

## CHAPTER 46

**AN ACT** authorizing the establishment of certain municipal hospital authorities, supplementing chapter 9 of Title 30 of the New Jersey Statutes and amending P.L.1992, c.160 and P.L.1971, c.198.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.30:9-23.15 Short title.

1. Sections 1 through 9 of this act shall be known and may be cited as the “Municipal Hospital Authority Law.”

C.30:9-23.16 Charitable transfer to authority.

2. The transfer of a hospital to an authority by a charitable nonprofit entity pursuant to this act shall be deemed to be in furtherance of such entity’s charitable purposes.

C.30:9-23.17 Definitions relative to municipal hospital authorities.

3. For the purposes of this act:

“Authority” means a municipal hospital authority created pursuant to section 4 of this act.

“Bonds” means bonds issued by the authority pursuant to this act.

“City” means a city that is classified for legislative purposes pursuant to N.J.S.40A:6-4 and which adopts an ordinance creating a municipal hospital authority pursuant to this act.

“Hospital” means an institution licensed and classified as a general hospital by the Commissioner of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and N.J.A.C.8:43G-1 et seq., notwithstanding that the general hospital also may be licensed to provide inpatient psychiatric or comprehensive rehabilitation hospital services, or other related services.

“Local Finance Board” means the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs.

“Manager” means the nonprofit management entity or entities hired by an authority to manage and operate a hospital, or any portion of a hospital, owned by that authority.

“Notes” means notes issued by the authority pursuant to this act.

“Project” means the acquisition, by purchase, gift or otherwise, of all or any part of the assets and liabilities of a hospital located within a city through a contract or other agreement requiring at least \$12 million in working capital contributions from either the prior owner thereof or another nongovernmental source, as certified by the Local Finance Board in the Department of Community Affairs; the management and operation of that hospital; and the costs of any capital improvements or equipment related to the operation, maintenance, expansion, renovation, or rehabilitation of that hospital; and the provision of working capital for operation of that hospital, along with any required costs of issuing any bonds or notes therefor.

C.30:9-23.18 Creation of municipal hospital authority.

4. a. The governing body of a city may create, by ordinance, a body corporate and politic to be known as the " . . . . Municipal Hospital Authority," inserting the name of such city. The authority shall constitute an agency and instrumentality of the city creating it.

A governing body of a city so creating an authority shall have power from time to time and for such period and upon such terms, with or without consideration, as may be provided by such resolution or ordinance and accepted by the authority (1) to appropriate moneys for the purposes of the authority, and to loan or donate such money to the authority in such

installments and upon such terms as may be agreed upon with the authority, (2) to covenant and agree with the authority to pay to or on the order of the authority annually or at shorter intervals as a subsidy for the promotion of its purposes not exceeding such sums of money as may be stated in such resolution or ordinance or computed in accordance therewith, and (3) upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform and after appropriation of the moneys (if any) necessary for such performance, to covenant and agree with the authority to do and perform such act or thing and as to the time, manner and other details of its doing and performance, and, in accordance with the limitations and any exceptions thereto and in the manner or mode of procedure prescribed by the local bond law to incur indebtedness, borrow money and issue its negotiable bonds for the purpose of financing such project and appropriation, and to pay the proceeds of such bonds to the authority.

b. A municipal hospital authority created pursuant to this act shall be subject to the procedures of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), and shall operate pursuant to the provisions of that law, except as otherwise provided in P.L.2006, c.46 (C.30:9-23.15 et al.). The sole purpose of the authority shall be to carry out a project and to operate and maintain a project hospital.

c. Except as otherwise limited by this act, the authority shall have power:

(1) To finance and implement a project as defined pursuant to section 2 of P.L.2006, c.46 (C.30:9-23.16);

(2) To sue and be sued;

(3) To have an official seal and alter it at pleasure;

(4) To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;

(5) To maintain an office at a place within the State as it may determine;

(6) To acquire, hold, use, and dispose of its income, revenues, funds, and moneys;

(7) To acquire, lease as lessee or lessor, rent, hold, use, and dispose of real or personal property for its purposes;

(8) To borrow money and to issue its negotiable bonds or notes and to secure them by a mortgage on its property or any part thereof, or by a pledge of its revenues, and otherwise to provide for and secure the payment of them and to provide for the rights of the holders of the bonds or notes;

(9) To make and enter into all contracts and agreements which are necessary or incidental to the performance of its duties and the exercise of its powers under this act;

(10) To establish, acquire, construct, rehabilitate, repair, improve, own, operate, and maintain a project, and let, award and enter into construction contracts, purchase orders and other contracts with respect to a project as the authority shall determine;

(11) To fix and revise from time to time, and charge and collect, rents, fees and charges for the use, occupancy or services of the hospital or any part thereof or for admission thereto, and for the grant of concessions therein and for things furnished or services rendered by the authority through a project;

(12) To function as the hospital governing body responsible for establishing hospital-wide policy, to establish and enforce rules, regulations and bylaws for the use or operation of the hospital or the conduct of its activities, maintaining quality of care, and providing institutional management and planning, which functions shall not be delegated or assigned to another entity;

(13) Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, in obligations, securities and other investments the authority deems prudent;

(14) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source, including for-profit or nonprofit organizations or the general public, and to comply, subject to the provisions of this act, with the terms and conditions thereof;

(15) Subject to any agreements with bondholders or noteholders, to purchase bonds or notes of the authority out of any funds or money of the authority available for those purposes, and to hold, cancel or resell the bonds or notes;

(16) To appoint and employ an executive director and additional officers, who need not be members of the authority, and accountants, attorneys, financial advisors, or experts and any other officers, agents and employees as it may require and determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11A, Civil Service of the New Jersey Statutes;

(17) To do and perform any acts and things authorized by this act under, through, or by means of contracts with a nonprofit or for-profit entity or entities;

(18) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable; and

(19) To do anything necessary or convenient to carry out its purposes and exercise the powers granted in this act.

C.30:9-23.19 Governing board of authority.

5. a. The authority shall be governed by an 11-member board. The members shall be divided among four classes. The Class I member shall be the mayor of the city, or his designee, ex officio. There shall be two Class II hospital members, who shall serve on, and be appointed by, the medical staff executive committee of the hospital, to terms concurrent with their membership on the executive committee, and who need not be residents of the city. There shall be six Class III public members, at least four of whom shall be residents of the city, but none of whom shall be officers or employees of the city or of the manager. The Class III public members shall be appointed by the mayor of the city, with the advice and consent of the city council. At least two of the Class III members shall have special expertise as follows: one shall have extensive expertise in finance of private or nonprofit organizations, and one shall have extensive expertise in nonprofit organizational management. The Class III members shall serve for terms of five years and until their respective successors have been appointed and qualified; except that of the six members first appointed by the mayor, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and two for a term of five years. The hospital's chief executive officer or a designee thereof shall serve as a nonvoting Class IV member. The Commissioner of Community Affairs shall appoint one individual as a nonvoting Class IV member. Vacancies shall be filled in the same manner as the original appointments were made, but for the unexpired term.

b. Members of an authority shall not receive compensation for their services, but shall be entitled to reimbursement for actual expenses necessarily incurred in the discharge of the duties of membership, including travel expenses. The powers of the authority shall be vested

in the members thereof in office from time to time. Five members shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and all other purposes. Action may be taken by the authority upon the affirmative vote of the majority, but not less than five of the members present, unless in any case the bylaws of the authority or State law or regulation shall require a larger number.

c. The authority shall select a chairman and a vice-chairman from among its Class III public members, and may employ an executive director, who may be its secretary.

d. Class II and Class IV members of the authority shall not be deemed to have an interest in the hospital solely by virtue of their membership on the medical staff of the hospital or their employment by or contract with a manager, and they shall not be subject to the provisions of subsections d. and e. of section 5 of P.L.1991, c.29 (C.40A:9-22.5) of the "Local Government Ethics Law."

e. A member of an authority may be removed by the governing body or officer by which he was appointed for inefficiency or neglect of duty or misconduct in office; but only after the member has been given a copy of the charges at least 10 days prior to a hearing thereon and has had the opportunity to be heard in person or by counsel. In the event of a removal of any member of an authority, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the city.

C.30:9-23.20 Powers, duties of authority.

6. a. The authority shall exercise its powers and duties to manage and operate a hospital owned by it through a contract or contracts with a manager, which may be entered into without public advertising for bid as otherwise required pursuant to the provisions of section 3 of P.L.1971, c.198 (C.40A:11-3); provided, however, that the primary responsibility of operating the hospital shall remain that of the authority.

b. The initial duration of a contract shall not exceed five years. A contract entered into pursuant to this subsection may be renewed for an additional period, not to exceed five years. A contract entered into more than ten years from the date of the initial contract shall be negotiated as a new contract and not as a renewal contract.

c. A contract, or a renewal thereof, with a manager to manage and operate a hospital owned by the authority shall be effective only with the prior written consent of the Local Finance Board, which shall consult with the Commissioner of Health and Senior Services. The Local Finance Board shall establish an application procedure, submission requirements, and set minimum standards and content that shall be included in any contract with a nonprofit entity to manage and operate a hospital owned by the authority.

A contract with a manager shall provide that, in addition to such other matters as determined to be necessary by the authority or as otherwise required by law or regulation:

(1) The authority or its agents, and the city or its agents, shall have independent access to the books and records of the hospital at all times;

(2) The Governor of the State of New Jersey shall appoint an individual to serve on the board of directors of the manager during the term of the contract, including renewals; and

(3) Other than for routine, day-to-day business activities, the authority shall have the final determination regarding the acquisition and disposition of assets, or the incurring of debt or expenses.

d. When contracting with a manager, the authority shall approve the individuals that the manager proposes to designate as the hospital's chief executive officer and chief financial

officer, by whatever title, and any change thereof and shall also approve contracts or other arrangements setting forth terms and conditions of employment for those positions.

e. An authority shall take the following actions pursuant to any requirements that may be established by the Local Finance Board:

(1) adopt a management plan for the hospital, including monitoring and review methods of financial activities;

(2) set minimum requirements for meetings of the authority, and minimum attendance requirements for members;

(3) establish a formal mechanism for communication among the members of the authority's board, hospital administrators and medical staff;

(4) form a finance committee, which shall be responsible for the oversight of the finances of the authority, and delineate the duties and obligations of the finance committee; and

(5) include minimum provisions that shall be included in a contract with a manager. Such provisions shall include the submission of an annual budget of the hospital and of the nonprofit manager by the manager for the approval of the authority. The approval of these items shall be conditioned upon the approval of the authority's annual budget pursuant to the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.). The budget and any supporting documents as may be required by the Division of Local Government Services shall be submitted to the division as part of the submission of the authority's annual budget.

C.30:9-23.21 Issuance of bonds, notes; contracts between city and authority.

7. a. Bonds or notes issued under this act shall be issued and sold in the same manner, and subject to the same restrictions, as applicable to bonds of an authority authorized to be issued pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), including specifically sections 25 through 33 (C.40:14B-25 through C.40:14B-33).

An authority formed pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.) shall be deemed to be a municipal authority for the purposes of sections 59, 62, 63, 64, and 65 of P.L.1957, c.183 (C.40:14B-59 and C.40:14B-62 through C.40:14B-65), and those sections shall be applicable to a municipal hospital authority and its bonds as authorized pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.). P.L.2006, c.46 (C.30:9-23.15 et al.) shall be construed liberally to effectuate the legislative intent and as complete and independent authority for the performance by a municipal hospital authority of each and every act and thing herein authorized.

For purposes of P.L.2006, c.46 (C.30:9-23.15 et al.), "costs" means, in addition to the usual connotations thereof, the cost of acquisition or construction of all or any part of a hospital and of all or any property, rights, easements, privileges, or agreements deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority or of a hospital owned by the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of the hospital, or any part thereof, and the placing of the same in operation, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal or interest on bonds during or after such acquisition or construction as the authority may determine, and also reimbursements to the authority or the city of any moneys

theretofore expended for the purposes of the authority. In addition, the issuance of any bonds or other instruments by a municipal hospital authority shall be subject to the approval of the Local Finance Board in the Department of Community Affairs.

b. Contracts entered into between the city and the authority pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.) may also contain provisions as to the financing and payment of expenses to be incurred by the authority and determined by it to be necessary for its purposes. Every such contract shall be authorized and entered into under and pursuant to a resolution adopted by the authority and an ordinance of the governing body of the city, but the terms or text of the contract need not be set forth in full or stated in any such resolution or ordinance if the form of the contract is on file in the office of the municipal clerk and the place in fact of such filing is described in the resolution or ordinance. Any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by or on behalf of the city and which may be agreed to by the authority in conformity with its contracts with the holders of any bonds or notes, and shall be valid whether or not an appropriation with respect thereto is made by the city prior to authorization or execution thereof. Every such city is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of that city.

c. The city may unconditionally guarantee the punctual payment of the principal of and interest on any bonds or notes issued by the authority, in the same manner, and subject to the same restrictions, as municipal guarantees of bonds of an authority authorized to be issued pursuant to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et seq.).

d. The provisions of N.J.S.40A:2-11 shall not apply to any bond ordinance of the city authorizing bonds pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.).

e. Notwithstanding any provision of this act to the contrary, any investments of money by the authority shall be made consistent with the provisions of the N.J.S.40A:5-1 et seq.

#### C.30:9-23.22 Construction of act.

8. Nothing in P.L.2006, c.46 (C.30:9-23.15 et al.) shall be construed to apply to a hospital operated by a municipality pursuant to the provisions of R.S.30:9-13.

#### C.30:9-23.23 Transfer exempt, certain.

9. The transfer of a hospital to an authority pursuant to the provisions of P.L.2006, c.46 (C.30:9-23.15 et al.) shall be exempt from the provisions of section 2 of P.L.2000, c.143 (C.26:2H-7.11).

10. Section 19 of P.L.1992, c.160 (C.26:2H-7a) is amended to read as follows:

#### C.26:2H-7a Exemptions from certificate of need requirement.

19. Notwithstanding the provisions of section 7 of P.L.1971, c.136 (C.26:2H-7) to the contrary, the following are exempt from the certificate of need requirement:

Community-based primary care centers;

Outpatient drug and alcohol services;

Hospital-based medical detoxification for drugs and alcohol;

Ambulance and invalid coach services;

Mental health services which are non-bed related outpatient services;

Residential health care facility services;  
Capital improvements and renovations to health care facilities;  
Additions of medical/surgical, adult intensive care and adult critical care beds in hospitals;  
Replacement of existing major moveable equipment;  
Inpatient operating rooms;  
Alternate family care programs;  
Hospital-based subacute care;  
Ambulatory care facilities;  
Comprehensive outpatient rehabilitation services;  
Special child health clinics;  
New technology in accordance with the provisions of section 18 of P.L.1998, c.43 (C.26:2H-7d);  
Transfer of ownership interest except in the case of an acute care hospital;  
Change of site for approved certificate of need within the same county;  
Additions to vehicles or hours of operation of a mobile intensive care unit;  
Relocation or replacement of a health care facility within the same county, except for an acute care hospital;  
Continuing care retirement communities authorized pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.);  
Magnetic resonance imaging;  
Adult day health care facilities;  
Pediatric day health care facilities;  
Chronic or acute renal dialysis facilities; and  
Transfer of ownership of a hospital to an authority in accordance with P.L.2006, c.46 (C.30:9-23.15 et al.).

11. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to read as follows:

C.40A:11-2 Definitions.

2. As used herein the following words have the following definitions, unless the context otherwise indicates:

(1) "Contracting unit" means:

(a) Any county; or

(b) Any municipality; or

(c) Any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

The term shall not include a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

"Contracting unit" shall not include a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.).

"Contracting unit" shall not include a duly incorporated nonprofit association that has entered into a contract with the governing body of a city of the first class for the provision of water supply services or wastewater treatment services pursuant to section 2 of P.L.2002, c.47 (C.40A:11-5.1).

"Contracting unit" shall not include a duly incorporated nonprofit entity that has entered into a contract for management and operation services with a municipal hospital authority established pursuant to P.L.2006, c.46 (C.30:9-23.15 et al.).

(2) "Governing body" means:

(a) The governing body of the county, when the purchase is to be made or the contract or agreement is to be entered into by, or in behalf of, a county; or

(b) The governing body of the municipality, when the purchase is to be made or the contract or agreement is to be entered into by, or on behalf of, a municipality; or

(c) Any board, commission, committee, authority or agency of the character described in subsection (1) (c) of this section.

(3) "Contracting agent" means the governing body of a contracting unit, or its authorized designee, which has the power to prepare the advertisements, to advertise for and receive bids and, as permitted by this act, to make awards for the contracting unit in connection with purchases, contracts or agreements.

(4) "Purchase" means a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

(5) (Deleted by amendment, P.L.1999, c.440.)

(6) "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

(7) "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(8) (Deleted by amendment, P.L.1999, c.440.)

(9) "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a contracting unit.

(10) "Homemaker--home health services" means at-home personal care and home management provided to an individual or members of the individual's family who reside with the individual, or both, necessitated by the individual's illness or incapacity. "Homemaker--home health services" includes, but is not limited to, the services of a trained homemaker.

(11) "Recyclable material" means those materials which would otherwise become municipal solid waste, and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(12) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

(13) "Marketing" means the sale, disposition, assignment, or placement of designated recyclable materials with, or the granting of a concession to, a reseller, processor, materials recovery facility, or end-user of recyclable material, in accordance with a district solid waste management plan adopted pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and shall not include the collection of such recyclable material when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(14) "Municipal solid waste" means, as appropriate to the circumstances, all residential, commercial and institutional solid waste generated within the boundaries of a municipality; or the formal collection of such solid wastes or recyclable material in any combination thereof when collected through a system of routes by local government unit employees or under a contract administered by a local government unit.

(15) "Distribution" (when used in relation to electricity) means the process of conveying electricity from a contracting unit that is a generator of electricity or a wholesale purchaser of electricity to retail customers or other end users of electricity.

(16) "Transmission" (when used in relation to electricity) means the conveyance of electricity from its point of generation to a contracting unit that purchases it on a wholesale basis for resale.

(17) "Disposition" means the transportation, placement, reuse, sale, donation, transfer or temporary storage of recyclable materials for all possible uses except for disposal as municipal solid waste.

(18) "Cooperative marketing" means the joint marketing by two or more contracting units of the source separated recyclable materials designated in a district recycling plan required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written cooperative agreement entered into by the participating contracting units thereof.

(19) "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a contracting agent.

(20) "Bid threshold" means the dollar amount set in section 3 of P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall advertise for and receive sealed bids in accordance with procedures set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

(21) "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a contracting unit for the vendor's right to perform a service, such as, but not limited to, operating a concession.

(22) "Contract year" means the period of 12 consecutive months following the award of a contract.

(23) "Competitive contracting" means the method described in sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 thru 40A:11-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or administrator; and the governing body awards a contract to a vendor or vendors from among the formal proposals received.

(24) "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by a contracting agent, including goods and property subject to N.J.S.12A:2-101 et seq.

(25) "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

(26) "Lowest price" means the least possible amount that meets all requirements of the request of a contracting agent.

(27) "Lowest responsible bidder or vendor" means the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

(28) "Official newspaper" means any newspaper designated by the contracting unit pursuant to R.S.35:1-1 et seq.

(29) "Purchase order" means a document issued by the contracting agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the contracting unit, which, when fulfilled in accordance with the terms and conditions of a request of a contracting agent and other provisions and procedures that may be established by the contracting unit, will result in payment by the contracting unit.

(30) "Purchasing agent" means the individual duly assigned the authority, responsibility, and accountability for the purchasing activity of the contracting unit, and who has such duties as are defined by an authority appropriate to the form and structure of the contracting unit, and P.L.1971, c.198 (C.40A:11-1 et seq.).

(31) "Quotation" means the response to a formal or informal request made by a contracting agent by a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the contracting agent.

(32) "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

(33) "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

(34) "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a contracting unit to house local government functions or provide water, waste disposal, power, transportation, and other public infrastructures.

(35) "Director" means the Director of the Division of Local Government Services in the Department of Community Affairs.

(36) "Administrator" means a municipal administrator appointed pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business administrator, a municipal manager or a municipal administrator appointed pursuant to the "Optional Municipal Charter Law," P.L.1950, c.210

(C.40:69A-1 et seq.); a municipal manager appointed pursuant to "the municipal manager form of government law," R.S.40:79-1 et seq.; or the person holding responsibility for the overall operations of an authority that falls under the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.).

(37) "Concession" means the granting of a license or right to act for or on behalf of the contracting unit, or to provide a service requiring the approval or endorsement of the contracting unit, and which may or may not involve a payment or exchange, or provision of services by or to the contracting unit.

(38) "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

(39) "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified in writing by the governing body of the contracting unit to be necessary for the conduct of its affairs.

(40) "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the contracting unit for the vendor's right to operate a concession.

12. This act shall take effect immediately.

Approved July 11, 2006.