This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification.

PTWP00590 MUNICIPAL BUILDING SOLAR PHOTOVOLTAIC SYSTEM IMPROVEMENT PROJECT – BID PACKET NO. 10-11

SUGGESTED FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

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Professional Engineers in Private Practice

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PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
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This document has been approved and endorsed by

The Associated General Contractors of America

Construction Specifications Institute

Knowledge for Creating and Sustaining the Built Environment

EJCDC C-520 Suggested Form of Agreement Between Owner and Contractor for Construction Contract (Stipulated Price)
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EJCDC
SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR FOR
CONSTRUCTION CONTRACT(STIPULATED PRICE)

THIS AGREEMENT is by and between Pennsauken Township

(Owner) and Prime Solar ~~Panel~~ Power, LLC

(Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Pennsauken Municipal Building
Solar Photovoltaic System Improvements
Bid Packet No. 10-11

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

The Project consists of Municipal Building Solar Photovoltaic System Improvements

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by T&M Associates
1256 North Church Street
Moorestown, NJ 08057

(Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work will be substantially completed within ~~105~~ 90 calendar days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within ~~30~~ 105 days after the date when the Contract Times commence to run.

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4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner $350.00 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner $350.00 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work other than Unit Price Work, a Lump Sum of: $38,500.00

Thirty-eight Thousand Five Hundred dollars

All specific cash allowances are included in the above price and have been computed in accordance with paragraph 11.02 of the General Conditions.

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

a. 98% percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage; and

b. 98% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98% percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph

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14.02.B.5 of the General Conditions and less 100% percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

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ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 7 inclusive).

2. Performance bond included.

3. Payment bond included.

4. Other bonds (pages _____ to _____, inclusive).

a. _____ (pages _____ to _____, inclusive).

b. _____ (pages _____ to _____, inclusive).

c. _____ (pages _____ to _____, inclusive).

5. General Conditions (pages 1 to 42, inclusive).

6. Supplementary Conditions (pages SC-1 to SC-6, inclusive).

7. Specifications as listed in the table of contents of the Project Manual.

8. Drawings consisting of Cover sheet and pages E1 and E2 with each sheet bearing the following general title: Pennsauken Municipal Building Photovoltaic System

9. Addenda (numbers _____ to _____, inclusive).

10. Exhibits to this Agreement (enumerated as follows):

a. Contractor's Bid (pages BP-1 to BP-21

b. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).

c. _____.

11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

a. Notice to Proceed (pages _____ to _____, inclusive).

b. Work Change Directives.

c. Change Order(s).

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

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ARTICLE 10 - MISCELLANEOUS

10.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on June 9, 2010 (which is the Effective Date of the Agreement).

OWNER:	CONTRACTOR: Power
PENNSAUKEN TOWNSHIP	PRIME SOLAR ~~PANEL~~, LLC
By: Edward Stochowski	By:
Title: ADMINISTRATOR	Title: Managing Member
[CORPORATE SEAL]	[CORPORATE SEAL]
Attest:	Attest:
Title: TOWNSHIP CLERK	Title: Managing Member
Address for giving notices:	Address for giving notices:
5605 N. Crescent Boulevard	383 Grand Street, #M504
Pennsauken, NJ 08110	New York, NY 10002
	License No.: (Where applicable)
	Agent for service or process:
	(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

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BID PROPOSAL FORM

TO: **Township of Pennsauken**
Pennsauken Township Municipal Building
5605 N. Crescent Boulevard, New Jersey
Pennsauken, NJ 08110

RE: **Pennsauken Municipal Building Solar Photovoltaic System Improvements**
Bid Packet No. 10-11

This Bid will not be accepted after 10:15 a.m. prevailing time on Thursday, May 13, 2010, at which time all Bids will be publicly opened and read.

Prime Solar Power LLC
Name of Firm Submitting Bid

Included with this Bid shall be the following executed documents:

1. Proposal Security
2. Consent of Surety
3. Stockholder's Statement
4. Non-collusion Affidavit
5. Contractor's References
6. List of Subcontractors
7. Plan and Equipment Questionnaire
8. Certification of Non-Segregated Facilities
9. Affirmative Action Affidavit
10. Mandatory Affirmative Action Exhibit B
11. Change of Bid Document Form
12. Bid Document Submission Checklist
13. State of NJ, Dept. of Labor, Public Works Contractor Registration
14. State of NJ, Business Registration Certificate

BID PROPOSAL FORM

Township of Pennsauken
Pennsauken Municipal Building Solar Photovoltaic System Improvements

ATTACH CERTIFIED CHECK HERE:

(The amount of the certified check to be submitted with this proposal shall be in accordance with Paragraph 7 of the "Instructions to Bidders" and shall be made payable to Pennsauken Township.)

DATE: May 12, 2010 BID NO.: 10-11

TO: Township of Pennsauken

TO WHOM IT MAY CONCERN:

Prime Solar Power LLC hereby proposes to furnish all labor, materials, tools, equipment, and services necessary to perform and complete the "Pennsauken Municipal Building Solar Photovoltaic System Improvements" Contract in accordance with the Specifications, plans, Standard and Special Contract Requirements, and will agree to complete the work within one hundred five (105) consecutive calendar days, counting from the date of notice to proceed with the work.

For the stipulated Total Lump Sum of:

Thirty-eight thousand, five hundred ——— Dollars,
(Amount written in words)

$ 38,500
(Amount written in figures)

which includes thirty eight thousand, five hundred Dollars $ 38,500 for labor and material payment bond and performance bond.

THIS SHALL BE KNOWN AS THE BASE BID.

The price of the bids must be written in words as well as figures. In case of a discrepancy, the words shall govern.

The undersigned hereby agrees to complete all work within the number of calendar days listed below from the date of notice to begin work, which will be forwarded to the Contractor by the Engineer. The undersigned further agrees that the Owner may, without recourse or other legal action, retain from the monies that are or may become due, the amount stipulated below for each and every calendar day (Sundays and legal holidays excepted), that the completion of the work may be delayed beyond the time stipulated below. Such amount is hereby mutually agreed, not as a penalty, but as liquidated damages accruing to the Owner due to such delay for extra costs due to engineering or other expenses. The schedule of completion dates and amount for liquidated damages are as follows:

CONTRACT	CALENDAR DAYS TO COMPLETE	LIQUIDATED DAMAGES
Pennsauken Municipal Building Solar Photovoltaic System Improvements	105 Days	As outlined in the Supplementary Conditions

There is enclosed herewith the required bid security (Cashier's Check, certified check, or bid bond) to the order of the Township of Pennsauken in the sum of Three thousand, eight hundred fifty Dollars ($ 3,850), and a duly executed consent from an approved surety company, licensed to conduct business in the State of New Jersey, agreeing to furnish the required bond upon the award of contract.

Name and business address of bidder to whom all formal notices are to be sent:

Prime Solar Power LLC
383 Grand Street, #M504
New York, NY 10002

The Township reserves the right to accept or reject any and all bids as it deems in its best interest.

Percentage of Work to be performed by my Organization 100%

Estimated Cost of Work to be performed by my organization:

$ 38,500 Thirty eight thousand, five hundred dollars.

The undersigned will enter and execute a contract with the Township of Pennsauken based upon these Bid Proposal Forms, without delay upon notice of award of contract, and will not withdraw this Proposal prior to sixty (60) days following the date of the opening of bids.

This 12 day of May, 2010.

Signature of Owner or Partner

Prime Solar Power LLC
Business Name of Bidder

383 Grand Street, #M504
New York, NY 10002
Address, including Zip Code

Robert Chong, Managing Member
Typed or Printed Name and Title

(917) 582-2743
Telephone Number