REQUEST FOR PROPOSALS

For

SPECIAL INSPECTOR FOR SMOKE CONTROL SYSTEMS AT SCIENCE PARK HIGH SCHOOL IN NEWARK

Contract No. NE-0001-Y01

ISSUE DATE: Thursday, July 7, 2011

MANDATORY SITE VISIT
Monday, July 25, 2011, 1:30 PM Eastern Time

PROPOSAL DUE DATE: Tuesday, August 2, 2011 by 5:00 PM Eastern Time

At the

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

PREPARED BY

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
ONE WEST STATE STREET
PO BOX 991
TRENTON, NEW JERSEY 08625-0991

REQUEST FOR PROPOSALS
FOR
SPECIAL INSPECTOR SERVICES

INTRODUCTION

The New Jersey Schools Development Authority ("NJSDA") is seeking to engage the services of an expert consultant to perform special inspector services for the smoke control system at Newark's Science Park High School in accordance with International Building Code 2000, Section 909.

The term of this engagement shall be through completion of services on approximately September 10, 2011, with an award amount not to exceed $20,000.

Pursuant to the International Building Code 2000, New Jersey Edition, § 909.18.8.2 Qualifications (Smoke Control Systems), "Special inspection agencies for smoke control shall have expertise in fire protection engineering, mechanical engineering, and have certification as air balancers." Subsection 1702.1, 1703.1.1 and 1704.14 (Structural Tests and Special Inspections) details the relationship of a design professional acting as the approved agency/special inspector, the independence of the approved agency and the testing scope and qualifications of the inspector. The consultant who is awarded this work will need the approval of the DCA.

A mandatory site visit will be held on **Monday, July 25, 2011 at 1:30 PM at the Science Park High School, 260 Norfolk Street, Newark, NJ 07102.** All firms wishing to submit a proposal **must** attend the mandatory site visit. Questions and/or concerns relating to the RFP may be submitted via email to mataylor@njsda.gov by **5:00 p.m. on Tuesday, July 26, 2011.**

In the event that the NJSDA determines, at its sole discretion, that additional site visits need to be held in order to increase the pool of bidders, it shall schedule subsequent site visits.

Responses to this RFP must be received by the NJSDA Main Office by 5:00 p.m. on Tuesday, August 2, 2011.

These documents must be read in their entirety as they define the scope of services and responsibilities of the Firm and the NJSDA. A firm wishing to submit a Proposal for Special Inspector Services must review and be thoroughly familiar with all terms and conditions of these documents.

Upon award, the NJSDA shall forward the Agreement for Special Inspector Services (the "Agreement") to the selected firm for immediate execution, **without modification**.

This REQUEST FOR PROPOSALS PACKAGE consists of the following items:

1. Request for Proposals
2. Attachment A: Special Inspector Services Agreement
3. Attachment B: Price Proposal Form

BACKGROUND

Scope of Services

The services required of the Firm pursuant to this RFP are set forth in the Scope of Services attached as Appendix B to the Agreement, Attachment A to RFP.

Other Requirements of the Firm

(a) Business Registration –

Pursuant to N.J.S.A. 52:32-44, as amended by P.L. 2004, c. 57, each proposing Firm must provide proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury (the "Division of Revenue") in its Proposal.

Firms may obtain New Jersey Business Registration assistance by going on-line to http://www.state.nj.us/treasury/revenue/gettingregistered.shtml or by calling the New Jersey Department of Treasury at (609) 292-1730. Please be advised, however, that business registrations are mailed generally within seven to ten days, so Firms should plan accordingly.

(b) Political Contributions –

P.L. 2005, c. 51 amended and supplemented N.J.S.A. 19:44A-20.1 *et seq.*, and superseded Executive Order 134 (2004), addresses the effect of political contributions on State contracting. Accordingly, a selected Firm will be required to respond in a timely fashion to certification and disclosure requirements that will be stated in the Notice of Award issued by the NJSDA. Additionally, Executive Order No. 117, which is designed to enhance New Jersey's efforts to protect the integrity of government contractual decisions and increase the public's confidence in government. The Executive Order builds on the provisions of P.L. 2005, c. 51 ("Chapter 51"), which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.

Requirements for Selected Firm. The Firm shall receive a notice of award that will, among other things, notify the Firm that it must submit a Certification and Disclosure of Political Contributions form and Business Entity Disclosure form as provided by NJSDA. Failure to submit these forms in a timely fashion shall be cause for rejection of the Firm.

Firm's Continuing Obligation to Comply with P.L. 2005, c. 51. The Firm shall be required on a continuing basis to disclose and report to NJSDA any contributions made during the contract term by the Business Entity on forms provided by NJSDA, at the time it makes the contribution.

(c) Political Contributions Disclosure -

Firms are advised of their responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission ("ELEC"), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c. 271, section 3), in the event they receive contracts in excess of $50,000 from a public entity in a calendar year. It is a Firm's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

(d) Anti-Discrimination Requirements -

In addition, the Firm shall not discriminate in employment and shall abide by all anti-discrimination laws including those contained within N.J.S.A. 10:5-1 *et seq.* and all rules and regulations issued there under, including N.J.A.C. 17:27-1 *et seq.* **Accordingly, a firm shall be required to submit to NJSDA, with its executed agreement, one of the following three documents:**

(1) appropriate evidence that the contractor is operating under an existing Federally approved or sanctioned affirmative action program;

(2) a certificate of employee information report approval issued in accordance with N.J.A.C. 17:27-4; or

(3) an initial employee information report (Form AA302) provided by the Affirmative Action Office and completed by the contractor in accordance with N.J.A.C. 17:27-4.

(e) Insurance and Indemnification –

A successful Firm shall be required to provide evidence of the insurance coverages required in Section 5.1 of the Agreement, Attachment A to this RFP, at the time of execution of the Agreement. **This is a pre-award requirement. Do not submit with Technical Qualifications Proposal.**

INSTRUCTIONS FOR SUBMITTING A TECHNICAL QUALIFICATIONS PROPOSAL

Firms responding to the RFP shall thoroughly familiarize themselves with the RFP to ensure responsiveness in their submission. The submission is to consist of the following:

1. Statement of Interest
2. Firm Experience as Special Inspector for Smoke Control Systems and Fire Protection Engineering
3. References
4. Resume of Key Team Member Performing Special Inspection
5. Certification of Key Team Member Performing Air Balancing
6. Business Registration

The Firm's Proposal must be organized and presented in the foregoing order and must not exceed forty (40) one-sided 8.5" X 11" pages. Organizational charts, staffing structure, and schedules may be on larger paper. The following items will not count toward the page limit: resumes, required forms, section dividers, and catalogs. Each Proposal will be evaluated to determine if a firm meets the minimum qualifications as listed in this RFP, with information contained in a Proposal verified as may be necessary.

Proposal Package Mailing Instructions. The Firm must submit one (1) original of a Technical Qualifications Proposal and one (1) original of the corresponding Fee Proposal (in a separate envelope, which is sealed and then placed in the same package with the Technical Qualifications

Proposal). **Proposal Packages** must be received by the NJSDA no later than **5:00 PM on Tuesday, August 2, 2011**, as follows:

If submitting by hand or overnight delivery, at the:

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
1 West State Street – 1st Floor
Trenton, New Jersey 08625-0991
Attention: Martin Taylor, Division of Procurement
Subject: Special Inspector Services Proposal NE-0001-Y01

If submitting by U.S. Mail, address packages to:

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
P.O. Box 991
Trenton, New Jersey 08625-0991
Attention: Martin Taylor, Division of Procurement
Subject: Special Inspector Services Proposal NE-0001-Y01

Submissions received after the date and time indicated on the RFP cover sheet will not be considered. Faxed and e-mailed proposals will not be accepted.

The items that must be addressed in the Technical Qualifications Proposal that must be submitted are further described below.

Statement of Interest

The firm shall include a letter of introduction describing their firm and including a statement that their firm is qualified to perform the services of a Special Inspector in New Jersey in accordance with International Building Code 2000, New Jersey Edition § 909.18.8.2, 1702.1, 1703.1.1 and 1704.14.

Firm Experience as Special Inspector for Smoke Control Systems and Fire Protection Engineering

Firm experience as a special inspector for smoke control systems and in fire protection engineering shall be assessed through a summary of the firm's experience in the role of special inspector in accordance with International Building Code 2000, Section 909. The firm shall provide at least five (5) references including four (4) projects where the firm has performed the role of special inspector as described above. The firm must set forth the basic background information; project name, description, square feet, building type, location and client.

References

Firm must submit at least five (5) references including full contact information with names,

phone numbers, addresses and email addresses from a selection of the projects detailed above.

Resume of Key Team Member Performing Special Inspection

A resume of the Key Team Member that will be special inspector on this project shall be included in the Proposal. The proposed Special Inspector shall have successfully completed two (2) smoke control system inspection projects and have ten (10) years of experience in fire protection engineering. The resume shall provide at least two (2) reference sources. The basic background information; project name, description, square feet, building type, location and client must be set forth in the resume.

Certification of Key Team Member Performing Air Balancing

The certification of the Key Team Member that will be performing the air balancing on this project must be included in the Proposal.

Business Registration

Pursuant to N.J.S.A. 52:32-44, as amended by P.L. 2004, c. 57, each proposing Firm must provide proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury (the "Division of Revenue"), in its Proposal.

Firms may obtain New Jersey Business Registration assistance by going on-line to http://www.state.nj.us/treasury/revenue/gettingregistered.shtml or by calling the New Jersey Department of Treasury at (609) 292-9292. Please be advised, however, that business registrations are mailed generally within seven to ten days, so Firms should plan accordingly.

INSTRUCTIONS FOR SUBMITTING A PRICE PROPOSAL

The firm must submit its Price Proposal based on a lump sum amount for this Contract.

The Price Proposal Form is included in Attachment B to this RFP. Firms should submit a lump sum amount for the performance of the role of the special inspector including site visits, travel and preparation of a report pursuant to the Scope of Services included as Appendix B to the Agreement, Attachment A to this RFP.

Please note that the lump sum amount shall include all costs the Firm intends to recoup through compensation under the Agreement, including, but not necessarily limited to, the following: equipment, supplies, employee base salary and vacation, holiday, other leave pay, social security contributions, unemployment taxes, workers' compensation, travel expenses, and any other fringe benefits, payroll burden, and per diem, as well as an appropriately proportionate amount of company overhead and profit.

SELECTION PROCEDURES

Each Proposal will be reviewed to determine responsiveness. Non-responsive Proposals will be rejected without evaluation. Evaluations of Responsive Proposals will be made based upon the information provided by the Firm in response to this RFP, and any necessary verification thereof.

NJSDA will review proposals to determine if a firm meets the following minimum qualifications:

1. Firm must be qualified to perform the services of a Special Inspector in New Jersey in accordance with International Building Code 2000, New Jersey Edition § 909.18.8.2, 1702.1, 1703.1.1 and 1704.14.
2. Firm must have successfully performed the role of Special Inspector for smoke control in accordance with International Building Code 2000, section 909 on at least four (4) projects.
3. The proposed Special Inspector shall have successfully completed two (2) smoke control system inspection projects and has ten (10) years of experience in fire protection engineering.
4. Certification of Key Team Member performing air balancing.

Following the Technical Qualifications Proposal review, the Price Proposals of qualified firms will be opened and reviewed by the NJSDA. The lowest Price Proposal received from the qualified firms will be awarded the work.

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

Any Firm attempting to contact government officials (elected or appointed), including NJSDA Board members and NJSDA Staff, in an effort to influence the selection process may be immediately disqualified.

ATTACHMENT A

SPECIAL INSPECTOR SERVICES AGREEMENT

{See attached sheets}

AGREEMENT

Between the

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

And

CONSULTANT

For

SPECIAL INSPECTOR FOR SMOKE CONTROL SYSTEMS AT SCIENCE PARK HIGH SCHOOL IN NEWARK

CONTRACT NO.: NE-0001-Y01

THIS AGREEMENT is made and entered into this ___ day of _____, 2011, (the "Effective Date") between the New Jersey Schools Development Authority (the "Authority") and _____ ("Consultant") with a principal office location at _____.

WITNESSETH that Consultant, for and in consideration of the payments hereinafter specified and agreed to be made by the Authority, hereby covenants and agrees to do and perform all of the Services to be performed in accomplishing this Agreement for the Project identified as

Contract Number: NE-0001-Y01

Project Name: Special Inspector for Smoke Control Systems at Newark Science Park High School

in strict and entire conformity with the Terms and Conditions of this Agreement and all Appendices and Attachments hereto and all other documents comprising this Agreement, all of which are hereby made part of this Agreement as fully and with the same effect as if the same had been set forth at length in the body of this Agreement.

Provided that Consultant strictly and completely performs all of the Services specified and all other obligations set forth in this Agreement, and subject only to such increases or decreases as are effectuated by Amendments to the Agreement as provided by the Agreement. Compensation is addressed in Appendix C of this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement:

CONSULTANT

_____

By:
Title:

Sworn and subscribed to before me
This _____day of _____,20___.

Notary Public of

My commission expires: _____,20___.

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

_____

By:
Title:

By:_____
Name of Affiant

Reviewed and Approved

By: _____
Name:

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1.0 DEFINITIONS

The terms set forth in this Agreement shall have the meanings ascribed to them for all purposes of this Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

1.1 **"Additional Services"** means services other than the Services set forth in the Scope of Services on the Effective Date.

1.2 **"Agreement"** means this agreement (and all Appendices) between the Authority and the Consultant for the provision of Services as such agreement may be amended from time to time in accordance with the provisions hereof.

1.3 **"Amendment"** means an amendment to this Agreement executed by the Parties.

1.4 **"Authority"**, "New Jersey Schools Development Authority", or "NJSDA" means the public body corporate and politic established in, but not of, the Department of Treasury pursuant to P.L. 2007, c. 137, for the purpose of implementing provisions of the Educational Facilities Financing and Construction Act, N.J.S.A. 18A:17G-1 et seq.

1.5 **"Change Order"** means an amendment or change to material terms and conditions of a contract with the Authority.

1.6 **"Claim"** means a contract claim, demand or assertion by one of the Parties to this Agreement, seeking, as a matter of right, adjustment or interpretation of Contractual Documents, payment of money, extension of time or other relief with respect to the terms of the Contractual Documents and shall also mean other disputes and matters in question between the Parties arising out of or relating to the Contractual Documents. This definition shall not apply to the term "Claim" as used in the Scope of Services.

1.7 **"Construction Management Firm"** or **"CM"** means a firm engaged by the Authority to provide construction management services, oversight, direction, coordination and reporting in connection with one or more School Facilities Projects.

1.8 **"Consultant"** means the firm engaged by the Authority for the Services required by this Agreement.

1.9 **"Consultant Client Manager"** means that person designated by the Consultant to serve as its representative during the Term.

1.10 **"Contractor"** means a person or firm or engaged by the Authority to undertake construction at a School Facilities Project.

1.11 **"Contractual Documents"** means all documents setting forth Consultant and Authority obligations and responsibilities and includes, but is not limited to, the RFP, the Proposal, this Agreement, any Amendments and addenda, and all exhibits and schedules attached to such documents.

1.12 **"Day"** or **"Days"** means a calendar day or days.

1.13 **"Deliverables"** means, among other things, Services, including, but not limited to, technical data, plans, specifications, minutes, approvals, recommendations, drawings, reports, computer discs, instruction books, documents, writings, materials, other services or any other thing the delivery of which, however accomplished, is required to be delivered by the Consultant, explicitly or implicitly, by the Contractual Documents, as they may be amended from time to time.

1.14 **"DOE"** means the New Jersey Department of Education.

1.15 **"Effective Date"** means the date on which this Agreement became effective, and for purposes of this Agreement, as that date so identified and set forth on page 1.

1.16 **"Fee Proposal"** means the Price Proposal submitted by the Consultant in response to the RFP.

1.17 **"Fiscal Year"** means the fiscal year of the Authority, which commences on January 1 of each year and ends on December 31 of the same year.

1.18 **"Notice to Proceed"** means a notice from the Authority to the Consultant, directing the Consultant to commence performing its responsibilities pursuant to this Agreement.

1. 19 **"Party"** means a party to this Agreement. The Parties are the Authority and the Consultant.

1.20 **"Professional Services Consultants"** means consultants, including the Consultant, which may provide professional services specified in a scope of services pursuant to a contract with the Authority.

1.21 **"Program Manager"** means the Authority staff member(s) designated to manage the Consultant's performance of Services.

1.22 **"Project Management Firm"** or **"PMF"** means a firm engaged by the Authority to provide overall construction management services, oversight, direction, coordination and reporting in connection with School Facilities Projects.

1.23 **"Request for Proposals"** or **"RFP"** means the request issued by the Authority for proposals for the provision of the Services.

1.24 **"Schedule"** means the time-frames governing the completion of Services.

1.25 **"School Construction Program"** means the program operated by the Authority in order to finance and construct School Facilities Projects pursuant to the Educational Facilities Financing and Construction Act, P.L. 2000, c. 72, as amended

1.26 **"School Facilities Project"** means the acquisition, demolition, design, construction, improvement, repair, alteration, modernization, renovation, reconstruction or maintenance of all or any part of a School Facility or of any other personal property necessary for or ancillary to any School Facility.

1.27 **"School Facility"** means and includes any structure, building or facility used wholly or in part for

academic purposes.

1.28 **"Scope of Services"** means the scope of services required to be provided by the Consultant, as set forth in Appendix B (Scope of Services).

1.29 **"Services"** means the services required to be performed by the Consultant pursuant to the Contractual Documents, set forth in the Scope of Services, whether completed or partially completed and includes all labor, travel, meals, equipment and materials, provided or to be provided to fulfill such obligations.

1.30 **"Special Conditions"** means that document attached as Appendix A to this Agreement, and made a part thereof, as such document may be amended from time to time.

1.31 **"State"** means the State of New Jersey.

1.32 **"Subconsultant"** means the consultant to whom another consultant subcontracts part of the services for which the latter is responsible.

1.33 **"Term"** means the term of this Agreement as set forth in Section 4 hereof.

1.34 **"Unit of Fiscal Integrity"** means the New Jersey State Police or such other designee of the Attorney General performing the functions and duties of the Office of Fiscal Integrity in School Construction within the Office of the Attorney General pursuant to N.J.S.A. 18A:7G-43, as amended.

2.0 RESPONSIBILITIES OF THE CONSULTANT

2.1 General

2.1.1 In order to provide the Services and Deliverables required, the Consultant shall be responsible for being thoroughly familiar with all Authority formation and governing documents, internal controls, and operations.

2.1.2 The Contractual Documents establish the obligations of the Consultant. The Services and Deliverables described in this Agreement establish the minimum obligations of the Consultant.

2.1.3 The Services and Deliverables to be provided by the Consultant pursuant to this Agreement shall be performed by the Consultant, its employees and Subconsultants, if any.

2.1.4 The Consultant understands and agrees that any change to this Agreement must be made in writing in the form of an Amendment.

2.1.5 Any Services performed by the Consultant, without an Amendment, beyond the Scope of Services shall be done at the Consultant's own financial risk. Additional Services, if any, shall be the subject of an Amendment, and shall be compensated in accordance with terms negotiated at the time of Amendment. Such Amendment shall be executed prior to the performance of any Additional Services.

2.1.6 Changes to the Scope of Services require the prior written consent of the Authority and an Amendment. When requesting consent for any such changes, the Consultant must simultaneously notify the Authority of any increase or decrease in compensation associated with such changes; provide a detailed cost break-down of, and justification for, the changes sought; and detail the impact of each change upon its provision of Services and Deliverables. The requirements of this provision are in addition to any other requirements of the Contractual Documents regarding additional compensation.

2.1.7 The Consultant shall perform all Services in a good, skillful, and prompt manner. The Consultant shall perform the Services and provide all Deliverables consistent with the level of skill and care ordinarily exercised by members of the Consultant's profession, currently practicing under similar circumstances.

2.1.8 Services shall be performed within any applicable Schedule.

2.1.9 The Consultant is responsible for the quality, technical accuracy, and timely completion and delivery of all Deliverables. If circumstances will result or may result in a late delivery, it shall be the responsibility and obligation of the Consultant to make the details known immediately to the Authority.

2.1.10 The Consultant shall, without additional compensation, cure any errors, omissions, or other deficiencies in the Deliverables. The approval of interim Deliverables shall not relieve the Consultant of fulfilling its obligations under the Contractual Documents. Acceptance or payment for any of the Deliverables shall not be construed as a waiver by the Authority of any of its rights under the Contractual Documents or of any cause of action arising out of the Consultant's performance or non-performance under the Contractual Documents.

2.1.11 In the event the Consultant hires, employs or otherwise engages Subconsultants, the Consultant shall be considered the sole Consultant and the sole point of contact with regard to contractual matters under this Agreement. The Consultant assumes sole and full responsibility for the complete performance contemplated by the Contractual Documents, including the performance of all Subconsultants. The Consultant must: (i) where applicable, select only Subconsultants that have been pre-qualified by the Authority, and (ii) obtain the consent of the Authority prior to the engagement of any such Subconsultant.

2.1.12 It is expressly understood by the Consultant that approval by the Authority for the subcontracting of any Services under the Contractual Documents shall in no way relieve the Consultant from performing its obligations under the Contractual Documents. The Consultant shall at all times give due attention to the fulfillment of its obligations under the Contractual Documents and shall keep the Services under its control. Consent by the Authority to any subcontracting of any part of the Services shall not be construed to be an approval of said subcontract or of any of its terms, but shall operate only as an approval of the engagement by the Consultant of the Subconsultant. The Consultant shall be responsible for all Services performed by its Subconsultants, which Services shall conform to the provisions of the Contractual Documents and the requirements of applicable law.

2.1.13 For all Services rendered, the Consultant shall, in accordance with generally accepted

accounting principles and practices, maintain overhead, cost and accounting records, as well as all other records the Consultant may customarily maintain in its business. Such records shall be maintained and made available for inspection by the Authority and the NJ State Police (or their agents) as to all aspects of the Services provided under the Contractual Documents, whether the Services are performed by the Consultant, its Subconsultant or any other firm. The Consultant shall retain all electronic records for a period of six (6) Fiscal Years following final payment by the Authority or the end of the Fiscal Year in which this Agreement expires, whichever occurs later. After this period, the Consultant may dispose of these records after first offering them (at no cost) to the Authority in writing; the Authority shall have thirty (30) Days within which to accept them.

2.1.14 The Consultant agrees that it shall assist and cooperate with the Authority in any legal action or proceeding that is related to or that arises out of or in connection with its performance under the Contractual Documents and in which action or proceeding the Authority and the Consultant are not named as adverse parties. Such assistance shall include, but not be limited to, testifying as an expert witness or preparing exhibits, reports or models. Any Services provided by the Consultant pursuant to this paragraph shall be deemed Additional Services and shall be compensated as such in accordance with terms negotiated at the time of an appropriate Amendment.

2.1.15 The Consultant shall designate a Key Team Member at the Consultant's firm, satisfactory to the Authority, as the Consultant Client Manager. So long as the Consultant Client Manager's performance is acceptable, he or she shall remain in charge of the firm's Services, shall represent the Consultant, and be available for general consultation throughout the Term.

2.1.16 The Consultant, to the best of its knowledge, information, and belief, shall abide by all applicable local, state, and national regulatory requirements, as well as all regulations imposed by funding sources (auditing requirements, payroll affidavits, etc.), such as may be identified at the time of execution of this Agreement.

2.1.17 Business Registration. The Consultant and any Subconsultant provided to the Authority proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury, pursuant to N.J.S.A. 52:32-44b, as set forth in Appendix E hereto. The Consultant shall provide written notice to any firm that may become its Subconsultant that it shall not enter into any subcontract with a Subconsultant that has not provided it with proof of such business registration, a copy of which the Consultant shall forward to the Authority, in accordance with N.J.S.A. 52:32-44c. The Consultant shall maintain and submit to the Authority a list of Subconsultants and their addresses, which list must be updated as necessary during the Term. A complete and final version of such list must be submitted to the Authority before final payment for Services shall be made.

2.1.18 Payment of Use Taxes. Pursuant to N.J.S.A. 52:32-44g, the Consultant and any Subconsultant of the Consultant, and any affiliate of the Consultant shall collect and submit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., on all their sales of tangible personal property delivered into this State. The Consultant shall provide in each contract with a Subconsultant that each such Subconsultant shall collect and submit to the Director of the Division of Taxation in the Department of the Treasury

the use tax due pursuant to the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., on all their sales of tangible personal property delivered into this State. For purposes of this section, "affiliate" shall mean any entity that: (i) directly, indirectly, or constructively controls another entity, (ii) is directly, indirectly, or constructively controlled by another entity, or (iii) is subject to the control of a common entity if it owns, directly or individually, more than 50% of the ownership interest in that entity.

2.1.19 Political Contributions. Consistent with the requirements of P.L. 2005, c. 51, N.J.S.A. 19:44A-20.1 et seq., as amended ("Chapter 51")(formerly Executive Order No. 134 (2004), the Consultant shall, on a continuing basis, have the obligation to disclose and report to the Authority any "contributions" made during the Term of the Agreement by the Consultant or any "Business Entity" associated with the Consultant on the "Disclosure of Political Contribution" form provided by the Authority, at the time such contribution is made. As part of this obligation, the selected firm shall be required to comply with Executive Order No. 117, which was issued to enhance New Jersey's efforts to protect the integrity of government contractual decisions and increase the public's confidence in government. Executive Order No. 117 builds on the provisions of Chapter 51, which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government contractors.

2.1.20 Political Contributions Disclosure. Consultant comply with its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission ("ELEC"), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, section 3), in the event it receives contracts in excess of $50,000 from a public entity in a calendar year. It is the Consultant's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

2.1.21 Outsourcing Provisions. In accordance with P.L. 2005, c. 92 (formerly Executive Order No. 129 (2004)), the Consultant shall have a continuing duty to comply with the provisions of P.L. 2005, c. 92, as applicable. If, during the Term, the Consultant or a Subconsultant, who had on contract award declared that Services would be performed in the United States, proceeds to shift the performance of the Services outside of the United States, the Consultant shall be deemed in breach of the Agreement, which shall be subject to termination for cause, unless the Senior Director of the Authority's Division of Procurement & Contract Services shall determine in writing that extraordinary circumstances require a shift of services or that a failure to shift the services would result in economic hardship to the Authority or the State.

2.2 Final Release

The Consultant's acceptance of final payment shall constitute a final release from and waiver of all the Consultant's Claims except for: (i) those Claims the Consultant expressly reserves at the time of application for final payment; (ii) those Claims arising after final payment as a result of actions brought against the Consultant by third parties; and (iii) those Claims arising after final payment due to an alleged breach by the Authority of any Agreement provision that survives after the Term.

3.0 COMPENSATION

3.1 General Provisions

3.1.1 Lump Sum. The Consultant shall be compensated over the Term of the contract in accordance with the lump sum set forth in Appendix C (Compensation – Fee Proposal), not to exceed $20,000. The lump sum shall compensation for all labor, fringe benefits, materials, overhead, profit, costs and expenses incurred or associated with providing the Services and Deliverables.

3.1.2 The Consultant shall be paid after invoices are submitted and approved. Consultant shall not be entitled to separate reimbursement for any costs or expenses.

3.1.3 Acceptance or approval of, or payment for, any of the Services performed by the Consultant under the Contractual Documents shall not constitute a release or waiver of any Claim the Authority has or may have for latent defects, errors, breaches, or negligence.

3.1.4 All payments for Services under the Contractual Documents will be made only to the Consultant, and Consultant assumes sole responsibility for payments due any Subconsultant.

3.1.5 Unless otherwise set forth in writing by the Authority, prices quoted shall be firm and not subject to increase during the Term.

3.1.6 The Authority assumes no responsibility or liability for costs the Consultant incurred prior to the Effective Date, and thereafter only as explicitly set forth in the Contractual Documents.

3.2 Invoices

3.2.1 Detailed invoices for Services shall be submitted monthly, and shall be accompanied by such supporting documentation as may be required by the Authority. Electronic invoices with associated backup are acceptable.

3.2.2 Invoices submitted to the Authority must identify this Agreement's contract number.

3.2.3 Invoices submitted to the Authority shall be processed and paid only after the Authority reviews and determines that the Services for which payment is sought have been completed at the times and in the manner specified in the Contractual Documents. The Authority shall not pay invoices if the Authority determines that the Services for which payment is sought are incomplete or unsatisfactory.

3.2.4 Each invoice signed by the Consultant and submitted to the Authority shall be a representation by the Consultant that all payments due to its Subconsultants have been made and that all relevant laws and regulations have been complied with.

3.2.5 All invoices shall be accompanied by appropriate detailed and complete backup to ensure billing accurately represents work incurred.

3.3 Withholding Payment for Unsatisfactory Services or Non-delivery of Deliverables

3.3.1 If the Authority determines that any Services are incomplete or unsatisfactory, or if the Authority determines that Deliverables have not been delivered at the times and in the manner and form specified in the Contractual Documents, the Authority will either: (i) retain for payment the relevant invoice (or portion thereof) until such time as the Consultant has made the necessary corrections/deliveries, or (ii) return the relevant invoice to the Consultant, who shall resubmit the invoice once all of the Services have been completed or corrected or the Deliverables have been delivered.

3.3.2 The withholding of any sums pursuant to this Section 3.3 shall not be construed as, or constitute in any manner, a waiver by the Authority of the Consultant's obligation to furnish the items required under the Contractual Documents. In the event the Consultant fails to furnish these items, the Authority shall have those rights and remedies provided by law and pursuant to the Contractual Documents in addition to, and not in lieu of, the sums withheld in accordance with this Section 3.3.

4.0 TERM

Unless terminated sooner under Section 6 of this Agreement, the Term of this Agreement shall extend from the Effective Date until all obligations of the Consultant to deliver Services pursuant to this Agreement have been performed to the satisfaction of the Authority.

5.0 GENERAL COVENANTS

5.1 Insurance

5.1.1 Prior to undertaking any work under this Agreement, the Consultant, at no expense to the Authority, shall obtain and provide to the Authority evidence of a policy or policies of insurance as enumerated below.

5.1.2 The Consultant shall maintain, and/or cause their subconsultants to maintain, at their own cost and expense, the following insurance coverages/policies insuring the Consultant, its employees, subconsultants and agents. The Consultant shall obtain this insurance from insurance companies that are authorized to transact the business of insurance in the State of New Jersey and that are "A- VII" (or better) rated, as determined by A. M. Best Company. In each policy, the Consultant shall have incorporated a provision, in accordance with the laws of the State of New Jersey, requiring written notice to the Authority at least thirty (30) Days prior to cancellation or non-renewal of any insurance coverage required under this Section. The Consultant warrants that if the insurer or coverage is not subject to the provisions requiring (30) day prior notification, that it will notify the Authority in writing of any cancellation or non-renewal of any insurance coverage required under this Section. Any and all deductibles shall be paid by the Consultant. The Consultant warrants that its insurance carriers are accurately informed regarding the business activities of the Consultant and intend to cover those business exposures. All insurance policies, exclusive of Professional Liability and Workers' Compensation, shall name the Authority as Primary Additional Insured and will include a Waiver of Subrogation. In addition, the Consultant may also be required to name other parties as Additional Insureds prior to the initiation of such work, and shall comply with

all laws, ordinances, rules and regulations of Federal, State, county and municipal authorities in the performance of said work. The types and minimum amounts of insurance required are as follows:

5.1.2.1 Professional Liability Insurance (Errors & Omissions). The Consultant shall maintain Professional Liability Insurance with coverage retroactive to the Effective Date, sufficient to protect the Consultant from any liability arising from the Services and professional obligations performed pursuant to this Agreement in an amount not less than $1,000,000 per claim and $1,000,000 in the aggregate for all operations conducted. The Consultant warrants they will notify the Authority in writing of any reduction in the aggregate coverage within thirty (30) days. The Consultant warrants that coverage shall not be circumscribed by any endorsements excluding coverage arising out of services performed pursuant to this Agreement.

5.1.2.2 Commercial General Liability Insurance. The Consultant shall maintain Commercial General Liability Insurance (CGL), and, if necessary, Commercial Umbrella Insurance with a limit of not less than $5,000,000 for each occurrence, $5,000,000 aggregate limit for products/completed operations and $5,000,000 general aggregate limit. CGL insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include liability arising out of, occasioned by or resulting from premises, operations, independent contractors, products, completed operations, personal injury and advertising injury, and liability assumed under an insured contract in connection with Services performed under this Agreement. The EDA, the Authority, GPC, Inc., EYP Architects & Engineers, the State of New Jersey, the Project School District and their respective directors, officers, members, employees and agents shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 (or a substitute form providing equivalent coverage), and under the Commercial Umbrella, if any. In addition, the Consultant may also be required to name other parties as additional insureds prior to the initiation of Services. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Authority.

5.1.2.3 Pollution Liability. In the event that the Contractor's and Subcontractor's efforts involve Pollution Liability exposure (including asbestos and lead work, hazardous material abatement, transportation and/or disposal), the Contractor is required to maintain, or cause to be maintained, Pollution Liability insurance and, if necessary, Commercial Umbrella Insurance, with minimum limits of $5,000,000 per occurrence and $5,000,000 aggregate which protects the insureds from any and all claims that may arise out of or in consequence of any service or Work performed on this Project. If the Contractor performs Work and also utilizes the efforts of Subcontractors, insurance coverage must extend to them. The policy shall name the EDA, the Authority, GPC, Inc., EYP Architects & Engineers, the State of New Jersey, the Project School District and their respective directors, officers,

members, employees and agents shall be included as Additional Insureds. The insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Authority. In addition, the Contractor may be required to name other parties as Additional Insureds prior to the initiation of such work, and shall comply with all laws ordinances, rules and regulations of Federal, State, county and municipal authorities in the performance of said work.

5.1.2.4 Worker's Compensation Insurance. The Consultant shall, at its own cost and expense, maintain Workers' Compensation and Employers' Liability insurance prescribed by the laws of the State of New Jersey and any other jurisdiction required to protect employees of the Consultant while engaged in the performance of the Services under this Agreement. Workers' Compensation coverage shall be statutory and the Employers' liability limits (including Umbrella coverage) shall not be less than $1,000,000 per accident for bodily injury by accident and $1,000,000 for each employee for bodily injury by disease and $1,000,000 policy limit for bodily injury by disease.

5.1.2.5 Business Automobile Liability Insurance. The Consultant shall, at its sole cost and expense, maintain Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than $1,000,000 for each accident. Such insurance shall cover liability arising out of any automobile, including coverage for all owned, non-owned and hired vehicles. The Business Automobile coverage shall be written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage). If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

5.1.3 Certificates of Insurance. Attached to this Agreement as Appendix E shall be valid insurance certificates, executed by a duly authorized representative of each insurer, in form and substance satisfactory to the Authority, evidencing compliance with the insurance requirements. An insurance certificate must be submitted to evidence each insurance renewal required by this Section. Failure of the Authority to demand such certificates or other evidence of full compliance with the insurance requirements set forth herein or failure of the Authority to identify a deficiency in the insurance provided shall not be construed as a waiver of the Consultant's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Agreement at the Authority's sole option. The Consultant shall provide certified copies of all insurance policies, including any and all amendatory endorsements, within ten (10) Days of the Authority's written request for such policies.

5.1.4 Liability in Excess of Coverage. By executing this Agreement, the Consultant expressly agrees that any insurance protection required herein or by the Consultant's Documents shall in no way limit the Consultant's obligations under this Agreement or the Consultant's Documents and shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it preclude the Authority from taking such other actions as are available to it under other provisions of this Agreement or the Consultant's Documents or otherwise in law or equity. By requiring insurance herein,

the Authority does not represent that coverage and limits will necessarily be adequate to protect the Consultant, and such coverage and limits shall not be deemed as a limitation on the Consultant's liability under this Agreement.

5.1.5 Right to Remedy. If the Consultant fails to obtain and/or maintain the insurance as required in this Section, fails to renew any of its insurance policies as necessary, or in the event any policy is canceled, terminated or modified so that the insurance does not meet the requirements of this Agreement, the Authority may: (i) purchase insurance at the Consultant's sole expense; (ii) refuse to make payment of any further amounts due under this Agreement; (iii) refuse to make payments due or coming due under other agreements between the Consultant and the Authority; (iv) suspend performance by the Consultant under this Agreement; or (v) terminate this Agreement. Any funds retained pursuant to this Section may be used, at the Authority's discretion, to renew or purchase the Consultant's insurance for the periods and amounts as set forth in this Agreement. In the event the Authority purchases said insurance the Authority may, at its discretion, reduce the Consultant's Compensation under this Agreement by the amount paid for such insurance plus reasonable attorney's fees.

5.1.6 Additional Insurance. The Consultant shall also provide such additional types of insurance in such amounts as the Authority shall reasonably require. In the event that any such additional insurance is required, the Consultant shall deliver certified copies of each policy to the Authority within ten (10) days of the Authority's written request for such insurance.

5.1.7 Waiver of Subrogation. The Consultant waives all rights of subrogation and recovery against the Authority, agents or employees of the Authority to the extent these damages are covered by the CGL, Business Automobile Liability or Commercial Umbrella Liability Insurance obtained by the Consultant. If the policies of insurance purchased by the Consultant as required above do not expressly allow the insured to waive rights of subrogation prior to loss, the Consultant shall cause them to be endorsed with a waiver of subrogation as required herein.

5.1.8 Any deductible or self-insured retention (SIR) applicable to the aforementioned insurance shall be declared to and approved by the Authority and written using ISO endorsement CG 03 00 (or a substitute providing equivalent terms and conditions). The Consultant shall not be permitted to have a SIR larger than $100,000 unless it obtains the express, written consent of the Authority to the larger SIR. FAILURE TO COMPLY WITH SECTION 5.1.8 IS A MATERIAL BREACH OF CONTRACT.

If any of the aforementioned insurance is written on a "claims made basis," the Consultant warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of five (5) years after the date of Final Payment by the Authority and the Consultant will provide Certificates of Insurance evidencing continuance of coverage with the original claims made retroactive date. Within the Certificate of Insurance, in the blocks designated "Policy Number," in addition to the policy number, the Consultant shall insert a note "claims made retroactive date ___/___/___" (with the date inserted).

5.2 Ownership of Documents

5.2.1 In consideration of the Authority's execution of this Agreement and for other good and valuable consideration, all Deliverables, including, but not limited to plans, methods,

drawings, specifications, flow charts, reports, all data, diagrams, samples, tests, surveys, models, material, computer discs, evidence, documentation, and all copyrightable materials, gathered, originated or prepared by the Consultant and its Subconsultants during and in connection with the performance of Services; and all copyrights resulting from Deliverables, and in all renewals and extensions of the copyrights that may be secured now or be hereafter in force and effect are instruments of the Consultant's Services performed under the Contractual Documents and, unless otherwise provided, shall be the sole property of the Authority, and shall be returnable to the Authority upon written request.

5.2.2 The Consultant's promotional and professional (or other) materials shall not include Authority confidential or proprietary information, except with the written consent of the Authority.

5.3 Copyrights and Patents

5.3.1 If the Consultant employs any design, device, material, or process covered by letters of patent or copyright, it shall provide for such use by suitable legal agreement with the patent holder. The Consultant shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the Deliverables.

5.3.2 The Consultant shall defend, indemnify and save harmless the Authority and the State from any and all Claims for infringement by reason of the use of any patented design, device, material or process, or any trademark, copyright, trade secret or any other material protected in any manner from use or disclosure, and shall indemnify the Authority and the State for any costs, expenses and damages that it may incur by reason of an infringement at any time during the prosecution, or after the acceptance, of the Services.

5.4 Confidentiality

5.4.1 All data and information supplied by the Authority or by any other party under an Authority contract or otherwise involved in the School Construction Program and data gathered by the Consultant in fulfillment of the Contractual Documents and any analyses thereof (whether in fulfillment of the Contractual Documents or not), are strictly confidential and shall be solely for use in connection with the School Construction Program, except to the extent the Authority may identify any such as government records within the meaning of N.J.S.A. 47:1A-1 *et seq.*

5.4.2 The Consultant shall be required to use utmost care to protect the confidentiality of data by, among other things, requiring in Authority of these confidentiality terms and conditions into its contract(s) with Subconsultants, if any, and requiring personnel assigned to provide Services to sign a confidentiality agreement in a form provided by the Authority. Any release of confidential material in any form by the Consultant, its employees, Subconsultants or assignees will be considered a violation of the Contractual Documents. Penalties for violation of this paragraph include, but are not limited to, termination of this Agreement and/or legal action, without the Authority being liable for damages, costs and/or attorney fees. The Consultant shall be liable for any and all damages arising from its breach of this confidentiality provision.

5.5 Contractual Relationship

5.5.1 Nothing in the Contractual Documents shall be construed as creating a contractual relationship between any Subconsultant of the Consultant and the Authority.

5.5.2 The Consultant's status shall be that of an independent contractor, not an employee of the Authority. The Consultant agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Authority by reason hereof. The Consultant shall not, by reason hereof, make any Claim, demand or application to any Authority officer or employee for any right or privilege afforded to an Authority officer or employee, including, but not limited to, workers' compensation, unemployment or other insurance benefits, social security coverage, or retirement membership or credit.

5.5.3 The Consultant and any Subconsultants engaged by the Consultant under this Agreement are bound by the terms and conditions of the Contractual Documents.

5.5.4 Nothing contained in this Agreement or the Contractual Documents shall create a contractual relationship with a third party or create a cause of action in favor of a third party against either Party. No individual, firm, corporation, or any combination thereof, which supplies materials, labor, services or equipment to the Consultant for the performance of Services shall become thereby a third party beneficiary of the Contractual Documents.

5.5.5 The Parties hereby bind themselves, their partners, successors, assigns and legal representatives each to the other Party and the other Contractual Documents.

5.6 Assignment

5.6.1 The Consultant shall not assign or transfer its obligations, privileges or rights under the Contractual Documents without the prior written consent of the Authority. Any assignment or transfer of the Consultant's rights under the Contractual Documents without the prior written consent of the Authority shall not relieve the Consultant of any duty, obligation or liability assumed by it under the Contractual Documents.

5.6.2 Notwithstanding anything to the contrary, under no circumstance shall the Consultant assign its right to receive money under the Contractual Documents for any purpose or to any person whatsoever without the prior written approval of the Authority or order of court.

5.6.3 The Authority may elect, in its sole discretion, to assign this Agreement to any other State agency, authority or other State instrumentality, or any local or municipal instrumentality, at any time during the Term of this Agreement, and in such case, the Consultant agrees to continue to perform all of its obligations as set forth in this Agreement. The Consultant shall make no Claim against the Authority in the event of such assignment and shall execute such certificates, documents and instruments as may be reasonably requested by the Authority to effect such assignment.

5.7 Mergers, Acquisitions, and Dissolutions

5.7.1 If, subsequent to the execution of this Agreement, the Consultant proposes to merge with or be acquired by another firm or in the event of a proposed dissolution by the Consultant, the Consultant shall immediately notify the Authority and shall submit documentation to the Authority describing the proposed transaction.

5.7.2 The Authority, in its sole discretion, may approve the continuation of this Agreement following the proposed merger, acquisition or dissolution or terminate this Agreement for cause. The Authority will notify the Consultant of its decision within thirty (30) Days of receipt by the Authority of documentation from the Consultant describing the proposed transaction.

5.7.3 If the Authority approves a merger or acquisition, the Consultant shall submit to the Authority: (i) corporate resolutions prepared by the Consultant and the new entity ratifying acceptance of the Contractual Documents; (ii) information necessary to ensure that the new entity satisfies the Authority's pre-qualification policies and procedures, where applicable; (iii) the names and addresses of all owners and potential owners which hold or may acquire five percent (5%) or more of its stock or interest; (iv) any new or changed Federal Employer Identification Number(s); (v) acknowledgment of the assumption of the Contractual Documents by the new entity; and (vi) any other information the Authority may require.

5.7.4 If the Authority approves a dissolution, the Consultant shall submit to the Authority: (i) a copy of the corporate resolution, or the written statement of the partnership, general partner, receiver or custodian thereof, or the written agreement of the principal parties of a joint venture to dissolve the corporation, partnership or joint venture, respectively; (ii) information necessary to ensure that the new entity satisfies the Authority's pre-qualification policies and procedures, where applicable; (iii) any new or changed Federal Employer Identification Number(s); (iv) acknowledgment of the assumption of the Contractual Documents by the new parties; and (v) any other information the Authority may require.

5.8 Mandatory Compliance With Law

5.8.1 The Consultant must comply during the Term with any and all Federal, State and local laws in effect or hereinafter promulgated that apply to performance by the Consultant under the Contractual Documents.

5.8.2 Each and every provision required by law to be inserted in the Contractual Documents shall be deemed to have been inserted therein. If any such provision has been omitted or has not been correctly inserted, the Contractual Documents shall be amended, upon application of either Party, to provide for such insertion or correction.

5.8.3 If the Authority determines that the Consultant has violated or failed to comply with applicable Federal, State or local laws with respect to its performance under the Contractual Documents, the Authority may withhold payments for such performance and take such action that it deems appropriate until the Consultant has complied with such laws or has remedied such violation or non-compliance to the satisfaction of the Authority.

5.8.4 The Consultant's compliance with the legal requirements of this Section 5.8 and any other applicable laws, regulations or codes is mandatory and cannot be waived by the Authority.

5.9 Affirmative Action and Non-discrimination

5.9.1 The Consultant and its Subconsultants shall abide by affirmative action rules established by the New Jersey Department of the Treasury at N.J.A.C. 17:27-1.1 *et seq.* under P.L. 1975, c. 127, the small business set-aside rules for the procurement of goods and services established by the Commerce and Economic Growth Commission at N.J.A.C. 12A:10-1.1 *et seq.* and by Executive Order No. 71 (2003), and the affirmative action program established by the Authority pursuant to Section 48 of the Educational Facilities Financing and Construction Act, P.L. 2000, c. 72, and any rules and regulations associated therewith.

5.9.2 The Consultant shall not discriminate in employment and shall abide by all anti-discrimination laws, including those set forth in New Jersey's Law Against Discrimination, N.J.S.A. 10-5.1, et seq. , and all rules and regulations promulgated thereunder. During the performance of this Term Contract, the Appraiser agrees as follows:

5.9.2.1 The Consultant and its Subconsultants, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

5.9.2.2 The Consultant and its Subconsultants, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

5.9.2.3 The Consultant and its Subconsultants, where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consuiltan's (and the Subconsultant's) commitments under New Jersey's

Law Against Discrimination, N.J.S.A. 10-5.1, et seq. and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5.9.3 The Consultant shall abide by the provisions of the Americans With Disabilities Act, 42 U.S.C. § 12101 *et seq.*, with respect to its employment practices.

5.9.4 The Consultant shall comply with the *MacBride* principles of nondiscrimination in employment, or have no business operations in Northern Ireland, under N.J.S.A. 52:34-12.2.

5.10 Anti-collusion

5.10.1 The Consultant, by executing this Agreement, does hereby warrant and represent that this Agreement has not been solicited, secured or prepared, directly or indirectly, in a manner contrary to the laws of the State; and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the Services by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity, or consideration of any kind, direct or indirect, to any employee, officer, or board member of the Authority.

5.10.2 In the event of a breach or violation of this Section 5.10 may, the Authority may, at its sole option: (i) terminate this Agreement without the Authority being liable for damages, costs and/or attorney fees; and/or (ii) deduct from amounts otherwise payable by the Authority pursuant to this Agreement.

5.11 Conflict of Interest

5.11.1 The Consultant shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity or other thing of value of any kind to: (i) an Authority officer or employee with which the Consultant transacts, or offers or proposes to transact, business; or (ii) any member of the immediate family (defined by N.J.S.A. 52:13D-13i) of any such Authority officer or employee; or (iii) any partnership, firm or corporation with which such Authority officer or employee is employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

5.11.2 The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Authority officer or employee from the Consultant shall be reported in writing forthwith by the Consultant to the State Attorney General and the State Ethics Commission.

5.11.3 The Consultant shall not directly or indirectly undertake any private business, commercial or entrepreneurial relationship (whether or not pursuant to employment, contract or other agreement, express or implied) with, or sell any interest in the Consultant to, any Authority officer or employee having any duties in connection with the purchase, acquisition or sale of any property or services by or to the Authority; and shall not undertake any such relationship with, or sell any such interest to, any person, firm or entity with which such Authority officer or employee is employed or associated, or in which such Authority officer or employee has an interest within the meaning of

N.J.S.A. 52:13D-13(g). Any relationship subject to this provision shall be reported in writing forthwith to the State Ethics Commission, which may grant a waiver of this restriction upon application of the officer or employee and upon a finding that the present or proposed relationship presents neither an actual conflict of interest, nor the potential for, or appearance of, such a conflict of interest.

5.11.4 The Consultant shall not influence, attempt to influence, or cause to be influenced any Authority officer or employee in such officer's or employee's official capacity in any manner that might tend to impair the objectivity or independence of judgment of said officer or employee.

5.11.5 The Consultant shall not cause or influence or attempt to cause or influence, any Authority officer or employee to use or attempt to use such officer's or employee's official position to secure unwarranted privileges or advantages for the Consultant or any other person.

5.11.6 Under N.J.S.A. 52:34-19, it is a misdemeanor to offer, pay or give any fee, commission, compensation, gift or gratuity to any person employed by the Authority. It is the policy of the Authority to treat the offer of any gift or gratuity by the Consultant, its officers or employees, to any person employed by the Authority as grounds for debarment or suspension from submitting proposals and providing work or materials to the Authority.

5.11.7 The provisions cited in this Section 5.11 shall not be construed to prohibit an Authority officer or employee from receiving gifts from or contracting with the Consultant under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines or Code of Ethics that the State Ethics Commission and the NJSDA may promulgate.

5.12 Indemnification

5.12.1 To the fullest extent permitted by law, the Consultant shall indemnify, protect, defend and save harmless the State of New Jersey, the Authority, as well as their respective agents, servants, officers, directors and employees, from and against any loss, damage, injury, cost or expense; and from and against any Claim, demand, liability, lawsuit, judgment, action or other proceeding arising, to arise from, in connection with, or as a result of any of the following:

5.12.1.1 the negligent acts or omissions of the Consultant, its agents, servants, officers, employees, Subconsultants or any other person acting at the Consultant's request, subject to its direction, or on its behalf;

5.12.1.2 the loss of life or property, or injury or damage to the person, body or property of any person or persons whatsoever, that arises or results directly or indirectly from the negligent performance of the Services or delivery of Deliverables by the Consultant, its agents, servants, officers, employees, Subconsultants or any other person acting at the Consultant's request, subject to its direction, or on its behalf;

5.12.1.3 any gross negligence, default, or breach, of the Consultant, its agents, servants, officers, employees, Subconsultants or any other person acting at the Consultant's

request, subject to its direction, or on its behalf;

5.12.1.4 violation of or non-compliance with federal, State, local and municipal laws and regulations, ordinances, building codes (including without limitation the Americans with Disabilities Act, the Occupational Safety and Health Act ("OSHA") and the Environmental Protection Act) in connection with the performance or non-performance of, or arising out of conditions created or caused to be created by, the Appraiser, its agents, servants, officers, employees, Subconsultants or any other person acting at the Appraiser's request, subject to its direction, or on its behalf; and

5.12.1.5 use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in performing Services.

5.12.2 The Consultant's indemnification obligation is not limited by, but is in addition to, the Consultant's insurance obligations contained in this Agreement.

5.12.3 The Consultant agrees that any approval by the Authority of the Services performed and Deliverables provided by the Consultant shall not operate to limit the obligations of the Consultant under the Contractual Documents; and that the Authority assumes no obligations to indemnify or save harmless the Consultant, its agents, servants, employees, or Subconsultants against any Claims that may arise out of its performance or nonperformance under the Contractual Documents; and that the provisions of this indemnification clause shall in no way limit the Consultant's obligations under the Contractual Documents, nor shall they be construed to relieve the Consultant from any liability, nor preclude the Authority from taking any other actions available to it under any other provisions of the Contractual Documents or otherwise at law or equity.

5.12.4 This Section 5.12 shall survive the termination of the Contractual Documents.

6.0 TERMINATION AND SUSPENSION

Nothing contained in this entire Section 6.0 shall limit the Authority's right to recover any and all costs and damages resulting from Consultant failure to perform the Services in a satisfactory manner.

6.1 Termination for Convenience of the Authority

6.1.1 Performance by the Consultant of its obligations under the Contractual Documents may be terminated by the Authority in accordance with this Section 6.1 in whole or in part, whenever the Authority, in its sole discretion, determines that such termination is in its best interest.

6.1.2 Any such termination shall be effected by delivery of a "Notice of Termination" specifying the extent to which the Services under the Contractual Documents are terminated and the date upon which such termination becomes effective.

6.1.3 If so terminated, the Consultant shall be entitled only to that proportion of the compensation that the Services actually and satisfactorily performed by the Consultant

bear to the total Services to be rendered under the Contractual Documents, less payments previously made.

6.1.4 The Authority may negotiate with the Consultant to establish an amount of compensation for the Consultant's costs incurred in the close-out of the Contractual Documents.

6.1.5 Upon termination for convenience, the Consultant shall furnish to the Authority, free of charge, such close-out reports, documents, and materials as the Authority may reasonably require.

6.2 Termination for Cause

6.2.1 Without prejudice to any other remedy, the Authority may terminate this Agreement if the Consultant: (i) disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction; (ii) refuses or fails to supply enough properly skilled workers or proper materials; (iii) fails to make payments to Subconsultants for materials or labor in accordance with the respective agreements between the Consultant and the Subconsultants; (iv) fails to maintain or produce any records required by the Contractual Documents to be so maintained or produced; (v) fails to cooperate with the Authority where such cooperation is deemed necessary by the Authority for the implementation of the Contractual Documents; (vi) fails to obtain and properly maintain the level of insurance coverages outlined in Section 5.1; (vii) assigns or transfers its obligations, privileges or rights under the Contractual Documents without the prior written consent of the Authority; (viii) makes any misrepresentation or conceals any material fact; or (ix) commences or has commenced against it any action under the United States Bankruptcy Code or any state or federal insolvency law, the commencement of which, in the Authority's judgment, may impair the ability of the Consultant to perform its obligations under the Contractual Documents; or (x) violates or breaches the Contractual Documents or any provision or material term thereof. For all such causes of termination except those contained in subsections (viii) and (ix), the Consultant may avoid termination if, within seven (7) Days of Notice of Termination, it commences correction of such default, neglect or violation, with diligence and promptness, fully curing same within the time prescribed by the Authority within the Notice of Termination; failure to do so shall result in termination of this Agreement.

6.2.2 Upon termination by the Authority pursuant to this Section 6.2, the Authority may, without prejudice to any other rights or remedies of the Authority, complete Services by whatever methods the Authority may deem appropriate.

6.2.3 In the event this Agreement is terminated for cause pursuant to this Section 6.2, the Authority reserves the right not to make any further payments to the Consultant and may require the Consultant to repay all or a portion of the monies already paid; and the Consultant shall be obligated to take any steps necessary to enable the Authority to complete the Services itself, or for the Authority to engage another Consultant to complete the Services at the Consultant's own expense for the portion that exceeds the amount that would have been paid to the Consultant for completing the Services.

6.2.4 No action by the Authority pursuant to this Section 6.2 shall operate to waive or release any Claim the Authority may have against the Consultant under the Contractual Documents.

6.3 Suspension for Convenience of the Authority

6.3.1 The Authority shall have the right to defer the beginning, or to suspend the whole or any part, of the Services whenever, in the sole discretion of the Authority, it is necessary or expedient for the Authority to do so. The Authority shall give written notice to the Consultant of such suspension of performance of the Services and upon receipt of such notice, unless otherwise directed in writing by the Authority; the Consultant shall immediately discontinue all Services, except as may be deemed necessary by the Authority.

6.3.2 In the event of a suspension by the Authority pursuant to this Section 6.3, compensation shall be determined as follows:

6.3.2.1 If the Authority determines that the Services have been suspended for a period cumulatively totaling less than ninety (90) Days, there shall be no additional compensation paid to the Consultant.

6.3.2.2 If the Authority determines that the Services have been suspended for a period cumulatively totaling ninety (90) Days or more, and if the Authority determines that the suspension has resulted from no fault of the Consultant, the Parties shall amend this Agreement to cover the remaining Services to be performed. Such Amendment shall provide a compensation adjustment in an amount deemed proper by the Authority and Consultant after review of the Consultant's submissions relating to the increased costs actually incurred by the Consultant as a direct result of the suspension. No such Amendment will change other Contractual Documents terms.

6.3.3 When the Authority has determined that a suspension is the fault of the Consultant, the Authority may, at its sole option, suspend all payments to the Consultant. Payment may be reinstated by the Authority upon completion of the Services in accordance with the other provisions of this Agreement and the other Contractual Documents provided, however, that there shall be no upward adjustment in direct or indirect costs or in any other costs. Alternatively, the Authority may terminate this Agreement pursuant to Section 6.2, above, or carry out the Services as provided for in Section 6.4, below.

6.4 Authority's Right to Carry Out the Services

6.4.1 If the Consultant fails to perform any obligation imposed under the Contractual Documents, and fails within seven (7) Days after receipt of written notice to commence and continue correction of such failure with diligence and promptness, the Authority may take steps to remedy such failure without prejudice to any other remedy the Authority may have. In such case, an appropriate written notice shall be issued deducting from the payments then or thereafter due the Consultant the cost of correcting such failure, including compensation for other Professional Services Consultant additional services made necessary by such failure. If the payments then or thereafter due the Consultant are not sufficient to cover such amount, the Consultant shall pay the difference to the Authority upon demand.

6.4.2 Any action by the Authority under this Section 6.4 shall be without prejudice to the Authority's rights under the Contractual Documents and shall not operate to release the Consultant from any of its obligations under the Contractual Documents.

6.5 Unacceptable Services; Duty to Cure Errors and Omissions

6.5.1 The Authority shall give the Consultant written notice as soon as practicable after it becomes aware of an error or omission by the Consultant. If the Authority determines that any Service delivered is unacceptable, in quality, timeliness, or any other condition, due to error, omission or failure to comply with requirements of the Contractual Documents, the Consultant shall correct and revise the unacceptable Services under the Authority's direction at no cost to the Authority. The corrected and revised Services shall be resubmitted to the Authority for approval.

6.5.2 The Consultant shall be liable to Authority for all damages to Authority caused by Consultant errors or omissions. The Consultant shall reimburse Authority for all costs incurred by Authority as a result of such errors and omissions, including interest and other expenses.

7.0 CLAIMS

All Claims by the Consultant against the Authority shall be governed by the following provisions.

General. The parties agree that this contract shall be deemed to be governed by and in accordance with the New Jersey Tort Claims Act, N.J.S.A. 59:1.1, et seq., the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. and the New Jersey False Claims Act, N.J.S.A. 2A:32, et seq. (collectively "the Acts"), such that a claim against the NJSDA shall be treated in the same manner as a claim against the State of New Jersey under the Acts. All notice, claims and limitations periods set forth in the Acts shall apply to claims by the Appraiser against the NJSDA

Notice of Claim. The Consultant shall file notice of its Claim on a form provided by the Authority, which form shall be completed in its entirety and signed by the Consultant. Incomplete forms will be rejected and have no effect. Submission of completed notice forms shall constitute compliance with the notice provisions of the New Jersey Contractual Liability Act if such notices are provided within the time limits established by N.J.S.A. 59:13-5.

Review of Claims. The administrative process for review of Claims is sequential in nature and mandatory. The Authority's Claims procedure is composed of the following steps:

Step One: Review by the Authority
Step Two: Non-binding Mediation

Completion of the two (2) steps of Claims review is a mandatory prerequisite to the initiation of litigation by either Party.

Compliance with Claim Review Procedure. Each Claim will begin its review at Step One. A Claim will not proceed to the next step unless the Consultant submits a written objection to the prior step and requests that its Claim proceed to the next step. If at any step in the

process a Claim is resolved, the Consultant must sign a full and final release as to any and all matters arising from the Claim.

Step One: The Authority's Review.

The Consultant must provide to the CM and the Authority the required forms as required by this Section to comply with the New Jersey Contractual Liability Act in order to begin the Authority's administrative process for the review of Claims. The Consultant shall also submit to the Authority all documentation supporting the Consultant's Claim. The documentation provided to the Authority will serve as the basis for evaluation of the Consultant's position regarding the Claim throughout Step One of the administrative process. The Consultant shall submit additional information upon request of the Authority. No formal action will be taken by the Authority unless and until the Authority receives complete Claim documentation from the Consultant.

Authority Review and Decision. At the option of the Authority, a meeting may be scheduled with the Consultant, the Authority and the CM to discuss the Claim. The Authority shall render its decision regarding the Claim in writing within sixty (60) Days of the receipt of the complete supporting documentation or within sixty (60) Days of any meeting with the Consultant, the Authority and the CM, whichever is later. This time limit may be extended by mutual agreement of the Parties or by the Authority, when additional time is required by the Authority to properly review and respond to the Claim. The Consultant, within fifteen (15) Days of the receipt of the decision by the Authority, shall accept or reject the Authority's decision in writing. If the Consultant neither accepts nor rejects in writing the Authority's decision within fifteen (15) Days, the Claim will be considered withdrawn from the administrative process and there will be no further administrative remedy available to the Consultant for the subject Claim.

Step Two: Non-Binding Mediation. If the Consultant rejects in writing the decision of the Authority, there is no further automatic administrative review of the Claim. Within fifteen (15) Days after issuance of the Authority's decision, the Consultant may request in writing that any or all outstanding Claims, which include any or all Claims that have been processed through Step One of the Claim resolution process, and that were neither withdrawn nor considered withdrawn from the process be submitted to Step Two and proceed to non-binding mediation. Such request shall be sent to the Authority. No Claim will proceed automatically to Step Two and the Consultant must make a specific written request that the Claim be elevated to Step Two for review. The cost of non-binding mediation shall be shared equally by the Consultant and the Authority. The mediator shall be selected by the Authority, with the concurrence of the Consultant. The rules for the mediation shall be agreed to by the Authority, the Consultant and the mediator prior to the start of the mediation. If the Parties fail to agree on the rules for the non-binding mediation, the mediation will not proceed and Step Two review will be deemed completed.

8.0 REPRESENTATIONS

The Consultant hereby represents as follows:

8.1 The Consultant is financially solvent, able to pay its debts as they become due and possessed of sufficient working capital to complete the services required and perform its obligations under this Agreement.

8.2 The Consultant is able to furnish the workplace, tools, materials, supplies, equipment and labor necessary to complete the Services and perform all of its obligations under the Contractual Documents, and has sufficient experience and competence to do so.

8.3 The Consultant is authorized to do business in the State of New Jersey and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Consultant and the Services it will be performing.

8.4 The Consultant's execution of and performance under this Agreement are within its duly authorized powers.

8.5 The Consultant certifies that it has satisfied itself, from its own investigation, of the conditions to be met, and that it fully understands its obligations and agrees that it will not make any Claim for, or have right to, cancellation or relief from the Contractual Documents without penalty because of its misunderstanding or lack of information.

8.6 The Consultant certifies that all representations made by it in any of the Contractual Documents are true, subject to penalty of law. The Consultant understands and agrees that its knowing or intentional violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact may be cause for termination of this Agreement. The Consultant understands and agrees that the Consultant's violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact shall serve as a legal bar to the Consultant's enforcement of its rights under the Contractual Documents, including any and all Claims at law or equity.

8.7 The Consultant and any firm it has subcontracted has provided to the Authority proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury, pursuant to L. 2001, c. 134, as set forth in Appendix E, and the Consultant shall not enter into any subcontract with a firm that has not provided it and the Authority with proof of such valid business registration.

9.0 AUTHORITY'S RIGHTS AND RESPONSIBILITIES

9.1 Authority's Rights

9.1.1 The Authority shall have the right to perform Services and to award contracts in connection with same that are not part of the Consultant's responsibilities under this Agreement.

9.1.2 The Authority shall have the right, in its sole discretion, to accept or reject personnel provided by the Consultant. The Consultant shall make a timely and prompt resubmittal to provide other personnel to replace any that are rejected by the Authority, both at the initial submittal or upon any subsequent rejection or substitution of personnel.

9.1.3 The Authority shall have the right to establish and maintain a Consultant Performance Evaluation Policy and Procedure. The Consultant's performance under this Agreement

shall be evaluated by the Authority and shall be a factor used in the technical scoring of the Consultant with respect to any future submission by the Consultant in response to a Request for Proposals by the Authority. This evaluation shall consider, among other things, the Consultant's ability to provide all required Services.

9.1.4 The Authority's approval, acceptance, use of or payment for all or any part of Consultant's Services hereunder shall in no way alter the Consultant's obligations hereunder.

9.1.5 The Authority and the NJ STATE POLICE reserve the right to audit the records of the Consultant and its Subconsultants in connection with all matters related to the Contractual Documents. If, as a result of such audit, the Consultant is discovered for any reason to owe any money or refund to the Authority, the Authority may reduce the Consultant's invoice amount to an amount considered commensurate with the actual services provided.

9.1.6 The Authority and their agents have the right to request, and the Consultant agrees to furnish free of charge, all information and copies of all records, documents or books relating to the provision of Service, which the Authority, or their agents may request. The Consultant shall allow representatives of the Authority and their agent(s) to visit the office(s) of the Consultant periodically, upon reasonable notice, in order to review any information, records, documents or books related to the Contractual Documents or to otherwise monitor any Services being performed.

9.2 Authority's Responsibilities

The Authority shall, on a timely basis, provide the Consultant with such information in its possession and/or control as may reasonably be necessary for the performance of the Services within the agreed upon time frame.

10.0 MISCELLANEOUS

10.1 **Notices**. All notices or other communications required under this Agreement shall be in writing and sent by certified mail, return receipt requested, postage prepaid or by FedEx or similar guaranteed overnight courier and shall be deemed to have been given on the Day after depositing in the mail or with such overnight courier. Notices shall be addressed as directed in Appendix A (Special Conditions). Electronic transmission of information may be required, as may be set forth in the Scope of Services.

10.2 **In Authority by Reference**. This Agreement incorporates by reference, as if set forth herein, all of the Contractual Documents in their entirety, including but not limited to this Agreement and its appendices; the Request for Proposals and the responses thereto; and any Amendments and any addenda.

10.3 **Conflict in Terms.** In the event of a conflict in terms among the Contractual Documents, the following order shall prevail for purposes of interpretation:

10.3.1 Appendix A (Special Conditions)
10.3.2 Appendix B (Scope of Services)
10.3.3 Agreement (excluding Appendices)

10.3.4 Proposals

10.4 **No Waiver of Warranties or Legal/Equitable Remedies**. Nothing in the Contractual Documents shall be construed to be a waiver by the Authority of any warranty, expressed or implied, or any remedies at law or equity, except as specifically and expressly stated in a writing executed by the Authority.

10.5 **Procedural Requirements**. The Consultant shall comply with all written procedural instructions that may be issued from time to time by the Authority.

10.6 **Governing Law**. This Agreement and all other Contractual Documents, and any and all litigation arising therefrom or related thereto, shall be governed by the applicable laws, regulations and rules of the State of New Jersey without reference to conflict-of-laws principles.

10.7 **Time of the Essence**. All time limits as stated in the Contractual Documents are of the essence.

10.8 **Entire Agreement and Amendments**. This Agreement and the other Contractual Documents represent the entire and integrated agreement between the Consultant and the Authority and supersede all prior negotiations, representations or agreements, either written or oral. This Agreement and all other Contractual Documents may be amended only by written instrument signed by both the Consultant and the Authority. Should the Consultant at any time find existing conditions that would make modification in requirements desirable, it shall promptly report such matters to the Authority for consideration.

10.9 **Severability**. In the event that any provision of any Contractual Document shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

10.10 **Waiver of Breach**. In the event that any provision of any Contractual Document should be breached by any party and thereafter waived by any party, such waiver shall be limited to the particular breach so waived by any party and shall not be deemed to waive any other breach. Any consent by the Authority to a delay in Consultant's performance of any obligation shall apply only to the particular transaction to which it relates, and it shall not apply to any other obligation or transaction. And any delay in the Authority's enforcement of any remedy in the event of a breach by the Consultant of any term or condition of the Contractual Documents or any delay in the Authority's exercise of any right under the Contractual Documents shall not be construed as a waiver.

10.11 **Execution in Counterparts**. This Agreement and any other Contractual Document, where applicable, may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

10.12 **Unit of Fiscal Integrity**. The NJ State Police (or its agents) may, at its discretion, investigate, examine and inspect the activities of the Consultant and all other parties involved with the Services. The NJ State Police (or its agents) may require the Consultant or any other party involved with the Services to submit duly verified reports, which shall include such information and be in such form as the NJ State Police (or its agents) may require. In addition to the foregoing, the NJ State Police (or its agents) may investigate, examine, inspect, or audit in any manner and at such times as the NJ State Police deems necessary. The Consultant shall include in any and all contracts with Subconsultants a provision requiring such Subconsultants to permit the

NJ State Police (or its agents), in its discretion, to investigate, examine, inspect or audit in any manner and at such times as the NJ State Police (or its agents) deems necessary.

10.13 **Entry Clearance**. The Consultant and its personnel and Subconsultants shall be subject to such entry clearance at School Facilities Projects and other locations as may be required, if any, in order to fulfill obligations under the Contractual Documents.

APPENDIX A

SPECIAL CONDITIONS

A.1 Notices shall be addressed as follows:

Authority: New Jersey Schools Development Authority
1 West State Street
P.O. Box 991
Trenton, NJ 08625-0991
Attention: Mike Anselmo, Program Director

Consultant:

APPENDIX B

SCOPE OF SERVICES

The New Jersey School Development Authority (SDA) is seeking to procure a consultant to perform special inspector services for the Smoke Control System at Newark's Science Park High School, 260 Norfolk Street, Newark, New Jersey, in accordance with International Building Code 2000 (IBC) section 909, attached. The objective of the Special Inspector is to verify the functional operation and code compliance of the smoke control system in order to facilitate receipt of the Certificate of Occupancy by the SDA. The Smoke Control System design, retrofit design and *Rational Analysis* have been prepared by the architect of record, Einhorn Yaffee Prescott Architecture & Engineering of NJ Inc. (EYP Architects).

Science Park High School has been in operation since late 2006 under a temporary certificate of occupancy (TCO). It has not received its certificate of occupancy (CO) primarily due to issues involving requirements to retrofit the Smoke Control System, erect additional fire rated partitions and modify the school's fire alarm system. The SDA has engaged a contractor who will be making the requisite changes to the building and systems in order to bring the smoke control system into compliance with building codes. Completion of the contractor's scope of work and the Special Inspector's coordination of the approval process for the Smoke Control System shall support the issuance of a CO.

The Scope of this procurement of special inspection services includes the following:

- Review of the building's original design, "as-built" structure and installed equipment related to the Smoke Control System.
- Review and familiarization with the NJ Department of Community Affairs (DCA) approved retrofit design, plans and specifications including but not limited to:
    - Contract drawings for the Smoke Control System and fire alarm systems as approved by the DCA.
    - Technical specifications for the Smoke Control System and fire alarm systems as approved by the DCA.
    - Existing smoke control fans and associated dampers and control equipment in the school.
    - *Rational Analysis* (revised June 2010, calculations dated 03/03/09) prepared by EYP Architects.
- Performance of site visits as required to assure that the Smoke Control System retrofit work complies with the architect's retrofit design as approved by the DCA.
- Observation and certification to support the Smoke Control System acceptance testing in accordance with the Special Inspection Checklist (3 pages) and Special Inspection Test Plan (1 page) (attached). These documents shall be utilized by the Special Inspector to assure verification of the contractor's compliance with the retrofit design.
- Preparation of a final report, acceptable to the NJSDA and DCA, in accordance with reporting content and format per IBC 909.18.8.3 reflecting the testing and system acceptance.
- Coordinate with the DCA to assure system acceptance in accordance with IBC 909.19 resulting in the issuance of a Certificate of Occupancy.

Attachments:
Exhibit 1: Special Inspection Checklist (3 pages)
Exhibit 2: Special Inspection Test Plan (1 page)

EXHIBIT 1

SPECIAL INSPECTION CHECKLIST

Newark Science Park High School
Special Inspection Report on Atrium Smoke Exhaust System

Special Inspection Checklist

By: _____ Signature: _____ Date: _____

	CODE	DESCRIPTION	YES	NO
1	909.10.1	Fans – Rated & Certified for the probable temperature rise		
2	909.10.2	Ducts – Leakage shall not exceed 5%		
		Ducts – Pressure tested at 1.5 design pressure		
		Flex connection – Approved fire-resistant rated materials		
3	909.10.3	Equipment, Inlets & Outlets		
4	909.10.4	Automatic dampers – Listed & meet recognized standards		
5	909.10.5	Fans		
		Belts – 1.5 x the number required, minimum two		
		Motors – minimum 1.15 service factor		
6	909.11	Power Systems		
		Two Sources: normal and emergency generator		
		Electrical Room: Minimum 1 hour rated		
		Transfer within 60 seconds		
7	909.11.1	Power Sources and power surges		
		Controlled by fire alarm system which is resistant to power surges and has battery backup		
8	909.12	Detection and control system		
		Complies with NFPA 72		
		Complies with UL 864		
	909.12.2.1	Completely automatic control		
9	909.13	Control air tubing – Not used		
10	909.17	System Response Time – detail sequence and timing		

Special Inspection – Acceptance Testing Checklist

	CODE	DESCRIPTION	PASS	FAIL
11	909.18	Acceptance Testing – Function, sequence & capacity		
12	909.18.1	Detection devices		
13	909.18.2	Ducts	ABR	
14	909.18.3	Dampers	ABR	
15	909.18.4	Inlets & Outlets	ABR	
16	909.18.5	Fans	ABR	
17	909.18.6	Smoke Barriers – Pressure differences across smoke barriers NOT REQUIRED for atrium smoke exhaust	N/A	
17a		SX OFF: Passage doors opening force (pull test)		
17b		SX ON: Passage doors remain closed		
17c		SX ON: Passage doors opening force (pull test)		
18	909.18.7	Controls		
19	909.18.8.1	Special Inspection – Scope of testing		
		Duct Leakage testing	ABR	
		Pressure-difference testing	N/A	
		Flow measurement	ABR	
		Detection and control verification		
		Notes:		
		ABR – Based on results of Air and Water Balance Report 1/31/07 – Original report 2/21/07 – Revised fans SX-PH 1 to 4		
		N/A – Not Applicable to this installation, which utilizes buoyancy of hot smoke		

Note: Code references are NJUCC-IBC 2000

G&S

Newark Science Park High School
Special Inspection Report on Atrium Smoke Exhaust System

Special Inspection Checklist

By: _____ Signature: _____ Date: _____

Building Equipment response for Smoke Management Functionality

	Fire Alarm	FSCS	FSCS	
Equipment	Automatic Mode	Manual Mode	Indication	Comments
SX-PH-1				
SX-PH-2				
SX-PH-3				
SX-PH-4				
ERU-PH-1				
ERU-PH-2				
ERU-PH-3				
ERU-PH-4				
Lobby entrance doors (12)				
FSD operation				
Air intake louvers (4)				
Smoke Exhaust Test Results Summary:				
a) Proper Manual activation of all equipment and devices				
b) Proper Automatic activation of all equipment and devices				

EXHIBIT 2

SPECIAL INSPECTION TEST PLAN

Newark Science Park High School
Special Inspection of Atrium Smoke Exhaust System

Test Plan

		Code Reference
1.	Pre-check of construction completed since November 2006	909.5
2.	Pre-check of Equipment:	909.10
	a) Atrium Exhaust Fans (SX)	
	b) Air Supply Units (ERU)	
	1) Normal operations mode	
	2) Smoke exhaust mode	
	c) Fire Alarm System:	
	1) Smoke detection in Atrium	
	2) Control of equipment: SX, ERU, Smoke dampers, air intake dampers, release of smoke doors, opening of entrance doors	
	3) Check of smoke control sequence	
	d) Check of control priority – FA should override BMS	
	e) Atrium doors:	909.6, 1008.1.2
	Latch release force <15 lbs	
	Set door in motion <30 lbs at handle	
	Full open <15 lbs at handle	
3.	System Test of atrium smoke exhaust:	909.18
	a) Automatic activation resulting from smoke detection in atrium	909.12
	b) Manual activation from Firefighter's Smoke Control Panel (FSCP)	909.16
	c) System operation on emergency generator	909.11
	d) Atrium doors:	909.6
	Verification interior doors remain closed during smoke exhaust	
4.	Fire Department Training:	909.19
	a) Introductions, sign-in	
	b) System familiarization: smoke exhaust principals, atrium arrangement, equipment arrangement	
	c) Operation in automatic mode	
	d) Operation in manual mode from FSCP	
	e) Hand-out of written operations procedures	
	f) Questions and answers	

Note: Code references are NJUCC - IBC 2000

APPENDIX C

COMPENSATION – PRICE PROPOSAL

{See Attached Sheets}

APPENDIX D-1

DISCLOSURE TO NEW JERSEY STATE POLICE / OFFICE OF FISCAL INTEGRITY GENERAL CONSENT AND WAIVER

Contract #:

STATE OF NEW JERSEY }
}ss.
COUNTY OF _____}

I, _____, of the City of _____, in the County of _____ and the State of _____ of full age, being duly sworn according to law on my oath, depose and say that:

A. I am _____ of the firm of _____, (the "Consultant"), which has been awarded the referenced contract (the "Agreement") for the School Construction Program, and that I execute said Agreement with full authority to do so; that said Consultant agrees to and hereby consents to permit the New Jersey State Police and or such other office designated by the Attorney General to perform the functions of the Office of Fiscal Integrity in School Construction in the Office of the State Attorney General, established pursuant to Public Law 2000, Chapter 72, Section 70 as amended (the "State Police"), access as described below, to:

All documents related to the Agreement, including but not limited to, prequalifying information, work product, and confidential memos and certifications required to be kept by any governmental agency, including but not limited to the Department of Community Affairs, the Department of Labor, the Department of Education, the Department of Environmental Protection, the Department of Treasury, the Division of Consumer Affairs, Licensing Boards, and the New Jersey Schools Development Authority (the "Authority").

All documents related to the Agreement, which are required to be kept by the Consultant, including but not limited to contracts, specifications, drawings, deliverables, change orders, alternate submissions, approvals/rejections, unit prices, product data, time of performance schedules, construction photographs, quality control management and reports, value engineering information, up-to-date project accounting system, intermediate and final audits, as-builts, close-out documentation.

All documents related to the payment of professionals in connection with the Agreement, including but not limited to surveyors, title abstractor/company, lawyers, appraisers, soils engineers, bond counsel, underwriters, financial and investment advisors, trustees, official printers, bond insurers.

B. The Consultant agrees to allow the State Police upon request, at all reasonable times, to inspect and photocopy any and all of the documents described above that are in its possession or custody, or are subject to its control. The Consultant agrees to make the requested documents available for

inspection and photocopying within the State of New Jersey regardless where those documents are located prior to inspection.

C. The Consultant furthers certifies that there have been no changes in circumstance, conditions or status of the Consultant's prequalification with the Authority since the latest prequalification application was filed by the Consultant with the Authority.

D. The Consultant certifies that, if applicable, any change in the information provided by the Consultant in its prequalification application currently on file with the Authority will be immediately reported to the Authority.

E. The Consultant certifies that, if applicable, it shall immediately notify the Authority and the State Police if any director, partner, officer, employee of the Consultant or any shareholder owning 5% or more of the Consultant's stock:

1. Is the subject of investigation involving any violation of criminal law or other federal, state, or local law or regulation by any governmental agency; or

2. Is arrested, indicted or named as an unindicted co-conspirator in any indictment or other accusatory instrument; or

3. Is convicted of any crime under state or federal law, or of any disorderly persons offense or misdemeanor involving a business-related offense.

F. The Consultant hereby waives any objection it might otherwise raise permitting the State Police to investigate, examine and inspect all activities related to the Agreement pursuant to Public Law 2000, Chapter 72, Section 70, as amended. The Consultant further releases and holds harmless the State Police, the Authority, and the State of New Jersey. All statements contained in the Consultant's Technical Proposal and Fee Proposal and in this waiver and consent are true and correct, and made with full knowledge that the Authority and the State of New Jersey rely upon the truth of the statements contained in this affidavit in awarding the Agreement.

Sworn and subscribed to before me

this _____ day of _____, 20___. _____

Signature of Principal

_____ _____

Notary Public of Print Name of Principal

My commission expires: _____, 20_____.

APPENDIX D-2

INTEGRITY AFFIDAVIT

Contract #:

STATE OF NEW JERSEY }
}ss.
COUNTY OF _____}

I, _____, of the City of _____, in the County of _____ and the State of _____ of full age, being duly sworn according to law on my oath, depose and say that I am of the firm of, (the "Consultant") for the School Construction Program (the "Program"); that my firm has entered into the contract stated above (the "Agreement") with the New Jersey Schools Development Authority (the "Authority") and that I execute the above-referenced Agreement, of which this Affidavit is a part, with full authority to do so; and that terms not otherwise defined herein shall have their meaning as set forth in such Agreement; AND

(NO GRATUITIES)

I SWEAR AND AFFIRM that the Consultant has not offered or tendered the payment of any fee, commission or compensation of any kind or the granting of any gift or gratuity of any kind, either directly or indirectly, whether or not in connection with the purchase, sale, or contract, to any person in the employ of the Authority, or the State of New Jersey having any duties or responsibilities in connection with the purchase or acquisition of any property or services by the Authority, or State of New Jersey, by or on behalf of any seller, supplier or Consultant of services, who has made, negotiated, solicited or offered to make any contract to sell or furnish real or personal property or services to the Authority, or the State of New Jersey. I further understand that it is a violation of law to offer, pay, or give to any employee of the Authority, or the State of New Jersey any fees, commission, compensation, gift or gratuity for or because of any official act or a violation of any official duty. Any person who does so may be subject to punishment; AND

(NO COLLUSION)

I SWEAR AND AFFIRM that the Consultant has not directly or indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free, competitive bidding in connection with the Program; that the prices in the Fee Proposal have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition; that the prices have not been knowingly disclosed directly or indirectly by the Consultant to any other firm submitting a Proposal, unless otherwise required by law; that no attempt has been made by the Consultant to induce any other person or business entity to submit or not submit a Proposal for the purpose of restricting competition; AND

(NO DISCRIMINATION)

I SWEAR AND AFFIRM that the Consultant will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, gender or sexual orientation and has complied and will continue to comply with all State and Federal laws and Executive Orders respecting non-discrimination; AND

(PREVAILING WAGE)

If applicable, I SWEAR AND AFFIRM that the Consultant shall or has complied with the New Jersey Contractor Registration Act, Public Laws 1999, Chapter 238 and the New Jersey Prevailing Wage Act, Laws of 1963, Chapter 150, and all amendments thereto, with respect to the Program and any contracts related to school construction entered into on behalf of the State of New Jersey, except those contracts not within the contemplation of these acts; AND

I SWEAR AND AFFIRM that all statements contained in the Consultant's Technical Proposal and Fee Proposal and this Affidavit are true and correct; and all such statements have been made with full knowledge that the Authority and the State of New Jersey rely upon the truth of the statements contained in this Affidavit in awarding the Agreement.

Sworn and subscribed to before me

this _____ day of _____, 20___.

_____
Signature of Principal

_____
Notary Public of

_____
Print Name of Principal

My commission expires: _____, 20___.

APPENDIX E

INSURANCE CERTIFICATE(S)

{See Attached Sheets}

APPENDIX F

OTHER DOCUMENTATION

{See Attached Sheets}

1. **BUSINESS REGISTRATION**
2. **PL 2005, CHAPTER 51 APPROVAL**
3. **EO129 CERTIFICATION**
4. **W-9**

ATTACHMENT B

PRICE PROPOSAL FORM

SPECIAL INSPECTOR SERVICES

Lump Sum: $_____,_____

Please note that the lump sum amount shall include all costs the Consultant intends to recoup through compensation under the Agreement, including, but not necessarily limited to, the following: equipment, supplies, employee base salary and vacation, holiday, other leave pay, social security contributions, unemployment taxes, workers' compensation, travel expenses, and any other fringe benefits, payroll burden, and per diem, as well as an appropriately proportionate amount of company overhead and profit.

I am duly authorized to sign this Price Proposal on behalf of the named firm.

Firm: _____

Signature: _____

Print Name: _____

Title: _____

Date: _____