCE OFFICER
- D. CONTRACTOR'S GOALS
- E. CONTRACTOR'S OBLIGATIONS
- F. MANNING TABLE (SIX MONTH PROJECTION OF MAN-POWER TO BE USED ON PROJECT).
- G. MINORITY BUSINESS UTILIZATION CERTIFICATE

ALL REQUIRED ITEMS TO BE COMPLETED ARE TO INCLUDE THE TOTAL DOLLAR AMOUNT AWARDED TO DATE. GENERAL/PRIME CONTRACTORS WILL INDICATE ON THEIR APPENDIX G ALL SUPPLIERS AND/OR VENDORS WITH DIRECT AWARDS OR PURCHASE ORDERS GIVEN BY THEM. ALL CONTRACTORS MUST SUBMIT UPDATED APPENDIX G BEFORE THE 2ND OF EACH MONTH.

DOLLAR AMOUNT OF CONTRACT COLUMN MUST EQUAL AT MINIMUM, THE PROJECT COST SPECIFIED IN THE TAX ABATEMENT APPLICATION.

- H. ALL MINORITY CONTRACTOR'S WILL SUBMIT A COPY OF THEIR CERTIFICATION DOCUMENTATION FROM AN APPROVED GOVERNMENT AGENCY.

*** ALL DATES AND DOLLAR AMOUNTS MUST BE INCLUDED

*** ALL CONTRACTORS MUST COMPLETE ALL OF THE ABOVE APPENDIXES, WITH THE EXCEPTION OF SUPPLIERS AND VENDORS.

*** SUPPLIERS AND VENDORS WITH CONTRACTS AND/OR PURCHASE ORDERS IN EXCESS OF \$17,500 WILL COMPLETE APPENDIXES A AND G ONLY.

STANDARD OPERATING PROCEDURES

FOR MEETING MANPOWER REQUIREMENTS

SECTION IV

PURPOSE: TO ESTABLISH A PROCEDURE FOR EACH CONTRACTOR TO FOLLOW WITH REGARD TO EMPLOYMENT OF JOURNEYMEN, APPRENTICES, REFERRALS AND NON-UNION.

PROCEDURES: JOURNEYMEN

1. THE MINORITY REQUIREMENT FOR ALL JOURNEYMEN HOURS ARE 33 1/3% EXCEPT LABORERS. LABORERS SHALL BE 50%. CONTRACTORS WILL MAKE EVERY EFFORT TO REACH MINORITY HEADCOUNT THROUGH UNION REFERRALS. A MAXIMUM OF SEVENTY-TWO (72) HOURS SHOULD BE ALLOTTED FOR THE UNIONS TO SUPPLY MINORITY JOURNEYMEN.
2. IF THE REQUIRED HEADCOUNT CANNOT BE REACHED THROUGH UNION REFERRALS, THE CONTRACTOR SHOULD DOCUMENT THIS EFFORT AND IMMEDIATELY FORWARD A COPY TO THE CITY OF NEWARK'S MANAGER OF THE OFFICE OF AFFIRMATIVE ACTION, ROOM B-25, 920 BROAD STREET, NEWARK, NJ 07102.
3. IF THE CONTRACTOR REFUSES TO EMPLOY ANY PERSON REFERRED BY THE UNION, HE MUST SUBMIT A WRITTEN EXPLANATION WITHIN 24 HOURS TO THE CITY OF NEWARK'S OFFICE OF AFFIRMATIVE ACTION, KEEPING IN MIND THAT ANY REFUSAL TO EMPLOY ANY PERSON REFERRED MUST BE BASED SOLELY ON ABILITY AND/OR PERFORMANCE AND SHOULD NOT IN ANY WAY BE INFLUENCED BY THE UNION OR ANY OTHER ORGANIZATION AFFILIATION.
4. IF, AFTER MAKING A GOOD FAITH EFFORT TO OBTAIN MINORITY JOURNEYMEN THROUGH UNIONS, THE CONTRACTOR CANNOT MEET THE MINORITY HOUR REQUIREMENT, HE MUST NOTIFY THE OFFICE OF AFFIRMATIVE ACTION FOR THE NECESSARY NON-UNION MINIORITY JOURNEYMEN.
5. IF A CONTRACTOR FINDS THAT A UNION WILL NOT ACCEPT THE BENEFITS AND/OR PROVIDE THE COVERAGE

AS PER THE COLLECTIVE BARGAINING AGREEMENT FOR NON-UNION JOURNEYMEN, HE SHOULD DOCUMENT THIS EFFORT AND SUBMIT A COPY TO THE CITY OF NEWARK'S OFFICE OF AFFIRMATIVE ACTION, HE MUST THEN PAY THE FRINGE BENEFITS TO THE NON-UNION JOURNEYMEN IN HIS PAY CHECK.

6. THE CONTRACTOR WILL BE CONSIDERED IN COMPLIANCE ONLY WHEN 33 1/3% MINORITY HEADCOUNT GOAL HAVE BEEN ATTAINED FOR JOURNEYMEN AND 50% MINORITY GOAL FOR LABORERS.

UNION APPRENTICE

1. UNION APPRENTICE ARE TO BE PLACED ON THE JOB ACCORDING TO THE BARGAINING AGREEMENT BETWEEN THE CONTRACTOR AND THE UNION.
2. FIFTY PERCENT (50%) OF ALL APPRENTICES MUST BE MINORITY.
3. IF THE CONTRACTOR REFUSES TO EMPLOY ANY PERSON REFERRED BY THE UNION, HE MUST SUBMIT A WRITTEN EXPLANATION WITHIN 24 HOURS TO THE CITY OF NEWARK'S AFFIRMATIVE ACTION OFFICE, KEEPING IN MIND THAT ANY REFUSAL TO EMPLOY ANY PERSON REFERRED MUST BE BASED SOLELY ON ABILITY AND/OR PERFORMANCE AND SHOULD NOT IN ANY WAY BE INFLUENCED BY UNION OR ANY OTHER ORGANIZATION AFFILIATION.
4. THE CONTRACTOR WILL BE CONSIDERED IN COMPLIANCE ONLY WHEN 50% MINORITY APPRENTICE GOAL IS ATTAINED.

TRAINEES

1. IN THE EVENT THAT THE UNION CANNOT SUPPLY A MINORITY APPRENTICE, THE CONTRACTOR SHALL EMPLOY A TRAINEE.
2. ALL TRAINEES SHALL BE REFERRED BY THE OFFICE OF AFFIRMATIVE ACTION'S LABOR FORCE POOL.
3. THE RATIO SHALL BE APPROVED BY THE DEPARTMENT OF LABOR.
4. WHEN THE AMOUNT OF JOURNEYMEN MEETS THE ALLOTMENT OF APPRENTICE, (IN MOST CASES, 1 APPRENTICE TO 5 JOURNEYMEN) TRAINEES SHALL BE HIRED FROM THE CITY OF NEWARK'S AFFIRMATIVE ACTION LABOR FORCE POOL.
5. THE WAGE REQUIREMENTS SHALL BE THE SAME AS THE APPRENTICE ON THE EQUAL LEVEL OF KNOWLEDGE AND PERFORMANCE.

6. AFTER EVALUATION BY THE CONTRACTOR OF THE TRAINEE, WRITTEN NOTIFICATION OF SUCH SHALL BE SUBMITTED TO THE OFFICE OF AFFIRMATIVE ACTION AS TO THE LEVEL OF KNOWLEDGE AND PERFORMANCE.

LAY-OFFS

1. LAY-OFFS WILL BE IN ACCORDANCE WITH THE DEPARTMENT OF LABOR'S PROCEDURE, KEEPING IN MIND THE HEADCOUNT REQUIREMENTS.
2. LAY-OFFS FOR NON PERFORMANCE SHOULD BE DOCUMENTED AND A COPY SENT TO THE MANAGER, OFFICE OF AFFIRMATIVE ACTION.

DAILY REPORTS

SECTION V

1. THE DAILY REPORT MUST BE FILLED OUT COMPLETELY BY THE SITE SUPERINTENDENT, FOREMAN, OR HIS REPRESENTATIVE.
2. THIS REPORT MUST BE READY FOR THE AFFIRMATIVE ACTION PROGRAM MONITOR'S INSPECTION OF MANPOWER ON SITE NO LATER THAN 9:00 A.M.
3. IN ORDER TO SIMPLIFY THIS REPORT, IT IS SUGGESTED THAT THE HOME OFFICE PRE-TYPE AND REPRODUCE ENOUGH FORMS WITH THE COMPANY'S INFORMATION, PROJECT LOCATION, CONSTRUCTION SITE NUMBER AND LIST ALL OF THEIR SUB-CONTRACTORS AND THEIR RESPECTIVE CRAFTS. THE SITE SUPERINTENDENT, FOREMAN AND REPRESENTATIVE NEED ONLY TO DATE, FILL IN CORRECT MANPOWER AND SIGN.
4. ALL PROJECTS WORKING OTHER THAN THE NORMAL DAY-TIME HOURS MUST NOTIFY THE AFFIRMATIVE ACTION PROGRAM MONITOR.
5. THE AFFIRMATIVE ACTION PROGRAM MONITOR WILL BE NOTIFIED IN ADVANCE AS TO PROJECT CLOSING AND THE REASON.
6. ALL MANPOWER DISPUTES SHOULD BE BROUGHT TO THE ATTENTION OF THE AFFIRMATIVE ACTION PROGRAM MONITOR.

CERTIFIED PAYROLL REPORTS

SECTION VI

1. A COPY OF YOUR WEEKLY PAYROLL MUST BE SUBMITTED LISTING ALL MANPOWER WORKING ON A PROJECT, EXCLUDING ADMINISTRATIVE PERSONNEL.
2. AN INDICATION OF THE FIRST WEEK AND THE FINAL WEEK WILL BE MADE. ALL IN-BETWEEN WEEKS WILL BE DATED FOR PAY PERIOD.
3. NAMES, ADDRESSES, CITY, STATE AND SOCIAL SECURITY NUMBERS MUST BE INCLUDED FOR ALL MANPOWER REPORTED.
4. TOTAL HOURS, SALARY AND TRADE MUST BE INDICATED FOR EACH INDIVIDUAL.
5. MINORITY, NON-MINORITY, FEMALE AND MALE MUST BE INDICATED FOR EACH INDIVIDUAL.
6. THE NAME AND TELEPHONE NUMBER OF THE PERSON RESPONSIBLE FOR PREPARING PROJECT PAYROLL MUST BE INCLUDED.

NOTE: IF ALL OF THE ABOVE ARE ON, OR ADDED TO COMPANY'S PAYROLL, THAT REPORT WILL BE ACCEPTED. FAILURE TO INCLUDE ALL OF THE ABOVE WILL RESULT IN THE MANDATORY USE OF THE OFFICE OF AFFIRMATIVE ACTION PAYROLL FORM.

AFFIRMATIVE ACTION PLAN

STATEMENT OF COMPLIANCE

THE EMPLOYMENT POLICIES AND PRACTICES OF THE (YOUR COMPANY'S NAME) ARE TO RECRUIT AND TO HIRE EMPLOYEES WITHOUT DISCRIMINATION BECAUE OF RACE, CREED, COLOR OR NATIONAL ORIGIN, AND TO TREAT THEM EQUALLY WITH RESPECT TO COMPENSATION AND OPPORTUNITES FOR ADVANCEMENT, INCLUDING UPGRADING, PROMOTION AND TRANSFER.

THIS COMPANY SUBMITS THIS PLAN TO ASSURE COMPLIANCE WITH EXECUTIVE ORDER NO. 11246 AND SUBSEQUENT ORDERS AND MORE SPECIFICALLY THE NEWARK AFFIRMATIVE ACTION PLAN THAT MAY PERTAIN TO THIS PROGRAM AND TO REAFFIRM IT'S CONTINUED COMMITMENT TO A PROGRAM OF EQUAL EMPLOYMENT OPPORTUNITY AND MERIT EMPLOYMENT POLICIES.

IT AGREES TO ASSERT LEADERSHIP WITHIN THE COMMUNITY AND TO PUT FORTH THE MAXIMUM EFFORT TO ACHIEVE FULL EMPLOYMENT AND UTILIZATION OF CAPABILITIES AND PRODUCTIVITY TO ALL OUR CITIZENS WITHOUT REGARD TO RACE, CREED, COLOR OR NATIONAL ORGIN.

THIS COMPANY FURTHER RECONGNIZES THAT THE EFFECTIVE APPLICATION OF A POLICY OF MERIT EMPLOYMENT INVOLVES MORE THAN A POLICY STATEMENT AND WILL, THEREFORE, UNDER A PROGRAM OF AFFIRMATIVE ACTION, MAKE KNOWN THAT EQUAL EMPLOYMENT OPPORTUNITES ARE AVAILABLE ON THE BASIS OF INDIVIDUAL MERIT AND TO ENCOURAGE ALL PERSONS SEEKING EMPLOYMENT WITH THE COMPANY AND STRIVE FOR ADVANCEMENT ON THIS BASIS.

PRESIDENT/DIRECTOR

YOUR COMPANY'S NAME AND ADDRESS

JOB SITE

c: DARLINE NOBLE, MANAGER

AFFIRMATIVE ACTION

APPENDIX B

THIS LETTER MUST BE SENT
CERTIFIED WITH RETURN RECEIPT
REQUESTED, WITH COPIES OF
BOTH SENT TO MANAGER,
OFFICE OF AFFIRMATIVE ACTION

SUBCONTRACTORS NAME
ADDRESS/STREET
CITY/STATE
GENTLEMEN:

REFERENCE: NAME OF PROJECT, NEWARK, NEW JERSEY

THE (NAME OF YOUR COMPANY) IS MORALLY AND LEGALLY COMMITTED TO
NONDISCRIMINATION IN EMPLOYMENT. ANY PERSON WHO APPLIES FOR A
JOB WITH THIS COMPANY WILL NOT BE DISCRIMINATED AGAINST
BECAUSE OF RACE, CREED, NATIONAL ORIGIN, HANDICAP OR SEX.

IN POLICY STATEMENTS OUR COMPANY HAS DECLARED A FIRM
COMMITMENT TO THIS TYPE OF POLICY IN CONSONANCE WITH THE CIVIL
RIGHTS ACT OF 1964, EXECUTIVE ORDER NO. 11246, N.J.S.A. 10:5-
31 et seq.

TO THIS END, AS A CONDITION OF YOUR COMPANY RETAINING YOUR
SERVICES WE SHALL EXPECT YOU TO CONDUCT YOUR HIRING PRACTICES
IN A NONDISCRIMINATORY MANNER. FURTHERMORE, AN AGGRESSIVE
OUTREACH PROGRAM WILL BE UNDERTAKEN TO INCREASE MINORITY
REPRESENTATION.

BY AGREEING TO WORK ON THE ABOVEMENTIONED PROJECT YOUR FIRM IS
COMMITTED TO POLICIES AND PRACTICES CONSISTENT WITH THE
PROVISIONS TO THE CIVIL RIGHTS ACT OF 1964 AND EXECUTIVE ORDER
NO. 11246. AND THAT YOU WILL AGREE TO COMPLY WITH THE NEWARK
AFFIRMATIVE ACTION PROGRAM AS IT PERTAINS TO THE ABOVE
REFERENCED PROJECT.

SINCERELY,

ACKNOWLEDGMENT

JOHN DOE
PRESIDENT

I HEREBY ACKNOWLEDGE THAT I
HAVE READ THE ABOVE AND AGREE
TO COMPLY WITH THE OBLIGATION
AND RESPONSIBILITIES
AFOREMENTIONED

c: DARLINE NOBLE, MANAGER

AFFIRMATIVE ACTION

APPENDIX B.1

SEND THIS LETTER
CERTIFIED WITH RETURN
RECEIPT REQUESTED, WITH
COPIES OF BOTH SENT TO
OFFICE OF AFFIRMATIVE ACTION

LOCAL UNION 000
123 MAIN STREET
MILLSVILLE, NJ 07100

REFERENCE: NAME OF PROJECT, LOCATION, SITE #

GENTLEMEN:

THE (NAME OF COMPANY) IS MORALLY AND LEGALLY COMMITTED TO
NONDISCRIMINATION IN EMPLOYMENT. ANY PERSON WHO APPLIES FOR A
JOB WITH THIS COMPNAY WILL NOT NBE DISCRIMINATED AGAINST
BECAUSE OF RACE, CREED, NATIONAL ORIGIN, HANDICAP OR SEX.

IN POLICY STATEMENTS OUR NATIONAL UNIONS HAS DECLARED A FIRM
COMMITMENT TO THIS TYPE OF POLICY IN CONSONANCE WITH THE CIVIL
RIGHTS ACT OF 1964, EXECUTIVE ORDER NO. 11246, N.J.S.A. 10:5-
31 et seq.

TO THIS END, WE EARNESTLY SOLICIT YOUR HELP BY ENGAGING IN
AGGRESSIVE RECRUIMENT FOR MINORITIES. MAY WE COUNT ON YOUR
HELP IN THIS MATTER?

PLEASE ACKNOWLEDGE YOUR INTENTIONS IN THIS MATTER AND INDICATE
WHETHER OR NOT YOUR POLICIES AND PRACTICES WILL BE CONSISTENT
WITH THE PROVISIONS OF THE CIVIL RIGHTS ACT OF 1964 AND
EXECUTIVE ORDER NO. 11246. AND THAT YOU WILL AGREE TO COMPLY
WITH THE NEWARK AFFIRMATIVE ACTION PROGRAM AS IT PERTAINS TO
THE ABOVE REFERENCED PROJECT.

SINCERELY,

ACKNOWLEDGEMENT

JOHN DOE
PRESIDENT

I HEREBY ACKNOWLEDGE THAT I
HAVE READ THE ABOVE AND AGREE
TO COMPLY WITH THE OBLIGATION
AND RESPONSIBILITIES AFOREMENTIONED

C: DARLINE NOBLE, MANAGER
AFFIRMATIVE ACTION

EQUAL EMPLOYMENT OPPORTUNITY
DESIGNATION OF COMPLIANCE OFFICER

YOUR COMPANY'S NAME
ADDRESS/STATE
CITY/STATE

ATTENTION: ALL EMPLOYEES

(MR. JOHN DOE) HAS BEEN APPOINTED THE AFFIRMATIVE ACTION COMPLIANCE OFFICER, UNDER THE DIRECT SUPERVISION OF (YOUR COMPANY'S DIRECTOR/PRESIDENT), FOR THE (NAME OF YOUR COMPANY). HE/SHE WILL HANDLE ALL COMPLAINTS WHICH ALLEGE DISCRIMINATION BECAUSE OF RACE, CREED, COLOR OR NATIONAL ORIGIN. HE/SHE ALSO WILL HANDLE ALL COMPLIANCE SITUATIONS RELATIVE TO THE NEWARK AFFIRMATIVE ACTION PROGRAM.

THIS COMPANY IS BOUND TO LIVE UP TO THE PROVISIONS OF THE CIVIL RIGHTS ACT OF 1964 AND THE CURRENT EXECUTIVE ORDER RELATING TO EQUAL EMPLOYMENT OPPORTUNITY.

(MR. JOHN DOE) CAN BE REACHED BY TELEPHONE AT (PHONE NUMBER). HIS OFFICE ADDRESS IS (YOUR ADDRESS).

PRESIDENT/DIRECTOR

SITE

C: DARLINE NOBLE, MANAGER
AFFIRMATIVE ACTION

CONTRACTOR'S GOALS

USE COMPANY LETTERHEAD

TRADE

**MINORITY/JOURNEY WORKER'S GOALS
(IN PERCENTAGE)**

ASPHALT WORKERS

BRICKLAYERS

CARPENTERS

CEMENT FINISHERS

CURB & SIDEWALK INSTALLERS

ELECTRICIANS

EXCAVATION

GLAZIERS

HEATING TEMPATURE CONTROLLERS

INSULATORS

IRON WORKERS

LABORERS

MASONS

OPERATING ENGINEERS

PAINTERS

PAVERS

PLUMBERS/PIPEFITTERS/STEAMFITTERS

ROOFERS

SHEETMETAL WORKERS

TILE SETTERS

THIS IS A SAMPLE FORM. THE CITY'S GOAL FOR MINORITY JOURNEY WORKERS IS 33 1/3% OF EACH TRADE. HOWEVER, MINOIRTY LABORERS WILL BE 50%, IF YOUR COMPANY'S TRADE IS NOT INCLUDED, PLEASE ADD IT TO THE LIST.

CONTRACTOR'S OBLIGATIONS

YOUR COMPANY'S LETTERHEAD

OFFICE OF AFFIRMATIVE ACTION
CITY HALL, ROOM B-25
920 BROAD STREET
NEWARK, NJ 07102

DEAR MS. NOBLE:

WE SHALL DESIGNATE THE AFFIRMATIVE ACTION OFFICER OR HIS/HER
DESIGNEE TO SUBMIT THE WEEKLY PAYROLL RECORDS FOR ALL CRAFTS
COVERED UNDER THE CONTRACT PROVISIONS. IN ADDITION, WE WILL
INCLUDE A MONTHLY CUMULATIVE SUMMARY OF PROJECT MANHOURS
WORKED ON A CRAFT BY CRAFT BASIS, AND IDENTIFY AS TO MINORITY
OR NON-MINORITY STATUS.

FAILURE TO SUBMIT THESE REPORTS WILL RESULT IN SANCTIONS.

SINCERELY,

JOHN DOE
PRESIDENT

YOUR COMPANY'S NAME

JOB SITE

ADDRESS

NEWARK

MINORITY BUSINESS ENTERPRISE UTILIZATION CERTIFICATE Office of Affirmative Action

Appendix G

Job Site Address _____

Job Site # _____

Job Site Phone # _____

Contact Person Company Name Address	Dates	Minority Status	Type or Work Service and/or Supplies	Dollar Amount of Contract
	Contract Awarded	Minority <input type="checkbox"/> Yes <input type="checkbox"/> No		TOTAL AMOUNT
	Project Start Date			\$
	Project Completion Date	WBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Amount Paid to Date
Phone No.				\$
IRS No.				
	Contract Awarded	Minority <input type="checkbox"/> Yes <input type="checkbox"/> No		TOTAL AMOUNT
	Project Start Date			\$
	Project Completion Date	WBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Amount Paid to Date
Phone No.				\$
IRS No.				
	Contract Awarded	Minority <input type="checkbox"/> Yes <input type="checkbox"/> No		TOTAL AMOUNT
	Project Start Date			\$
	Project Completion Date	WBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Amount Paid to Date
Phone No.				\$
IRS No.				
	Contract Awarded	Minority <input type="checkbox"/> Yes <input type="checkbox"/> No		TOTAL AMOUNT
	Project Start Date			\$
	Project Completion Date	WBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Amount Paid to Date
Phone No.				\$
IRS No.				

NOTE: this form MUST be filled out completely by the general contractor and all subcontractors. All dates and dollar amounts must be included. This is a monthly form due in the Office of Affirmative Action by 2nd of each month.

IN WITNESS, WHEREOF, the undersigned has caused this certificate to be executed this _____ day of _____, 20_____

Signature _____ Sworn and subscribed to me before this day of _____, 20 _____

Notary _____

Newark

CONTRACTOR'S CERTIFIED PAYROLL OFFICE OF AFFIRMATIVE ACTION

Name Of Contractor

Name Of Project

Site #

Address

Site Location

Phone #

Contact Person

Start Date

Completion Date

Payroll Ending Date

Name SS#	Address	Trade	Minority	Sex	Pay Per Hr	M	T	W	T	F	S	S	Overtime	Total Hrs.	Gross Amount

I hereby certify that to the best of my knowledge, the forgoing facts are true.

Signature _____ Title _____ Date _____

SECTION: C

AFFIRMATIVE ACTION PLAN FOR CONSTRUCTION

I. INTRODUCTION

The exclusion of minorities from construction projects in the City of Newark has made it necessary to develop an Affirmative Action Plan for Construction. This plan is designed to ensure that equal employment opportunities are afforded to all, regardless of race, color, religion, sex national origin or disability. In an effort to continue its commitment to non-discrimination, the City of Newark requires contractors/developers to comply with the provisions of the Affirmative Action Plan for construction when entering into a City Contract or an agreement in connection with tax abatement funding grants, loans leasing or other special considerations.

This plan conforms with the State of New Jersey "Manual for Affirmative Action Regulations" and is intended to assist minorities.

II. COMPLIANCE WITH P.L. 1975 C. 127 EQUAL EMPLOYMENT OPPORTUNITY

All construction contracts entered into between the City of Newark and any Contractor/Developer which exceeds \$17,500 shall contain the mandatory provisions and language set forth in the Manual for Affirmative Action

Regulations promulgated by the State of New Jersey, Department of the Treasury, pursuant to P.L.1975 c. 127 and any amendments or supplements thereto. Said language is attached hereto as Exhibits H, I, and J. All construction bids advertised and/or solicited by the City of Newark shall contain the language: "Bidders are required to comply with the requirements of P.L.1975 c. 127."

III. GENERAL EMPLOYMENT POLICIES

The employment practices of the contractors and sub-contractors on any project, is subject to this Affirmative Action Plan and must meet the requirements of the ordinances of the City of Newark and the laws of the State of New Jersey and the United States of America respecting equal employment opportunity and Affirmative Action. In addition, since the City of Newark is extending certain incentives to developers', real consideration by reason of certain exemptions and preferential treatment in matters of taxation, grants, loans and leases, the developers shall require all contractors and sub-contractors to meet certain minimum requirements in hiring residents of the City of Newark and minorities. In order to meet these requirements, a contractor working on any part of a project under a

contract or sub-contract exceeding \$17,500 shall be required to meet the conditions and provisions included herein which are incorporated into, and made part of, each contract and sub-contract. This Affirmative Action Plan is applicable to federal, state, local and private funding sources. Compliance with all provisions of this Affirmative Action Plan is a material condition of any contract or grant which it is annexed, or of which it is a part.

IV. GENERAL GOALS

Historically, minorities, women and disabled persons have been excluded from active participation in the construction industry. The City of Newark, having recognized this exclusion through its post Croon Study, seeks to achieve the following goals through the implementation of its Affirmative Action Plan:

- A. To ensure that all minorities, women and disabled citizens of the City of Newark participate fully in its economic mainstream.
- B. To ensure all minorities, women and disabled citizens of the City of Newark be given fair and equitable treatment in the allocation of contracts

awarded by the City of Newark from federal, state or private sources.

- C. To protect all minorities and women business enterprises of the City of Newark from discrimination in the hiring procedure for employment in the craft trades as well as laborers.
- D. To attempt procurement of union membership for apprentices in all craft trades who are minorities and women business enterprises of the City of Newark.
- E. To ensure that a minimum of 25% of the total dollar amount of all contracts awarded by the City of Newark, be awarded to minorities and 7% women.

V. **DEFINITIONS** - For the purpose of the contract or grant unless the context indicates a different meaning.

A. The Office of Affirmative Action:

An agency under the Office of the Mayor, is the branch of municipal government responsible for implementing the City of Newark's Affirmative Action Plan.

B. Manager:

That employee of the Office of Affirmative Action responsible for the daily operation of the Affirmative Action Program/Plan.

C. Developer:

Is any individual, partnership, corporation other entity public or private, who has entered into an agreement with the City of Newark for tax abatement, funding, grants, loans, leasing or other special considerations.

D. Contractor:

Any party performing, or offering to perform, a contract with the City of Newark, or any other entity which is subject to the requirements of this Affirmative Action Plan.

E. MBE/WBE Construction Directory:

A listing of certified minority and women owned businesses are available to contractors as a referral source in obtaining their 25% MBE participation.

F. **LABOR FORCE POOL:**

A part of the Office of Affirmative Action that recruits and maintains a manpower referral file of journey workers by trade. This program assists contractors who do not satisfy their goal of hiring minority workers.

G. **Minority:**

A person who is a citizen or lawful permanent resident of the United States and who is:

- (a) **African American** - A person having origins in any of the racial groups of Africa;
- (b) **Hispanic** - A person of Mexican, Puerto Rican, Cuban, Central or South American or other non-European Spanish culture or origin, regardless of race;
- (c) **Asian American** - A person having origins in any of the original peoples of the Far East, Southeast Asia; the Indian sub continent or the Pacific Islands;
- (d) **American Indian** - a person having origins in any of the original peoples of North America;

Note: The category "Hispanic", while not a race identification, is included as a separate race/ethnic category because of the employment discrimination

often encountered by this group. For this reason, we do not included Hispanic under either "White or African American."

Although neither women nor the disabled are a minority group, each are a protected class due to past discrimination. Therefore, they are protected from discrimination under this plan, and contractors are encouraged to employ female and disabled workers and contract with enterprises owned by women and disabled persons. However, the goals established in this plan for participation of Minority Business Enterprises as well as minority workers refer specifically to those who qualify under the definition of "minority".

H. Minority Business Enterprise (MBE)

- (1) A sole proprietorship where the proprietor is a minority, or;
- (2) A business corporation where 51% of the interest in such corporation is beneficially owned by minority persons and minority persons occupy the majority management and board positions and control all decisions concerning the entity or;
- (3) A partnerships where 51% of the partnership interest in such partnership is beneficially owned by minority persons and minority persons occupy the majority of management and

partnership positions and control all decisions concerning the entity and;

(4) Which is certified as a **bona-fide** minority business enterprise by a governmental agency.

I. Resident of the City of Newark

A person who is domiciled in the City of Newark.

J. Affirmative Action Review Council

An operating sub committee of the Office of Affirmative Action, composed of not more than eleven (11) members, who are knowledgeable in the area of Affirmative Action procedures. Members are appointed by the Mayor of the City of Newark, with confirmation by the Municipal Council.

VI. Outreach and Training Programs

On all municipal projects in excess of \$2,500,000.00, the awarding agency will include in its authorized appropriation one-half of one percent of its total project development costs, to be used if necessary to finance the cost of outreach and training programs for minority craft workers. If, in the opinion of the Mayor of the City of Newark, this funding requirement threatens the feasibility of a project, the Mayor may request a

waiver of some of all of this one half percent funding requirement.

VII. Developers and Contractors Obligations

A. City Construction Contracts

Bid Packages: This Affirmative Action Plan, together with the forms and procedures required by the Manager of the Office of Affirmative Action, shall be a part of all bid packages for contracts which are subject to the City's Affirmative Action Ordinance.

Pre-Construction Conference: After awarding a city contract to the apparent lowest responsible bidder, and the contract is executed, a pre-construction conference is required where the Plan is explained in detail.

The Manager of the Office of Affirmative Action, or his/her designee, and the successful bidder of a city contract will attend the pre-construction conference. At this conference, the Affirmative Action Officer will review and evaluate the Contractor's plan for compliance with the City of Newark's Affirmative Action Plan and inform them of their obligation under the Plan.

B. Tax Abatements, Etc.:

The Developer and/or Contractor granted tax-abatement, funding, grants, loans, leases or other consideration is required to attend a pre-construction conference with the Manager of the Office of Affirmative Action or his/her designee for the same purpose as outlined for city contracts.

Sub-contractors, included but not limited to, those performing major items of work, i.e. heating, electrical, plumbing, etc. are also subject to this principle.

The evaluation of the contractor's and/or developer's plan shall be based on his/her demonstrated commitment to:

- (1) Cooperate with the unions, with which the contractor has agreements, in the development of programs to assure qualified members of minority groups to be afforded an equal employment opportunity in the construction trades.
- (2) Actively seek union membership for qualified minority group members in the construction field.
- (3) Make certain that all recruiting activities are carried out on a non discriminatory basis.

- (4) Make known to all of its sub-contractors, employees, and all sources of referral its equal opportunity policy, and require that the sub-contractors comply therewith.
- (5) Encourage minority contractors to bid for contracts.
- (6) Demonstrate how minimum requirements will be met.

C: Developer's Contracting Obligations

The developer/general contractor shall submit to all sub-contractors, copies of this Affirmative Action Plan and shall make the Plan a part of bid specifications. The developer/general contractor shall require that by submitting a bid, the contractor or sub-contractor certifies that he/she will comply with the requirements of this Plan. The developer shall be totally responsible for compliance with the Affirmative Action Plan.

D: Contractor's Contracting Obligations

The contractor must submit a statement to each union with which he/she has a collective bargaining agreement covering workers to be employed on the project. Before the award of any sub-contract is approved, the contractor will be required to submit such statement for each sub-contractor having a collective bargaining agreement covering workers to

be employed on the project, to the Manager of the Office of Affirmative Action.

A contractor shall not be released from the requirements of the terms of the agreement solely because of union opposition, even if the unions threaten a work stoppage because of the implementation of this Plan. It shall be incumbent upon the contractor, as employer to ensure that referrals under this Plan are treated fairly by the unions and their members.

The contractor shall submit a Project Manning Table to the Manager of the Office of Affirmative Action. This table shall identify his/her estimated employment requirements for the duration of the job broken down by trade and month. The projected manning of the job shall be brought up to date as required.

The contractor shall submit to the Manager of the Office of Affirmative Action copies of his/her collective bargaining agreements covering workers to be employed on the project, and copies of each bargaining agreement of each sub-contractor. The contractor shall designate a principal officer of

his/her firm to be the Affirmative Action Officer who shall be responsible for administering the Affirmative Action Plan detailed herein. This officer shall meet regularly or as may be required with all sub-contractors and with the Manager of the Office of Affirmative Action or his/her designee, to ensure that they have attained the goals set forth herein and have implemented a training program.

At a minimum, the contractor, and/or relevant sub-contractor shall submit the documentation specified below to the Manager of the Office of Affirmative Action prior to starting work on the contract:

- (1) Statement of Compliance (Appendix "A")
- (2) Compliance Letter to sub-contractor(s) (Appendix "B")
- (3) Compliance Letter to union(s) (Appendix "B.1")
- (4) Notice to employees of contractor's Affirmative Action compliance Officer (Appendix "C")
- (5) Contractor's Affirmative Action Goals (Appendix "D")
- (6) Contractor's Obligations (Appendix "E")
- (7) Manning Table (Appendix "F")
- (8) Minority Business Enterprise Utilization Certificate (Appendix "G")

The contractor and sub-contractor agree that the City of Newark shall be named third party beneficiary with respect to

the Affirmative Action Plan provisions of all contracts and subcontracts. They further agree that as the third party beneficiary, the City of Newark, may take such legal action to enforce the provisions referred to as it may deem necessary without the approval or consent of the contractors or sub-contractors.

The contractor, in hiring for a job, shall make every effort to employ persons residing within the City of Newark first, the county of Essex is second, then, within the geographical jurisdiction of the appropriate union in order that persons employed on the project be brought into the permanent construction labor force industry. In no event shall less than 25% to 40% of the entire labor force be residents of the City of Newark. The percentage is to be based on type of work being performed.

In the event the contractor does not meet the 25%-40% requirement, he/she must demonstrate to the Manager of the Affirmative Action Office that good faith efforts have been made. The contractor shall not discriminate against an employee or applicant for employment, on the grounds of age race, creed, color religion, sex, national origin or handicap.

E. Sub-Contractors

The developer shall require that each prime contractor be responsible for the compliance of his/her sub-contractors with aforementioned equal employment requirements during the performance of the contract.

Whenever the contractor sub-contracts a portion of the work, the contractor shall bind the sub-contractor to the obligations contained in these supplemental conditions to the fullest extent as if he/she were the contractor.

Furthermore, the contractor must include a provision in all contracts with sub-contractors to ensure compliance with all other conditions included herein, as well as with New Jersey Executive Order 21 and N.J.S.A. 10:2-4 and President's Executive Order Number 11246, and N.J.S.A.10:5-31 et seq.

VIII. Journeyworkers

The contractor will meet the minimum goals of minority Journeyworkers utilization in the performance of his/her contract, whether or not the work is sub-contracted. The goal of this Affirmative Action Plan in the respective trades shall be a percent of all journeyworker hours worked as follows:

<u>Trade Description</u>	<u>Goals of Minority Journeyworker's Utilization With these Ranges</u>
Asbestos Workers	32 - 35 Percent
Asphalt Workers	32 - 35 Percent
Bricklayers	32 - 35 Percent
Cabinet Makers/Finishers	32 - 35 Percent
Carpenters	32 - 35 Percent
Cement Finishers	32 - 35 Percent
Curb & Sidewalk Installers	32 - 35 Percent
Electricians	34 - 37 Percent
Electrical Temperature Controllers	34 - 37 Percent
Elevator Contractors	32 - 35 Percent
Glaziers	32 - 35 Percent
Heating Temperature Controller	32 - 35 Percent
Insulators	32 - 35 Percent
Ironworkers	32 - 34 Percent
Laborers	50 Percent
Lathers	32 - 35 Percent
Operating Engineers	32 - 35 Percent
Painters	32 - 35 Percent
Plasterers	32 - 35 Percent
Plumbers/Pipefitters/ Steamfitters	32 - 34 Percent
Pneumatic Tubing Installers	32 - 34 Percent
Roofers	32 - 36 Percent
Sheet Metal Workers	32 - 33 Percent
Sprinkler Fitters	32 - 35 Percent
Tile Setters	32 - 35 Percent
Others	32 - 35 Percent

The contractor will make every effort to reach minority goals through union referrals. A maximum of seventy-two (72) hours should be allotted for the union to supply the minority journeyworkers. If the goals cannot be reached through union referrals, the contractor should document this effort and inform the Manager of the Office of Affirmative Action, who will assist the contractor by recommending referrals of minority journeyworkers from our Labor Force Pool and/or other sources. If the contractor does not employ any person referred, he/she shall inform the Manager of the Office of Affirmative Action.

IX. Apprentices

Apprentices can only be used when 5 journeyworkers are hired.

A. Union Apprentices

The contractor is responsible for ensuring that minority apprentices account for at least fifty percent (50%) of the total hours worked by union apprentices on the job in each trade listed in Article VII in which apprentices are employed. This is according to the apprentice-to-journeyworker ratio contained in the collective bargaining agreement between the various unions. The contractors are responsible for this

requirement. If this requirement cannot be met by the union or unions, the contractor must request referrals from the Manager of the Office of Affirmative Action or his/her designee.

If the goal cannot be attained through all referral sources, the contractor shall request a release from the Manager of the Office of Affirmative Action prior to moving to the next level of work.

The contractor shall notify the developer and the Manager of the Office of Affirmative Action whenever he/she has reason to believe that a union with which he/she has a hiring hall or referral arrangement or an apprenticeship program engages in such referral membership, admission or other practices as will substantially impede the contractor in his/her efforts to meet Affirmative Action obligations under these supplemental conditions.

X. Reporting Requirements

A. The contractor must submit to the Manager of the Office of Affirmative Action the

contractor's weekly certified payroll records for all crafts covered under the contract provisions. In addition, a daily headcount report must be provided on a craft by craft basis and identified as to minority or non-minority status.

- B. The contractor will permit the Manager of the Office of Affirmative action or his/her designee access to the job site for daily headcount reports. Certified payroll records all workers on job must be sent to the Office of Affirmative Action on a weekly basis.
- C. The contractor will permit the Manager, Office of Affirmative Action, or his/her designee reasonable access to individual craft workers for inquiry and investigation relative to this Plan.

XI. Union Statement

The developer shall require that when the contractor has a referral agreement or arrangement with a union covering workers to be employed on a project he/she shall submit with his/her bid, a "Letter of Acknowledgment" from the union signed by an

authorized union official, in which the union agrees as follows:

- A. The union will take such action as may be necessary with respect to the referral and the employment of minority group persons in order to enable the contractor to meet his/her obligations under the Affirmative Action Plan.
- B. The union will cooperate with the contractor, who has the obligation to provide on site training.
- C. Minority group journeyworkers employed by the contractor shall be admitted to union membership within the time limits contained in the applicable collective bargaining agreements, union constitutions and by-laws.
- D. The contractor will promptly notify the developer and the Manager of the Office of Affirmative Action of any failure of a union to comply with the statement. If a union has refused to sign the statement described above, the contractor will document his/her efforts to obtain such statement, including an explanation of the reasons given by the union for not signing such a statement, and submit such documentation together with his/her bid. A bid

shall be unresponsive if unaccompanied either by an acceptable union statement or by documentation as to why such a statement could not be obtained. The failure of the union to sign the statement described above does not excuse the contractor from his/her obligation to comply with the conditions and provisions of the Affirmative Action Plan.

Assessment of Good Faith Efforts

A determination of "good faith effort" by the Manager, Office of Affirmative Action, may become necessary when the contractor at the time of the awarded contract does not propose to meet Affirmative Action Goals, the planned sub contracts to MBE firms do not materialize, or the contractor asserts he/she cannot meet the daily manpower count.

Contractor must have exerted efforts that were of an intense, aggressive and sincere nature for that specific project far beyond any simple paper work exercise to demonstrate a good faith effort in achieving the project goal.

The following provides a standard for analysis of a good faith efforts. Good faith determinations should include, but not be limited:

- A. Attending any pre-bid meeting at which MBE sub contractors could be informed of contracting opportunities;
- B. Advertising in general circulation, trade associations, and minority focused media concerning the sub contracting opportunities;
- C. Providing written notice to all certified MBE's who have capabilities pertinent to the work of the contract that their interest in the contract is being solicited. This notice shall be in sufficient time to allow the MBE's interested to respond;
- D. Following up initial solicitations of interest by contacting MBE's to determine with certainty if MBE's/WBE's are interested;
- E. Selecting portions of the work to be performed by MBE's in order to increase the likelihood of achieving the MBE goal. This may include, where appropriate, breaking down contracts into economically feasible units to facilitate MBE participation;
- F. Providing interested MBE's with adequate information about the plans, specifications, and requirements of the contract;
- G. Negotiating in good faith with interested MBE's. The evidence of such negotiations should include the

names, addresses, and telephone numbers of MBE's that were considered; a description of the information provided regarding the plans and specifications for the work selected for sub contracting; and a statement as to why additional agreements could not be reached for the MBE's to perform the work;

- H. Not rejecting MBE's as unqualified without sound reasons based on a thorough investigation of their capabilities;
- I. Making efforts to assist interested MBE's in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor;
- J. Making efforts to assist interested MBE's in obtaining necessary equipment, supplies, materials, or other related assistance or services; and
- K. Effectively using the Affirmative Action MBE/WBE Directory; services of available minority community organizations; minority contractor groups; local, state, and federal minority business assistance offices; and other organization as allowed on a case-by-case basis to provide assistance in the recruitment and placement of MBE/WBE's.
- L. In an effort to meet daily minority headcount, reaching out to the Office of Affirmative Action

Labor Force Pool, local, state and community based job banks and labor unions with predominantly minority membership. It is the contractor's responsibility to submit to the Manager, Office of Affirmative Action, information necessary for the assessment of good faith efforts.

XII. Non-Compliance

A. MBE Participation/Tax Abatement

If the entity fails to comply with the requirements as outlined in State of New Jersey P.L. 1975, 127c, and Newark City Ordinance, for the duration of the construction project, the entity shall be considered in default and be subject to a monetary fine or immediate rescission of the tax abatement.

1. The entity must demonstrate its ability to reach the mandated 25% MBE goal in the following manner:
 - a. Twenty five percent (25%) completion of construction, entity must be at 1/3 of MBE goal.
 - b. Fifty percent (50%) completion of construction, entity must be within 2/3 of its MBE goal and be able to demonstrate the method in which it intends to achieve the total MBE goal by providing a listing of the contracts yet to be

awarded to the Manager, Affirmative Action Office, for review.

c. Seventy five percent (75%) completion of construction, entity's compliance with MBE goal must be within 20% of the total construction cost or tax abatement rescission will be recommended.

2. Monetary amounts will be determined by hard construction costs as outlined in the architect's certification.

Where any agreement is rescinded in this manner, the entity shall have 30 days to seek reinstatement. Reinstatement shall only be permitted after all performances of the entity are outlined in writing to the Manager of the Office of Affirmative Action, as to how the entity plans to correct the deficiency.

The Manager of the Office of Affirmative Action will forward said report to the Law Department who shall forward it to the Tax Abatement Committee for review.

EXAMPLE:

\$ 1,000,000.00 Construction Cost

\$250,000.00 = 25% MBE Goal

<u>% Completion of Project</u>	<u>% of MBE Goal Required</u>	<u>Amount</u>
25%	1/3 or 33.3	\$ 83,325.00
50%	2/3 or 66.6	\$166,500.00
75%	MBE goal must reflect 20% of total Construction cost.	\$200,000.00

B. MBE Participation/City Contracts

In the event the general contractor or subcontractor fails to meet minority employment commitments under these supplemental conditions, he/she may request such relief as deemed appropriate by the Affirmative Action Review Council, through the Manager of the Office of Affirmative Action. When considering such requests, the Manager of the Office of Affirmative Action and the Affirmative Action Review Council shall consider the factors set forth N.J.A.C. 17:27-7.4 as well as other applicable factors in determining whether the contractor has acted in good faith.

C. Procedures for Non Compliance

The following procedures will be followed in the event of non compliance:

1. The Manager of the Office of Affirmative Action will issue a written "**Alert Notice**" to a contractors and appropriate unions whenever, in his/her opinion, there is non compliance with the provisions of this Plan.
2. If the "**Alert Notice**" is not removed within three (3) working days by a correction of the deficiencies, the Manager of the Office of Affirmative Action shall issue a written "**Violation Notice**". Upon the issuance of such notice the contractor will have seven (7) workings days to remove the violation. If the violation has not been removed within that period, the Manager of the Office of Affirmative Action will make recommendations to the appropriate agencies and Review Council.
3. Either or both, the "**Alert Notice**" and "**Violation Notice**" may be removed if the contractor meets his/her obligations under supplemental conditions or if he/she presents a satisfactory explanation I writing to the

Manager of the Office of Affirmative Action as to why such compliance is impractical or impossible.

4. Failure to satisfactorily remove the "**Violation Notice**" will be cause for the Mayor of the City of Newark to:
 - a. Require the contractor or developer to enforce his/her obligation under contracts with sub-contractors.
 - b. Commence an action or proceeding in arbitration as a third party beneficiary.
 - c. Withhold payments on City Contracts and/or request rescission of tax abatement.
 - d. Recommend termination or suspension of the contract, in whole or in part, to the Municipal Council.
 - e. Direct that the contractor not be permitted to bid on city contracts for a specified period of time, not less than four or more than six years.
 - f. Direct that the developer/contractor not be permitted to participate in construction contracts in connection with tax abatements, funding, grants, loans or other special consideration by the City of Newark

for a period not less than four, or more than six years

- g. Impose such monetary penalties for non compliance as set forth in the contract.
- h. Take any and all other actions available by law or equity for the breach of a material condition of a contract.

XIII. Minority/Women Business Enterprise Participation

- A. On all construction-trade related projects for which contracts are awarded by the City of Newark, or which receive grant or loan funds, in whole or in part, through the City, or which are granted tax abatement or awarded a lease by the City, the grantee, developer and/or contractor will ensure that minority owned businesses will receive not less than 25% and women business enterprises will receive not less than 7% of the total cost of the construction projects where such costs exceed \$17,500. Contractors are to require their sub-contractors to comply with this requirement.
- B. In selecting a minority business enterprise, the contractor shall make every effort to select sub contractors who have their place of business in the

City of Newark first, then the County of Essex, and then the Greater Newark Metropolitan area.

- C. The Revised Ordinances of the City of Newark, Title 2, Chapter 2, Article 11, (R.O. 2:2-37 et seq.) set forth specifically the powers, responsibilities and duties of the Mayor, Municipal Council, Affirmative Action Review Council, Affirmative Action Staff, grantees, developers and contractors, pertaining to the Minority Business Enterprise participation requirement, and provide for remedies and penalties for non compliance. The applicable portion of said ordinance is attached to this Affirmative Action Plan and made part hereof as Appendixes.
- D. It is understood that some minority business enterprises may not be able to secure performance bonds. This shall not prevent the Minority Business Enterprise from being part of a contract. If a Minority Business Enterprise cannot secure bonding, the Contractor may assume the responsibility for meeting such requirements or otherwise making appropriate arrangements which shall eliminate these requirements as obstacles to the granting of the sub contract to such minority enterprise.

XIV. Minority Group Membership/Daily Manpower Headcount

Bona-fide minority group membership shall be established on the basis of the individual's claim that he or she is a member of a minority group and is so regarded by that particular minority community. The three key factors to be considered when making an evaluation of the worker's standing in the minority community are:

- a. identification**
- b. association**
- c. recognition**

In rare cases, the racial/ethnic origin of an individual listed on the Daily Report for headcount may be in question. In such cases, the Manager of the Affirmative Action Office may apply a minority community recognition test to determine if the individual has held himself or herself out to be a member of the minority community and is so recognized by that community.

This process may include documentary evidence from disinterested persons whose ethnic/racial origin is not in question. An example would be consultations with individual members of the minority community in which the individual claims membership such as community organization leaders, bank officials, and local business

or church leaders, etc. Other documentary evidence may include:

1. **Birth Certificates**
2. **Naturalization Papers**
3. **Indian Tribal Roll**
4. **Tribal Voter Registration Certificate**
5. **Baptismal Records**
6. **School Records**
7. **Medical Records**
8. **Proof of Membership and interaction in recognized minority organizations**
9. **Interview with persons who interact with individual**
10. **Sworn statements from third parties, preferable heads of community organizations.**

Other factors to consider would be the individual's appearance, culture, and language.

Because of the special status afforded American Indians, proof of American Indian status can be accepted only in the form of official documents. In cases where racial/ethnic origin of an individual listed on the Daily Report for headcount is in question, the Manager of Affirmative Action will notify developer/contractor in writing. The contractor will have 20 working days to produce acceptable evidence or minority identification. Failing to do so, the individual will be counted as non-minority.

XV. Newark Minority Resident Employment Incentive Program

Developers/Contractors remain bound to meet minimum goals for MBE participation, and for minority journeyworker utilization for the duration of his/her contract.

As an incentive to reach the City of Newark's goal for employment of minority residents, an incentive program is offered in the form of credits as follows:

- a. A credit of 5% in the contract MBE dollar commitment, if a Newark domiciled journeyworker/apprentice is engaged in the performance of the contract.
- b. A credit of two man-hours for every eight man-hours worked by the Newark domiciled journeyworker on any given day.

Credits shall be limited to each contractor/sub contractor as earned, and limited to the specified contract. Credits shall not be transferable.