

**REQUEST FOR QUALIFICATIONS**

**for**

**BROKER SERVICES FOR THE BUSINESS AND REAL ESTATE  
PROPERTY AND CASUALTY INSURANCE PROGRAM**

**Contract No.: GP-0271-R01**

**Issue Date: May 14, 2020**

**Mandatory Electronic Notice of Intent to Participate Due Date:**

**May 29, 2020 by 2:00 PM Eastern Time**

*{See the Introduction, within, for details}*

**Proposal Due Date:**

**June 17, 2020 by 11:00 AM Eastern Time**

*{See Section 2.0, within, for delivery address}*



STATE OF NEW JERSEY

**SCHOOLS DEVELOPMENT AUTHORITY**

32 East Front Street, PO Box 991, Trenton, NJ 08625

**BROKER SERVICES FOR THE BUSINESS AND REAL ESTATE  
PROPERTY AND CASUALTY INSURANCE PROGRAM**

**REQUEST FOR QUALIFICATIONS**

**INTRODUCTION**

The New Jersey Schools Development Authority (“NJSDA” or “Authority”) presently maintains an insurance program for its Business and Real Estate activities. The policies included in the current Insurance Program are: Business Administration Package (this includes General Liability, Business Personal Property, Electronic Data Processing Property, Valuable Papers and Extra Expense); Automobile; Worker’s Compensation; Umbrella/Excess Liability; Public Officials’ Liability; Cyber Liability; Employment Practices Liability; Workplace Violence/Active Shooter Coverage; and General Liability for the Real Estate Owned (“REO”) inventory. Based upon the fluctuating inventory of REO properties, the anticipated cost of insurance (inclusive of commission) is approximately \$480,000 annually. The NJSDA is seeking to engage a Broker with the expertise to design, market, negotiate and implement an insurance program that will provide the NJSDA with the broadest coverage at the most cost effective price. The selected Broker shall be responsible for the placement and servicing of the NJSDA's Business and Real Estate Property and Casualty Insurance Program commencing on December 14, 2020 at 12:01 a.m. including subsequent renewal programs during the term of the Agreement. In addition, the selected Broker may be consulted to assess additional risk and/or procure additional insurance as deemed necessary by the NJSDA.

This Request for Qualifications is the first step of a two-step process outlined below:

1. Request for Qualifications (“RFQ”): A bidder must first respond to the items listed under Section 1.0, “INSTRUCTIONS FOR SUBMITTING A QUALIFICATIONS PROPOSAL”, below.
2. Request for Proposals (“RFP”): The NJSDA will issue an RFP to firms that are shortlisted through the RFQ process. Additional information about this step is provided in Section 5.0 below.

This BROKER SERVICES REQUEST FOR QUALIFICATIONS consists of the following:

1. Request for Qualifications
2. Attachment A: Agreement
3. Attachment B: Understanding of the Purposes of this Engagement Form
4. Attachment C: Firm Experience Case Study Form
5. Attachment D: Key Team Member List
6. Attachment E: Key Team Member Resume Form
7. Attachment F: Approach to Providing the Required Scope of Services Form
8. Attachment G: Moral Integrity Questionnaire
9. Attachment H: Disclosure of Investment Activities in Iran Form
10. Attachment I: Source Disclosure Certification Form
11. Attachment J: Ownership Disclosure Form
12. Attachment K: Certification of Non-Debarment Form

The required Scope of Services is contained in Appendix B to the Agreement (Attachment A to this RFQ).

The term of the engagement will be three (3) years, or until all obligations of the consultant to deliver services pursuant to the Agreement have been performed to the satisfaction of the Authority, whichever occurs later.

There is no standard NJSDA prequalification requirement applicable to this engagement. To be successful, a firm must demonstrate the experience and qualifications discussed below.

These documents must be read in their entirety as they define the methodology for responding to this solicitation, as well as describing the potential scope of services and responsibilities of the Broker under this engagement. A firm wishing to submit a response to this RFQ must review and be thoroughly familiar with all terms and conditions of these documents.

All of the required items must be included in the submission, with responses utilizing the NJSDA's forms as indicated above.

**Notice of Intent to Participate:** The NJSDA will not hold a traditional pre-proposal conference for this procurement. All firms wishing to submit a proposal must sign-in electronically by sending a mandatory e-mail Notice of Intent to Participate to Dave Kutch at [dkutch@njsda.gov](mailto:dkutch@njsda.gov) **no later than 2:00 PM Eastern Time on May 29, 2020.**

**Questions from Interested Firms:** Firms may submit written questions regarding this procurement to the NJSDA by sending them by e-mail to Dave Kutch at [dkutch@njsda.gov](mailto:dkutch@njsda.gov) **no later than 2:00 PM Eastern Time on May 29, 2020.** The questions and NJSDA answers will be provided via an addendum to the RFQ to each Firm that submitted a timely e-mail Notice of Intent to Participate.

**Notice Regarding Communications:** Refer all questions to NJSDA Procurement Staff. Any bidder attempting to contact government officials (elected or appointed), including NJSDA Board members, NJSDA Staff (except for Procurement), Selection Committee members, NJSDA Consultants, and School District officials for information relating to this project or in an effort to influence the selection process may be immediately disqualified.

**Submission of Proposals:** Responses to this RFQ must be received by the NJSDA **no later than 11:00 AM Eastern Time on June 17, 2020.** Faxed or e-mailed submissions will not be accepted.

## **1.0 INSTRUCTIONS FOR SUBMITTING A QUALIFICATIONS PROPOSAL**

Firms responding to the RFQ shall thoroughly familiarize themselves with the RFQ to ensure responsiveness in their Qualifications Proposal submission. A conforming Qualifications Proposal must consist of the following components:

1. Understanding of the Purposes of this Engagement Form
2. Firm Experience Case Study Form
3. Key Team Member List
4. Key Team Member Resume Form
5. Approach to Providing the Required Scope of Services Form
6. Moral Integrity Questionnaire

7. Disclosure of Investment Activities in Iran Form
8. Source Disclosure Certification Form
9. Ownership Disclosure Form
10. Certification of Non-Debarment Form

1.1 Understanding of the Purposes of this Engagement (10 Points - Required Submittal)

Utilizing the *Understanding of the Purposes of this Engagement Form* (Attachment B to this RFQ), present a brief understanding of the NJSDA and its insurance program needs, as described in the Scope of Services set forth in Appendix B to the Agreement (Attachment A to this RFQ). Identify the name, address and phone number of the firm; the name, email address and phone number of the firm's contact person; and the name of the person who prepared the Qualifications Proposal. Include any other information relevant to the firm's qualifications.

1.2 Firm Experience (30 Points - Required Submittal)

Utilizing the *Firm Experience Case Study Form* (Attachment C to this RFQ), describe the experience of the proposing firm, including experience with construction, real estate development, public entities and risk transfer strategies, through **three (3) specific case studies within the last 5 years**. The case studies must address examples of the proposing firm's past provision of services of the type and scale outlined in the Scope of Services. Thus, the case studies must concisely set forth the basic background information (e.g., dates and location), the scope of services provided, and results of said engagement. **Please include examples of similar engagements performed with public sector clients or those similar to the NJSDA.** The case studies must describe the effectiveness of the program, and the methodology used to measure such effectiveness. The firm must identify the name and address of the contracting entity and the name, title and telephone number of a contact person associated with the contracting entity who is familiar with and able to comment on the firm's performance on each program.

1.3 Team Structure and Key Team Members Experience and Qualifications (30 Points - Required Submittal)

Provide an outline detailing how you would staff the engagement, based on your understanding of the Authority and its insurance program. Utilizing the *Key Team Member List* (Attachment D to this RFQ), identify all individuals who will be involved and the primary role and responsibilities of each Key Team Member, as well as the principal/senior officer who will serve as the engagement leader. For the purpose of this engagement, a "Key Team Member" is a principal, partner or officer of the firm, account executive, claims consultant or risk consultant identified in the Consultant's Qualifications Proposal as having responsible role in the successful provision of the Services who generally spends or is expected to spend 20 percent or more of his/her time providing such Services.

Utilizing the *Key Team Member Resume Form* (Attachment E to this RFQ), the proposing firm should provide a summary of each of the Key Team Member's experience, which must include, but is not limited to: years of employment in your organization, total years of insurance and/or risk management consulting experience, and examples of at least three (3) representative projects in the last 5 years for which the Key Team Member in question fulfilled a role similar to that proposed for this engagement. The resume should specifically address the experience each Key Team Member has had with public entity and real estate clients providing risk management/consulting, claims handling, safety and loss control services.

1.4 Approach to Providing the Required Scope of Services (Required Submittal - 30 Points)

Utilizing the *Approach to Providing the Required Scope of Services Form* (Attachment F to this RFQ), the proposing firm must explain in detail its specific approach to providing **each** of the Services specifically required in the Scope of Services set forth in Appendix B to the Agreement (Attachment A to this RFQ). Identify your firm's primary industry segments and the percentage of business in each segment.

1.5 Moral Integrity Questionnaire (0 Points – Required Submittal)

At the same time as a Qualifications Proposal is submitted, the proposing firm must submit to NJSDA a *Moral Integrity Questionnaire* (“Questionnaire(s)”) for submission to the New Jersey State Police, included as Attachment G to this RFQ. NJSDA will hold all submitted Questionnaires, until after all firms have been ranked, unless special circumstances warrant otherwise. Thereafter, NJSDA staff will forward the Questionnaire of the selected firm to the New Jersey State Police for review.

**Moral Integrity approval is a prerequisite for contract award.**

1.6 Disclosure of Investment Activities in Iran Form (0 Points – Required Submittal)

At the same time as a Qualifications Proposal is submitted, the proposing firm must submit to NJSDA a *Disclosure of Investment Activities in Iran Form* (Attachment H to this RFQ) pursuant to Public Law 2012. C. 23 (codified at N.J.S.A. 52:32-55 et. seq.) (the “Act”). Pursuant to the Act, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the New Jersey Schools Development Authority must complete a Certification which states that the person or entity, or one of the persons or entity's parents, subsidiaries, or affiliates, is not identified on a list created and maintained by the New Jersey Department of the Treasury as a person or entity engaging in investment activities in Iran. The completed *Disclosure of Investment Activities in Iran Form* must be submitted and included with the completed Qualifications Proposal.

**Failure to submit such Certification will result in the disqualification of the bid and rejection of the Qualifications Proposal.**

1.7 Outsourced Services Special Provisions (0 Points – Required Submittal)

Pursuant to N.J.S.A. 52:34-13.2, all services under the Agreement shall be performed within the United States unless the contracting officer of the NJSDA certifies in writing a finding that the service required by the NJSDA cannot be provided within the United States and the Certification is approved by the Executive Director of the NJSDA.

Source Disclosure Requirements - In compliance with the above mandate, the NJSDA has adopted source disclosure requirements, obligating all bidders seeking a contract with the NJSDA to disclose:

- (a) The location by country where services under the contract will be performed;
- (b) The location by country where any subcontracted services will be performed; and
- (c) The reasons why any of the services cannot be provided within the United States.

Accordingly, the proposing firm must submit a *Source Disclosure Certification Form* (Attachment I to this RFQ) filled out with the sourcing information required for itself and any proposed subcontracted firm.

**Failure to submit sourcing information shall preclude award of a contract to the proposing firm.**

Shift to Outsourced Services During Contract Term Shall Be a Breach of Contract - A consultant or subcontracted firm that had, upon contract award, declared that services would be performed in the United States, shall be deemed in breach of the Agreement if such consultant or subcontracted firm proceeds to shift the performance of services outside of the United States, at any time during the term of the contract, and the Agreement shall therefore be subject to termination for cause under the terms of the Agreement, unless the NJSDA shall have first determined 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 NJSDA or the State.

1.8 Ownership Disclosure Form (0 Points – Required Submittal)

At the same time as a Qualifications Proposal is submitted, the firm must submit an *Ownership Disclosure Form*, pursuant to N.J.S.A. 52:25-24.2, using the form created by the Department of the Treasury, Division of Purchase and Property, which form is supplied by NJSDA as Attachment J to this RFQ, and is available as an interactive form on the Treasury website at:

<https://www.state.nj.us/treasury/purchase/forms/OwnershipDisclosure.pdf>

If the proposing firm is a corporation, the *Ownership Disclosure Form* requires the proposing firm to set forth the names and addresses of all stockholders in the corporation who own 10 percent or more of any class of its stock. If the proposing firm is a type of partnership, the *Ownership Disclosure Form* requires the names and addresses of all individual partners in the partnership who own a 10 percent or greater interest therein. If the proposing firm is a limited liability company, the *Ownership Disclosure Form* requires the names and addresses of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. If one or more such stockholder or partner or member in the firm is itself a corporation, partnership or limited liability company, then the stockholders holding 10 percent or more of that corporation's stock, or the individual partners owning 10 percent or greater interest in that partnership, or the members owning 10 percent or greater interest in that limited liability company, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, and member, who exceed the 10 percent ownership criteria threshold established by N.J.S.A. 52:25-24.2, have been listed. To comply with this section, a proposing firm with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. The *Ownership Disclosure Form* must be submitted and included with the completed Qualifications Proposal.

**Failure to submit such Ownership Disclosure Form will result in the disqualification of the bid and rejection of the Qualifications Proposal.**

1.9 Certification of Non-Debarment Form (0 Points – Required Submittal)

At the same time as a Qualifications Proposal is submitted, the proposing firm must submit a *Certification of Non-Debarment Form*, pursuant to N.J.S.A. 52:32-44.1, using the form provided by NJSDA (Attachment K to this RFQ).

**Failure to submit such Certification will result in the disqualification of the bid and rejection of the Qualifications Proposal.**

**2.0 SUBMISSION REQUIREMENTS AND DELIVERY INFORMATION**

Qualifications Proposals are to be submitted to and received by the NJSDA no later than **11:00 AM Eastern Time on June 17, 2020**. Proposal submittals shall consist of one (1) unbound original and one (1) cover-to-cover copy in PDF format on USB flash drive. Submissions will **only** be accepted by overnight or hand delivery at the following address:

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
32 East Front Street  
Trenton, New Jersey 08625-0991  
Attention: Dave Kutch, Sr. Procurement Analyst  
Subject: Business and Real Estate Property and Casualty Insurance Program – GP-0271-R01

**The hard copy original and electronic version of the Qualifications Proposal must contain identical information. Providing inconsistent information in the two versions of the Qualifications Proposal may result in a determination that the submission is non-responsive.**

**Submissions received after the above date and time will not be considered.**

**Faxed or e-mailed submissions will not be accepted.**

**Any firm wishing to submit a Proposal must submit a timely e-mail Notice of Intent to Participate, as provided in the Introduction section, above.**

**3.0 SELECTION PROCEDURES**

Each Qualifications Proposal will be reviewed to determine responsiveness. Non-responsive Qualifications Proposals will be rejected without evaluation. Responsive Qualifications Proposals will be evaluated by a Selection Committee established for this purpose. Such evaluation will be based upon the information provided by the firms in response to this RFQ. The Selection Committee shall consist of no fewer than three (3) NJSDA Staff members. The evaluation will be based upon the information provided by a firm in response to this RFQ, and any necessary verification thereof.

The members of the Selection Committee will evaluate each firm's Qualifications Proposal, and may confer with each other regarding the content of the submissions before scoring, but each Selection Committee member will independently score each responsive Qualifications Proposal in accordance with the following Evaluation Criteria:

- Understanding of the Purposes of this Engagement
- Firm Experience
- Team Structure and Key Team Members Experience and Qualifications
- Approach to Providing the Required Scope of Services

Each Selection Committee member will evaluate each Qualifications Proposal, assigning a raw score for each criterion on a scale of 0 to 10 as follows:

- Outstanding (9–10): depth and quality of response offers significant advantages.
- Superior (7-8): exceeds RFQ requirements with no deficiencies.
- Sufficient (5-6): meets RFQ requirements with no significant deficiencies.
- Minimal (3-4): meets RFQ requirements but contains some significant deficiencies.
- Marginal (1-2): comprehends intent of RFQ but contains many significant deficiencies.
- Unsatisfactory (0): requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors will then be applied to each of the Selection Committee member’s raw scores for each criterion to arrive at a total weighted score as follows:

<b>Qualifications Proposal Evaluation Criteria</b>	<b>Weighting Factor (Applied to Raw Score)</b>	<b>Maximum Weighted Points</b>
<b>Understanding of the Purposes of this Engagement</b>	<b>1.0</b>	<b>10</b>
<b>Firm Experience</b>	<b>3.0</b>	<b>30</b>
<b>Team Structure and Key Team Members Experience and Qualifications</b>	<b>3.0</b>	<b>30</b>
<b>Approach to Providing the Required Scope of Services</b>	<b>3.0</b>	<b>30</b>
<b>Total Possible Points:</b>		<b>100</b>

All of the scores awarded by the Selection Committee members to a particular firm’s Qualifications Proposal will be added together and averaged to arrive at a Qualifications Proposal Score for each firm. The maximum combined score for a Qualifications Proposal is 100.

#### **4.0 INTERVIEWS**

All responsive firms will be invited to interview with the Selection Committee. Interviews must include, at a minimum, all Key Team Members listed in the Qualifications Proposal. Following interviews, firms will again be evaluated by Selection Committee members based on Interview Evaluation Criteria that are the same as those used in the evaluation of the Qualifications Proposals. All of the scores awarded by the Selection Committee members to a particular firm’s Interview will be added together and averaged to arrive at an Interview Score for each firm. The maximum combined score for an Interview is 100.

The Qualifications Proposal Score and the Interview Score assigned each firm will be added together and averaged to obtain a firm’s Intermediate Combined Score. The maximum Intermediate Combined Score is 100. Those firms receiving the three (3) highest Intermediate Combined Scores will be placed on a short



list and invited to submit a Proposal Package. In the event of a tie in Intermediate Combined Scores for the third firm to be shortlisted, all firms with the tied Intermediate Combined Scores will be shortlisted.

**NOTE 1: A firm must participate in the interview process to be considered for the short list.**

**NOTE 2: Firms are not permitted to bring handouts or other written materials to the interviews to provide to the Selection Committee members. To the extent that firms bring such materials to the interviews, the NJSDA will not accept or retain those materials, and those materials will not be provided to the Selection Committee members.**

**NOTE 3: At this time, it is anticipated that the interviews will be conducted via video conferencing. The video conferencing details will be communicated to the firms submitting responsive Qualifications Proposals at a later date.**

## **5.0 REQUEST FOR PROPOSALS (“RFP”)**

The NJSDA intends to short list three (3) firms that shall receive a Request for Proposals (“RFP”). The RFP will outline the process for insurance market allocation and include coverage specifications along with a detailed underwriting submission based upon the exposures identified as part of this insurance program.

In addition to instructions for submitting a Proposal Package, the RFP will include:

1. Market Allocation Worksheet
2. Underwriting Submission and Coverage Specifications
3. NJSDA Price Proposal Form

The shortlisted firms shall:

- (a) Review the Underwriting Submission and Coverage Specifications attached to the RFP and confirm that the Broker agrees to the Specifications as the minimum requirements.
- (b) All proposed insurers shall be licensed to write coverage in the State of NJ and have an A.M. Best rating of A-VIII or better.
- (c) Provide complete and detailed cost quotation(s) that include the premium, coverage (including any enhancements from the coverage specified in the RFP), and all substantive terms and conditions.
- (d) The insurance coverage required consists of Business Personal Property, Commercial General Liability, Automobile, Workers’ Compensation, Umbrella Liability, Workplace Violence/Active Shooter Coverage, Employee Dishonesty, Public Officials’ Liability, Cyber Liability and Employment Practice Liability.

As an initial submittal, each of the shortlisted firms will be required to provide NJSDA with a completed Market Allocation Worksheet. NJSDA will assign markets based on the Intermediate Combined Score earned by each firm in the RFQ step of the selection process. The firm with the highest Intermediate Combined Score will get the first choice of markets, the firm with the second highest Intermediate Combined Score will get the second choice of markets, and the firm with the third highest Intermediate Combined Score will get the third choice of markets. If a firm’s first choice of insurance carrier is not any other firm’s first choice, then it will be assigned to the firm that listed it as the first choice.

Firms responding to the RFP shall thoroughly familiarize themselves with the RFP to ensure responsiveness in their Proposal Package submission. A conforming Proposal Package must consist of the following components:

1. Coverage Proposal
2. NJSDA Price Proposal Form

Each Proposal Package will be reviewed to determine responsiveness. Non-responsive Proposal Packages will be rejected without evaluation. Responsive Proposal Packages will be evaluated by a Selection Committee of NJSDA Staff members previously established for this purpose. The evaluation will be based upon the information provided by the firms in response to the RFP.

The members of the Selection Committee will evaluate each firm’s Coverage Proposal, and may confer with each other regarding the content of the submissions before scoring, but each Selection Committee member will independently score each Coverage Proposal in accordance with the following Evaluation Criteria:

- Overall Program Design
- Limits and Coverages per the Coverage Specifications
- Public Officials’/Employment Practices Liability
- Deductibles/Self-Insured Retentions

Each Selection Committee member will evaluate each Coverage Proposal, assigning a raw score for each criterion on a scale of 0 to 10 as follows:

- Outstanding (9–10): depth and quality of response offers significant advantages.
- Superior (7-8): exceeds RFP requirements with no deficiencies.
- Sufficient (5-6): meets RFP requirements with no significant deficiencies.
- Minimal (3-4): meets RFP requirements but contains some significant deficiencies.
- Marginal (1-2): comprehends intent of RFP but contains many significant deficiencies.
- Unsatisfactory (0): requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors will then be applied to each of the Selection Committee member’s raw scores for each criterion to arrive at a total weighted score as follows:

<b>Coverage Proposal Evaluation Criteria</b>	<b>Weighting Factor (Applied to Raw Score)</b>	<b>Maximum Weighted Points</b>
<b>Overall Program Design</b>	<b>3.0</b>	<b>30</b>
<b>Limits and Coverages per the Coverage Specifications</b>	<b>3.0</b>	<b>30</b>
<b>Public Officials’/Employment Practices Liability</b>	<b>3.0</b>	<b>30</b>
<b>Deductibles/Self-Insured Retentions</b>	<b>1.0</b>	<b>10</b>
<b>Total Possible Points:</b>		<b>100</b>

All of the scores awarded by the Selection Committee members to a particular firm’s Coverage Proposal will be added together and averaged to arrive at a Coverage Proposal Score for each firm. The maximum combined score for a Coverage Proposal is 100.

When combined with scoring of the Qualifications Proposals and of the Interviews, Coverage Proposal Scores will be multiplied by 40%. Qualifications Scores and Interview Scores will each be multiplied by 30%, such that the maximum point total of all three scores combined is 100, as follows:

Scoring Component	Assigned Proportion	Maximum Weighted Points
Qualifications Proposal	30%	30
Interview	30%	30
Coverage Proposal	40%	40
Final Combined Score	100%	100

After all Final Combined Scores have been tabulated, the NJSDA will open all Price Proposals. Using the Price Proposals as a guide, the NJSDA staff will negotiate a fair and reasonable price with the firm receiving the highest Final Combined Score. Should the NJSDA be unable to negotiate a satisfactory contract with the firm receiving the highest Final Combined Score, the NJSDA will terminate negotiations with the firm receiving the highest Final Combined Score and will then undertake negotiations with the firm receiving the second highest Final Combined Score. Failing accord, the NJSDA will terminate negotiations with that firm and will then negotiate with the firm receiving the third highest Final Combined Score. In the event that the NJSDA is unable to reach a satisfactory contract with any of the three firms, the NJSDA may reject all Proposal Packages.

The NJSDA staff will then make a recommendation of award to the selected firm at compensation determined to be fair and reasonable. If the recommendation of award is approved, a notice of award will be transmitted to that firm. Other proposing firms will be duly notified in writing of the award.

Upon award, the NJSDA shall forward the Agreement for Broker Services for the Business and Real Estate Property and Casualty Insurance Program (the “Agreement”) to the selected firm for immediate execution, **without modification.**

Notwithstanding anything above to the contrary, the NJSDA, in accordance with all applicable laws, has no obligation to make an award and reserves the right to waive any non-material defects in any Proposal submitted, reject any or all Proposals, and/or terminate the selection process at any time.

**6.0 PRE-AWARD REQUIREMENTS  
(INFORMATIONAL ONLY – DO NOT INCLUDE WITH RFQ OR RFP SUBMISSIONS)**

After determination of the selected firm, the NJSDA will request the following information prior to the award of the contract:

## 6.1 Proof of Business Registration Certification

Pursuant to N.J.S.A. 52:32-44, the NJSDA (“Contracting Agency”) is prohibited from entering into a contract with an entity unless the bidder/proposer/contractor, and each subcontractor that is required by law to be named in a bid/proposal/contract has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services within the Department of the Treasury.

Prior to contract award or authorization, the contractor shall provide the Contracting Agency with its proof of business registration.

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

During the course of contract performance:

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

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

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

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 the Treasury at 609-292-9292.

## 6.2 Political Contributions

P.L. 2005, c. 51 which 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, a selected firm will be required to comply with 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 the Authority. 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, on forms provided by the Authority, any contributions made during the contract term by the Business Entity, at the time it makes the contribution.

### 6.3 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-20.18 and 20.19 (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 <https://www.elec.state.nj.us/>.

### 6.4 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. 17:27-1.1 et seq. **Accordingly, in a Notice of Award, a firm shall be required to submit to the NJSDA, with its executed Agreement, one of the following three documents:**

- (1) Appropriate evidence that the firm is operating under an existing Federally approved or sanctioned affirmative action program; or
- (2) A certificate of Employee Information Report approval issued in accordance with N.J.A.C. 17:27-4.2; 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. 17:27-4.2.

**\*The original of the submitted document shall be provided to the New Jersey Department of the Treasury.** Please see following link for details:

[http://www.state.nj.us/treasury/contract\\_compliance/forms.shtml](http://www.state.nj.us/treasury/contract_compliance/forms.shtml)

### 6.5 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 RFQ), at the time of execution of the Agreement.

6.6 Other Information as Required

The NJSDA may request additional information from the selected firm as required under the Agreement, or pursuant to applicable policies, procedures or law.

**ATTACHMENT A**

**AGREEMENT FOR BROKER SERVICES FOR THE BUSINESS AND REAL ESTATE  
PROPERTY AND CASUALTY INSURANCE PROGRAM**

*{Please see attached}*

---

**AGREEMENT**

**between the**

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**

**and the**

**CONSULTANT**

**for**

**BROKER SERVICES  
FOR THE  
BUSINESS AND REAL ESTATE PROPERTY  
& CASUALTY INSURANCE PROGRAM**

**CONTRACT NO.: GP-0271-R01**



THIS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 2020, (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: GP-0271-R01

Project Name: Broker Services for the Business and Real Estate Property & Casualty Insurance Program

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 the Consultant shall receive compensation as set forth in Appendix C of this Agreement.

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

**CONSULTANT**

**NEW JERSEY SCHOOLS  
DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
By:  
Title:

\_\_\_\_\_  
By:  
Title:

Sworn and subscribed to before me

Reviewed and Approved as to Form Only

This \_\_\_\_\_ day of \_\_\_\_\_, 2020:

\_\_\_\_\_  
By:  
Title:

\_\_\_\_\_  
Notary Public of \_\_\_\_\_

My commission expires: \_\_\_\_\_, 20\_\_\_\_.

## TABLE OF CONTENTS

	<u>Page</u>	
1.0	Definitions	1
2.0	Responsibilities of the Consultant	3
2.1	General	3
2.2	Final Release	7
3.0	Compensation	7
3.1	General Provisions	7
3.2	Invoices	7
3.3	Withholding Payment for Unsatisfactory Services or Non-delivery of Deliverables	8
4.0	Term	8
5.0	General Covenants	8
5.1	Insurance	8
5.2	Ownership of Documents	12
5.3	Copyrights and Patents	12
5.4	Confidentiality	12
5.5	Contractual Relationship	13
5.6	Assignment	13
5.7	Mergers, Acquisitions and Dissolutions	14
5.8	Mandatory Compliance With Law	14
5.9	Affirmative Action and Nondiscrimination	15
5.10	Anti-collusion	15
5.11	Conflict of Interest	16
5.12	Indemnification	17
6.0	Termination and Suspension	18
6.1	Termination for Convenience of the Authority	18
6.2	Termination for Cause	18
6.3	Suspension for Convenience of the Authority	20
6.4	Authority's Right to Carry Out the Services	20
6.5	Unacceptable Services	21

7.0	Claims	21
7.1	General	21
7.2	Notice of Claim	21
7.3	False Claims Liability	
7.4	Review of Claims	21
7.5	Compliance with Claim Review Procedure	22
7.6	Step One: The Authority’s Review	22
7.7	Step Two: Non-Binding Mediation	22
8.0	Representations	23
9.0	Authority’s Rights and Responsibilities	24
9.1	Authority’s Rights	24
9.2	Authority’s Responsibilities	24
10.0	Miscellaneous	25
10.1	Notices	25
10.2	Incorporation by Reference	25
10.3	Order of Precedence	25
10.4	No Waiver of Warranties or Legal/Equitable Remedies	25
10.5	Procedural Requirements	25
10.6	Governing Law	25
10.7	Forum and Venue	25
10.8	Time of the Essence	26
10.9	Entire Agreement and Amendments	26
10.10	Severability	26
10.11	Waiver of Breach	26
10.12	Provisions Required By Law Deemed Inserted	26
10.13	Execution in Counterparts	26
10.14	Office of the State Comptroller	26
10.15	Entry Clearance	27
10.16	Limitation of Liability	27
10.17	Captions & Titles	27
10.18	Words of Obligation or Duty	27
10.19	Parties are not Joint Venturers or Partners	27
10.20	Notice of State Vendor Set-Off For Sales Tax	27
10.21	All Services to be Performed in United States	28
10.22	“Buy American” Compliance	28
10.23	Equal Pay Act Compliance	28

- APPENDIX A:** Special Conditions
- APPENDIX B:** Scope of Services
- APPENDIX C:** Compensation – Price Proposal
- APPENDIX D:** Insurance Certificate(s)
- APPENDIX E:** Other Documentation
- APPENDIX F:** Mandatory Equal Employment Opportunity Language  
and Antidiscrimination Provisions

## 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 to be performed by the Consultant which are in addition to the Scope of Services, which Additional Services shall be described and compensated as set forth in an Amendment.
- 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 Authority and the Consultant.
- 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 and Construction Financing Act, N.J.S.A. 18A:17G-1 et seq. The Authority is the Party that has engaged the Consultant pursuant to the Contract.
- 1.5 **“Claim”** means a 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.
- 1.6 **“Consultant”** means the firm engaged by the Authority under this Agreement to provide Services to the Authority.
- 1.7 **“Consultant Client Manager”** means that person designated by the Consultant to serve as its representative during the Term.
- 1.8 **“Consultant Performance Evaluation Policy and Procedure”** means the Authority’s policies and procedures for evaluating the performance of a Consultant.
- 1.9 **“Contractual Documents”** means all documents setting forth the obligations and responsibilities of the Consultant and the Authority that includes, but is not limited to, the Request for Proposals, the Qualifications Proposal, Coverage Proposal, this Agreement, the Scope of Services, any Amendments and addenda, and all exhibits and schedules attached thereto.
- 1.10 **“Coverage Proposal”** means the submission from potential bidders to the Authority in response to the RFP.
- 1.11 **“Day”** means a calendar day.

- 1.12 **“Deliverables”** means services or any other thing the delivery of which, however accomplished, is required of the Consultant, explicitly or implicitly, by the Contractual Documents.
- 1.13 **“Effective Date”** means the date upon which this Agreement has been fully executed by all Parties, as indicated above.
- 1.14 **“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.
- 1.15 **“Key Team Member”** means a principal, partner, officer, project executive or project manager of the Consultant who shall be responsible for delivery of all or some portion of the Services..
- 1.16 **“Notice to Proceed”** or **“NTP”** means a form of notice issued by the Authority to the Consultant directing the Consultant to commence performing its responsibilities pursuant to this Agreement.
- 1.17 **“Parties”** means the Authority and the Consultant collectively, which are the parties to this Agreement. The Authority or the Consultant may be referred to individually as a “Party.”
- 1.18 **“Price Proposal”** means the Price Proposal submitted by the Consultant in response to the RFP, and attached to this Agreement as Exhibit C.
- 1.19 **“Program Manager”** means the Authority staff member(s) designated to manage the Consultant’s performance of Services.
- 1.20 **“Qualifications Proposal”** means the submission from potential bidders to the Authority in response to the RFQ.
- 1.21 **“Request for Proposals”** or **“RFP”** means the request issued by the Authority for proposals for the provision of the Services.
- 1.22 **“Request for Qualifications”** or **“RFQ”** means the request issued by the Authority for proposals from potential bidders to determine their eligibility to submit a RFP.
- 1.23 **“Schedule”** means the time-frames governing the completion of Services.
- 1.24 **“School Construction Program”** means the program operated by the Authority in order to finance and construct School Facilities Projects pursuant to the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, as amended.
- 1.25 **“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.
- 1.26 **“School Facility”** means and includes any structure, building or facility used wholly or in part for academic purposes.
- 1.27 **“Scope of Services”** means the Scope of Services required to be performed by the Consultant in accordance with the Contractual Documents, as more fully set forth in Appendix B to this

Agreement. The Scope of Services may be amended, from time to time, in accordance with the provisions of this Agreement.

- 1.28 “**Services**” or “**Broker Services**” means the services performed by the Consultant pursuant to the Contractual Documents, including all Services as described herein and in Appendix B to this Agreement.
- 1.29 “**Special Conditions**” means that document attached as Appendix A to this Agreement, and made a part hereof, as such document may be amended from time to time.
- 1.30 “**State**” means the State of New Jersey.
- 1.31 “**Subconsultant**” means the consultant to whom another consultant subcontracts part of the services for which the latter is responsible.
- 1.32 “**Term**” means the term of this Agreement, as set forth in Section 4.0.

## **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 and its employees and Subconsultants, if any.
- 2.1.4 The Consultant shall be required to utilize the Key Team Members identified in its Qualifications Proposal. After the Effective Date of the Agreement, the Consultant shall notify the Authority in advance of any proposed change in its Key Team Members and shall submit to the Authority, for approval, the name and qualifications of proposed substitutions with equal or superior qualifications at no additional cost to the Authority. No changes in Key Team Members shall be permitted without the prior written approval of the Authority.
- 2.1.5 The Authority may, at its sole option, review from time to time the Key Team Members of the Consultant. If the Authority determines that changes to Key Team Members are necessary, the Consultant will be notified in writing of such need, and the Consultant shall thereupon provide substitutes acceptable to the Authority.
- 2.1.6 The Consultant understands and agrees that any change to this Agreement must be made in writing in the form of an Amendment.



- 2.1.7 Any Services performed by the Consultant, without an Amendment that differ from or are in addition to 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.
- 2.1.8 Changes to the Scope of Services require the prior written consent of the Program Manager 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.
- 2.1.9 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.
- 2.1.10 Services shall be performed within any applicable Schedule.
- 2.1.11 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 immediately advise the Authority of the circumstances causing, and the likelihood of, such late delivery.
- 2.1.12 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.
- 2.1.13 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-approved by the Authority, and (ii) obtain the consent of the Authority prior to the engagement of any such Subconsultant. The Authority shall not be liable for any costs, damages or delays incurred by the Consultant resulting from the Authority's disapproval of a Subconsultant, nor shall the Consultant be entitled to any reimbursement or time extensions in connection with such disapproval. The Consultant shall make no substitution of any Subconsultant previously approved by the Authority without written notification to the Authority and the receipt of the Authority's written approval for such substitution.
- 2.1.14 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.

- 2.1.15 The Consultant shall maintain physical and electronic records for products and/or services delivered under the Contractual Documents for a period of five (5) years from the date of final payment. 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. Such records shall be made available upon request by the State. With reasonable notice, the Consultant shall provide all authorized representatives of the State, including representatives of the Office of the State Comptroller, with full access/audit to all of its financial records that pertain to services performed and determination of amounts payable under the Contractual Documents. This includes access to appropriate individuals with knowledge of financial records and full access to all records pertaining to services performed and the determination of amounts payable under the Contractual Documents, permitting such representatives to examine, audit, and copy such records at the site at which they are located. Such access/audit shall include both announced and unannounced inspections; as well as, on-site audits.
- 2.1.16 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.
- 2.1.17 Absent the Authority's written consent, Consultant shall utilize the Key Team Members identified in its response to the RFQ. The Authority has the right to reject any such Key Team Member if, in its reasonable opinion, such Key Member is failing to properly perform or, in the reasonable opinion of the Authority, lacks the necessary background and experience. All substitutions proposed by Consultant must be approved in advance by the Authority in writing and such approval shall not be unreasonably withheld. Consultant shall provide written notice to the Authority in the event Consultant proposes to replace, add or remove any Key Team Member. Any replacement Key Team Member must have equal or superior qualifications to the Key Team Member Consultant proposes to replace. Consultant shall submit to the Authority, for approval, the name and qualifications of all proposed Key Team Member substitutions. Any approval by the Authority of any Key Team Member shall not be construed as an admission by the Authority of such Key Member's competence and Consultant shall not argue to the contrary in connection with any dispute between the Parties. There will be no increase in fee or compensation to Consultant as a result of any Key Team Member substitution.

- 2.1.18 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.
- 2.1.19 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.
- 2.1.20 Business Registration. The Consultant and any Subconsultant provided to the Authority proof of a 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 F 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.
- 2.1.21 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.
- 2.1.22 Political Contributions. Consultant shall, on a continuing basis, disclose and report to the Authority any "contributions," as that term is defined in N.J.S.A. 19:44A-20.16, made during the Term by it or any "Business Entity," as that term is defined in N.J.S.A. 19:44A-20.17, associated with the Consultant, on the "Disclosure of Political Contribution" form provided by the Authority, at the time such contribution is made.
- 2.1.23 Political Contributions Disclosure. Consultant shall 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, 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](http://www.elec.state.nj.us).

2.1.24 Outsourcing Provisions. In accordance with N.J.S.A. 52:34-13.2, the Consultant shall have a continuing duty to comply with the provisions of N.J.S.A. 52:34-13.2, as applicable. If, during the Term, the Consultant or a subcontracted firm, 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 Director of the Authority's Division of Procurement 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 – Price Proposal).

3.1.2 The Consultant shall be paid after invoices are submitted and approved. Consultant shall be entitled to reimbursement of properly documented postage and copying costs incurred. Travel expenses shall be recoverable, at the rate applicable to Authority personnel, only when such recovery has been prior approved by the Authority in its sole discretion.

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, compensation as set forth in Appendix C of this Agreement shall be binding.

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 or quarterly (or any other

schedule approved by the Authority in advance) in a form acceptable to the Authority and shall be accompanied by such supporting backup documentation as may be required by the Authority, in order to ensure billing accurately represents work performed and costs incurred. 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.

### **3.3 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 fully compliant Services, inclusive of Deliverables, as required under the Contractual Documents. In the event the Consultant fails to furnish fully compliant Services, inclusive of Deliverables as required under the Contractual Documents, 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 for a period of three (3) years or until all obligations of the Consultant to deliver Services pursuant to this Agreement have been performed to the satisfaction of the Authority, whichever occurs later.

## **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-VIII” (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, or self-insured retentions, 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. 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 \$3,000,000 per claim and \$3,000,000 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, the State of New Jersey 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 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.

5.1.2.4 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.

5.1.2.5 Network Security/Cyber/Privacy Breach Insurance. The Contractor shall maintain Network Security/Cyber/Privacy Breach Insurance with coverage retroactive to the effective date of this agreement in an amount not less than \$1,000,000 per claim and \$1,000,000 in the aggregate. This insurance, at minimum, shall cover the following risks: Liability arising from theft, dissemination, and/or use of confidential information (including, but not limited to, information protected under HIPAA, bank account information, any and all use of personal or confidential information and any related forensic costs, crisis management costs, investigation costs); Network security liability arising from the unauthorized access, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to services, including denial of service, unless caused by a mechanical or electrical failure; Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a vendor's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon; Any government investigations resulting from the alleged or actual disclosure of personal or confidential information or network security liability event; and nonphysical business interruption. In addition, *coverage may be purchased on a stand-alone basis or as an endorsement to another coverage.*

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.**



- 5.1.9 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 the 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.
- 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 disclosable 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 Nondiscrimination**

- 5.9.1 General. The Consultant and its Subconsultants shall abide by the affirmative action program established by the Authority pursuant to Section 6 and 36 of the legislation creating the New Jersey Schools Development Authority, P.L. 2007, c. 137 (N.J.S.A. 52:18A-240 and 18A:7G-26), and any rules associated therewith, as may be amended from time to time, including, but not limited to, N.J.A.C. 17:27-1.1 to -12.5 and N.J.A.C. 19:39-1.1 to -4.1.
- 5.9.2 Documentation. Consultant shall submit to the Authority, after notification of award but prior to execution of this Agreement, one of the following three documents: (i) documentation (e.g., a Letter of Approval) sufficient to show that the Consultant is operating under an existing Federally-approved or sanctioned affirmative action program; (ii) a Certificate of Employee Information Report approval issued in accordance with N.J.A.C. 17:27-4; or (iii) an Employee Information Report (Form AA-302) in accordance with N.J.A.C. 17:27-4. Consultant shall not enter into a subcontract unless the subconsultant has submitted to said Consultant one of the three documents required in this paragraph above, unless such subconsultant has four or fewer employees.
- 5.9.3 Required Language And Application to Consultant and Subconsultants. Consultant shall abide by, and shall include language in all subcontracts with Subconsultants requiring that all Subconsultants abide by the requirements of this Section 5.9, as well as the Mandatory Antidiscrimination and Equal Opportunity Provisions contained in Appendix G to this Agreement.
- 5.9.4 Antidiscrimination Obligations. Consultant 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 thereunder, including N.J.A.C. 17:27-1.1 et seq., as well as the Antidiscrimination provisions of N.J.S.A. 10:2-1, which are attached to this Agreement as part of Appendix G.
- 5.9.5 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.

## **5.10 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, 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-13g. 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(s) of Ethics that the State Ethics Commission may promulgate.
- 5.11.8 For the purposes of this Section, an “Authority officer or employee” shall include special Authority officers or employees as defined by N.J.S.A. 52:13D-13b and 13e.

## **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 (inclusive of strictly economic loss), damage, injury, cost or expense, including interest; 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 and 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 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; 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 or 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 all 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 Agreement.

## **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. Such a notification shall be called a "Termination for Convenience."
- 6.1.2 Any such Termination for Convenience shall be effected by delivery of a written "Notice of Termination for Convenience" 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 for Services actually and satisfactorily performed by the Consultant, 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 or otherwise fails to comply with applicable 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 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 material 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 effectively impair the ability of the Consultant to perform its obligations under the Contractual Documents; (x) fails to timely provide any Services required under the Contractual Documents; or (xi) 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. Such termination shall be called a "Termination for Cause".
- 6.2.2 Any such Termination for Cause shall be effected by delivery to Consultant of a "Notice of Termination of Cause" specifying the extent to which the Services under the Contractual Documents are terminated, the rationale therefor, and the date upon which such termination becomes effective.
- 6.2.3 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 the Services by whatever methods the Authority may deem appropriate.
- 6.2.4 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, at its own expense, 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. If the Authority is required to file a legal action against Consultant in order to recover monies owed by Consultant on account of its Termination for Cause, Consultant shall be liable to the Authority for all legal fees so incurred, as well as all other litigation costs incurred. Further, Consultant shall be liable to the Authority for interest on all monies due and owing from Consultant to the Authority under this Section or any other Section of this Agreement.



- 6.2.5 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 commencement of Services 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 by issuing a written Notice of Suspension to the Consultant. Upon receipt of such Notice of Suspension, 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, in whole or in part, 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 Consultant(s), including legal counsel, 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. A failure to timely honor such payment demand shall entitle the Authority to interest, and, if the Authority files suit to collect, the Authority shall be entitled to recover its litigation costs, inclusive of its counsel fees.

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 or applicable law and shall not operate to release the Consultant from any of its obligations under the Contractual Documents.

## 6.5 Unacceptable Services

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.

7.1 General. All Claims asserted by the Consultant against the Authority shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

7.2 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.

7.3 False Claims Liability. The Consultant shall be held liable and subject to all penalties and damages under the False Claims Act, N.J.S.A. 2A:32C-1 et seq., for any false or fraudulent Claim submitted to the Authority.

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

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

Completion of Step One of the Claims Review Procedure is a mandatory prerequisite to the Broker Services for the Business and Real Estate Property & Casualty Insurance Program  
GP-0271-R01

initiation of Step Two of the procedure.

7.5 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 proceeds 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.

7.6 Step One: The Authority's Review.

7.6.1 The Consultant must provide 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 by the Authority. No formal action will be taken by the Authority unless and until the Authority receives complete Claim documentation from the Consultant.

7.6.2 Authority Review and Decision. At the option of the Authority, a meeting may be scheduled with the Consultant and the Authority to discuss the Claim. The Authority shall render its decision regarding the Claim in writing within ninety (90) Days of the receipt of the required forms and all supporting documentation or within ninety (90) Days of any meeting with the Consultant and the Authority, whichever is later. This time limit may be extended by mutual agreement of the Parties, or may be extended in the Authority's sole discretion, based on the complexity, size or nature (i.e. delay claim) of the claim. The claimant, 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 this fifteen (15) day period, the Authority will consider the Step One process administratively closed, and the claim will be eligible for Step Two Nonbinding Mediation if a request for mediation is made by the Consultant in the time and manner indicated in Section 7.7 ("Step Two Non-Binding Mediation").

7.7 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 Nonbinding Mediation. Such request shall 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 timely perform and 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, and shall maintain any and all licenses, permits and authorizations necessary to perform the Services.
- 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 under the Contractual Documents, and that it fully understands its obligations and agrees that it will not make any Claim for, or be entitled to, cancellation or relief from the Contractual Documents without penalty because of its misunderstanding or lack of information relating to the Scope of Services.
- 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 N.J.S.A. 52:32-44, as set forth in Appendix F, 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.
- 8.8 The Consultant assumes full responsibility to the Authority for the acts and omissions of its officers, employees, Subconsultants, and others employed or retained by it in connection with the performance of the Services pursuant to the Contractual Documents.
- 8.9 The representations and warranties enumerated in this Section operate in addition to, and shall in no way supersede, limit, or restrict any other duty, responsibility, representation or warranty, express or implied, created or required of Consultant by this Agreement or by applicable law.

## **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 any other State inspection or oversight agencies have 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.
- 9.1.7 Audit by Office of State Comptroller. Pursuant to N.J.S.A. 52:15C-14d, Consultant shall maintain all documentation related to products, transactions or services under this contract for a period of at least five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.

### **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 Incorporation 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 Qualifications and the responses thereto; the Request for Proposals and the responses thereto; and any Amendments and any addenda.
- 10.3 This Agreement, and its Appendices and related documents are intended to be interpreted in harmony so as to avoid conflict. In the event of a conflict, discrepancy or inconsistency between or among the documents constituting this Agreement and its Appendices and related documents, interpretation will be based on the following descending order of priority:
- 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
- Notwithstanding the above order of precedence in documents, in the event there is any conflict or discrepancy between the terms contained in this Agreement or any Appendix or other document incorporated by referenced into this Agreement on the one hand, and any other terms of this Agreement or any other Appendix or document incorporated into this Agreement on the other hand, the Consultant will be required to provide the higher quality level of service or meet the higher standard as articulated in the more stringent provision of the Agreement or other document, as determined by the Authority.
- 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 Forum and Venue. The parties may only bring a legal action to resolve a dispute or Claim arising

from this Agreement in a state court in the State of New Jersey.

- 10.8 Time of the Essence. All time limits as stated in the Contractual Documents are of the essence.
- 10.9 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.
- 10.10 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.
- 10.11 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. 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. A "waiver" of a Party's breach of this Agreement shall only occur if there is a specific provision in this Agreement which expressly describes the party's conduct or inaction as constituting a waiver or if there is a writing signed by the waiving party expressly, specifically, and unequivocally waiving such breach.
- 10.12 Provisions Required By Law Deemed Inserted. Each and every provision of law required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though it were included herein, and, if through mistake, or otherwise, any such provision is not inserted, or is not correctly inserted, then, upon the application of either Party, the Agreement shall forthwith be physically amended to make such insertion or correction.
- 10.13 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. Each individual who executes this Agreement certifies and affirms that he or she is fully authorized to do so on behalf of the party for whom he or she has signed, and that his/her signature duly binds that Party.
- 10.14 Office of the State Comptroller. The Office of the State Comptroller, the New Jersey State Police, or any other state inspecting or oversight agencies may, at their discretion, investigate, examine and inspect the activities of the Consultant and all other parties involved with the Services. The Office of the State Comptroller, the New Jersey State Police, or any other state inspecting or oversight agencies 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 inspecting or oversight agencies may require. In addition to the foregoing, the Office of the State Comptroller, the New Jersey State Police, or any other state inspecting or oversight agencies may

investigate, examine, inspect, or audit in any manner and at such times as such agencies deem necessary. The Consultant shall include in any and all contracts with Subconsultants a provision requiring such Subconsultants to permit the Office of the State Comptroller, the New Jersey State Police, or any other state inspecting or oversight agencies, in the discretion of such inspecting or oversight agencies, to investigate, examine, inspect or audit in any manner and at such times as such inspecting or oversight agencies deem necessary.

- 10.15 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.
- 10.16 Limitation of Liability. Whether as a result of breach of Contract, tort (including negligence), or otherwise, the Authority will not be liable to the Consultant for any special, consequential, incidental, or penal damages, including, but not limited to, loss of profit or revenues, loss of rental value for Consultant-owned equipment, damages to associated equipment, cost of capital, punitive damages or interest of any nature.
- 10.17 Captions & Titles. Captions and titles of the different Sections of this Agreement are solely for the purpose of aiding and assisting in the location of different material in this Agreement and are not to be considered under any circumstances as parts, provisions or interpretations of this Agreement.
- 10.18 Words of Obligation or Duty. Whenever in this Agreement any words of obligation or duty regarding any party are used, they shall have the same force and effect as if stated in the form of an express covenant.
- 10.19 Parties are not Joint Venturers or Partners. Nothing contained in this Agreement shall be construed to mean that Consultant and the Authority are joint venturers or partners.
- 10.20 Notice of State Vendor Set-Off For State Tax

10.20.1 Pursuant to N.J.S.A. 54:49-19, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods and services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to setoff under this act.

10.20.2 The Director of the Division of Taxation shall give notice of the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under N.J.S.A. 54:49-18. No requests for conference, protest or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State to the taxpayer pursuant to N.J.S.A. 52:32-35 shall be stayed.



- 10.21 All Services to be Performed in United States. The Consultant shall have a continuing duty to comply with Executive Order No. 129 (2004) (“EO 129”), and with P.L. 2005, c. 92, as applicable. By executing this Agreement, the Consultant agrees that all Services performed by the Consultant and/or its Subconsultants pursuant to this Agreement shall be performed within the United States. If, during the Term, the Consultant or a subcontracted firm proceeds to shift the performance of the Services outside of the United States, the Consultant shall be deemed in breach of the Agreement and shall be subject to termination for cause, unless the Authority 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.
- 10.22 “Buy American” Compliance. To the extent applicable, Consultant’s Services shall serve to allow compliance with N.J.S.A. 52:32-1 and N.J.S.A. 52:33-1 et seq., which prohibit the use by the Contractor or any Subcontractor of materials or farm products produced and manufactured outside of the United States on any public work. The Authority interprets this requirement consistent with analogous federal guidance, which provides that goods may be considered “produced or manufactured in the United States,” without regard to the origin of components or subcomponents used in such manufactured goods, as long as the manufacturing (which includes assembly) occurs in the United States. Consultant shall not specify, recommend or require the use of any materials or equipment produced or manufactured outside of the United States, unless domestic materials or equipment of comparable kind or class are not commercially available, reasonably priced, or of sufficient quality. Any request for deviation from the requirement to specify domestic products must be submitted to the Authority for review, and the Authority may reject any deviation from the requirement to specify domestic products.
- 10.23 Equal Pay Act Compliance. The Consultant shall be required to submit compensation information, in the form of a Qualifying Services Report, to the Division of Labor and Workforce Development, with copies to the NJSDA, in accordance with the Diane B. Allen Equal Pay Act, P.L. 2018, c. 9). Guidance and forms for compliance with this requirement are available at:

[www.nj.gov/labor/equalpay/equalpay.html](http://www.nj.gov/labor/equalpay/equalpay.html)

**APPENDIX A**

**SPECIAL CONDITIONS**

A.1 Notices shall be addressed as follows:

Authority:	New Jersey Schools Development Authority 32 East Front Street P.O. Box 991 Trenton, NJ 08625-0991 Attention: Karon Simmonds
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Consultant:

## **APPENDIX B**

### **SCOPE OF SERVICES**

The Broker shall provide a full range of services to the NJSDA, as dictated by the changing needs of the NJSDA. Due to the complex nature of the NJSDA's risk profile and competing priorities, the specific areas of participation and involvement anticipated at this time are listed below. However, this list is being provided as a guide and should not be construed as being all inclusive or limit the actual tasks to be performed by the Broker in any way.

#### **1. Property and Casualty Insurance Placement and Policy Management**

- (a) The Broker is required to provide brokerage services necessary to effectively place insurance coverage included within the NJSDA's insurance program (Business Administration Package (this includes General Liability, Business Personal Property, Electronic Data Processing Property, Valuable Papers and Extra Expense); Automobile; Worker's Compensation; Umbrella/Excess Liability; Public Officials' Liability, Cyber Liability and Employment Practices Liability; General Liability for the Real Estate Owned (REO) inventory); Active Shooter/Workplace Violence and Employee Dishonesty.
- (b) The Broker shall design policies and programs most advantageous to the Authority for coverage of exposures, policy terms and conditions, costs and other pertinent factors by negotiating with all insurers in good faith, as well as, represent all questions, issues, requests, and concerns raised by the Authority and its representatives.
- (c) The Broker shall regularly monitor and analyze the financial status of the Insurer and ascertain the Insurer's capability to continue to handle the NJSDA's Property and Casualty Insurance program.
- (d) The Broker shall receive and review all insurance policies, binders, certificates, endorsements or other documents when they are received and provide the Authority with comments relating to areas of concern, possible improvement, and alternative terms and conditions when the policies are forwarded to the Authority.
- (e) The Broker must deliver a binder of coverage for the insurance program commencing on December 14, 2020 at 12:01 a.m. Binders of coverage to effect renewal coverage in the subsequent years of this contract term shall be provided prior to the expiration of the coverage.
- (f) The Broker shall provide the NJSDA with insurance policies for the NJSDA's Property and Casualty Insurance Program within 60 days after receipt from the insurers.
- (g) The Broker shall process request for additions or deletions to policies within 5 business days of receipt and update and maintain the Authority's underwriting information/documentation outlining all exposures as directed.
- (h) The Broker shall meet with the Authority's Risk Management Division and other designated representatives, as warranted, to discuss issues affecting the Authority's risk exposures.

## **2. Claims Handling / Management Services**

- (a) The Broker shall closely monitor all of the NJSDA's Property and Casualty Insurance claims to ensure that such claims are handled promptly and properly. The Broker shall manage all claims to their conclusion.
- (b) The Broker shall advocate any aspect of claims management for the NJSDA's insurance coverage with the insurers and assist with disputed claims or those having significant impact or severity.
- (c) The Broker shall assist the NJSDA and its employees with claims and coverage inquiries.
- (d) The Broker shall review claims analysis and loss history with the NJSDA on an as requested basis.

## **3. Risk Management Consultant Services**

- (a) The Broker shall provide ongoing assistance in identifying and analyzing the NJSDA's exposure to loss as part of the NJSDA's insurance and risk management assessment, prioritizing significant exposures to risk and providing recommendations to eliminate or minimize risk and the possible placement of insurance coverage as agreed upon by the NJSDA.
- (b) The Broker shall provide marketing of potential ancillary coverages, such as Real Property, as necessary based on the Authority's business activities.

## **APPENDIX C**

### **COMPENSATION – PRICE PROPOSAL**

**APPENDIX D**  
**INSURANCE CERTIFICATE(S)**

**APPENDIX E**  
**OTHER DOCUMENTATION**

## **APPENDIX F**

### **MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE AND ANTIDISCRIMINATION PROVISIONS**

#### **FOR NJSDA GOODS and SERVICES AGREEMENTS**

For all regulatory and statutory language cited below, all references to “contractor” shall be deemed to refer to the holder of the relevant Goods and Services, General Services or Professional Services contract.

### **MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE**

N.J.A.C. 17:27-1.1 et seq.  
(Implementing N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127))

#### **EXHIBIT A**

(For Goods, Professional Service and General Service Contracts)

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

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

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



The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

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

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

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

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

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

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

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the

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

**ATTACHMENT B**

**UNDERSTANDING OF THE PURPOSES OF THIS ENGAGEMENT FORM**

*{Please see attached}*

**UNDERSTANDING OF THE PURPOSES OF THIS ENGAGEMENT FORM**

**Present a brief understanding of the NJSDA and its insurance program needs, as described in the Scope of Services. Identify the name, address and phone number of the firm; the name, email address and phone number of the firm's contact person; and the name of the person who prepared the Qualifications Proposal. Include any other information relevant to the firm's qualifications.**

**UNDERSTANDING OF THE PURPOSES OF THIS ENGAGEMENT FORM (cont'd)**

**ATTACHMENT C**

**FIRM EXPERIENCE CASE STUDY FORM**

*{Please see attached}*

**FIRM EXPERIENCE CASE STUDY FORM**

(This form may be reproduced as necessary.)

**CASE STUDY #** \_\_\_\_\_

**PROJECT NAME:**

**PROJECT ADDRESS:**

**CONTACT NAME & TITLE FOR OWNER'S REPRESENTATIVE:**

**CONTACT PHONE NUMBER:**

**TEAM MEMBER NAME & TITLE:**

**TEAM MEMBER NAME & TITLE:**

**TEAM MEMBER NAME & TITLE:**

**TEAM MEMBER NAME & TITLE:**

**PUBLIC SECTOR :**

**PRIVATE SECTOR:**

**PROJECT COST:**

**START DATE:**

**END DATE:**

Describe the experience of the proposing firm, including experience with construction, real estate development, public entities and risk transfer strategies, through three (3) specific case studies within the last 5 years. The case studies must address examples of the proposing firm's past provision of services of the type and scale outlined in the Scope of Services. Thus, the case studies must concisely set forth the basic background information (e.g., dates and location), the scope of services provided, and results of said engagement. Please include examples of similar engagements performed with public sector clients or those similar to the NJSDA. The case studies must describe the effectiveness of the program, and the methodology used to measure such effectiveness.

**FIRM EXPERIENCE CASE STUDY FORM (cont'd)**



**ATTACHMENT D**

**KEY TEAM MEMBER LIST**

*{Please see attached}*



**ATTACHMENT E**

**KEY TEAM MEMBER RESUME FORM**

*{Please see attached}*

## KEY TEAM MEMBER RESUME FORM

**KEY TEAM MEMBER NAME:**

**FIRM NAME:**

**PROPOSED PROJECT ROLE:**

**YEARS WITH FIRM:**

**TECHNICAL SPECIALTIES:**

**PROFESSIONAL HISTORY:**

**EDUCATION:**

**PROFESSIONAL REGISTRATIONS & AFFILIATIONS:**

**KEY TEAM MEMBER RESUME FORM (cont'd)**

**Key Team Member Name:** \_\_\_\_\_

**Provide a summary of the Key Team Member's experience, which must include, but is not limited to: years of employment in your organization, total years of insurance and/or risk management consulting experience, and examples of at least three (3) representative projects in the last five (5) years for which the Key Team Member fulfilled a role similar to that proposed for this engagement. The resume should specifically address the experience the Key Team Member has had with public entity and real estate clients providing risk management/consulting, claims handling, safety and loss control services.**

**ATTACHMENT F**

**APPROACH TO PROVIDING THE REQUIRED SCOPE OF SERVICES FORM**

*{Please see attached}*

**APPROACH TO PROVIDING THE REQUIRED SCOPE OF SERVICES FORM**

The proposing firm must explain in detail its specific approach to providing each of the services specifically required in the Scope of Services. Identify your firm's primary industry segments and the percentage of business in each segment.

**APPROACH TO PROVIDING THE REQUIRED SCOPE OF SERVICES FORM (cont'd)**



**ATTACHMENT G**

**MORAL INTEGRITY QUESTIONNAIRE**

*{Please see attached}*



**MORAL INTEGRITY QUESTIONNAIRE**  
**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**  
**PROCUREMENT DEPARTMENT**  
**32 EAST FRONT STREET, P.O. BOX 991**  
**TRENTON, N.J. 08625-0991**

<b>CHECK ONE:</b> <input type="checkbox"/> OTHER <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> PROFESSIONAL SERVICES	<b>CHECK ONE:</b> <input type="checkbox"/> INITIAL <input type="checkbox"/> RENEWAL	<b>FEDERAL TAX ID#</b>  
<b>BUSINESS LEGAL NAME AND ADDRESS:</b>   <b>“ARE SATELLITE OFFICE(S) LOCATED IN NEW JERSEY”:</b> If yes, please provide address(es):	<b>TELEPHONE #</b>  	<b>DUNS # (if known)</b>  
	<b>FAX #</b>  	<b>TYPE OF BUSINESS:</b> <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> L.L.C. <input type="checkbox"/> OTHER (SPECIFY)  
	<b>E-MAIL ADDRESS</b>  	
	<b>WEB ADDRESS</b>  	

<b>If the books and accounts of the Applicant Business Concern are not at the above address, disclose the address of the location where the books and accounts are kept:</b>  	<b>NEW JERSEY DIVISION OF REVENUE &amp; ENTERPRISE SERVICES</b> <input type="checkbox"/> SBE REGISTRATION (Attach Copy) <input type="checkbox"/> MBE REGISTRATION (Attach Copy) <input type="checkbox"/> WBE REGISTRATION (Attach Copy) <input type="checkbox"/> VOB REGISTRATION (Attach Copy)
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**CONTACT PERSON**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

NOTE: Accurate, truthful and complete information will help speed the review of your questionnaire and expedite action on your Business Concern's application for Moral Integrity approval. If there is not enough space on this form to give a complete answer, attach additional sheets of paper. Please be sure that each additional sheet includes the Applicant Business Concern's name and Federal Tax ID Number to identify the page as yours and that you clearly identify the question you are answering. This application will not be sufficient to merit Moral Integrity approval if you fail to provide additional information if requested to resolve the questions about any of the disclosures made in this questionnaire.

**FOR CORPORATIONS, LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS ONLY**

Name of Registered Agent in New Jersey: \_\_\_\_\_

Address of Registered Office in New Jersey: \_\_\_\_\_

If the Applicant Business Concern is a corporation, provide the following:

Date Incorporated: \_\_\_\_\_ State in which incorporated: \_\_\_\_\_

NJ Corporate ID: \_\_\_\_\_

IF NOT A N.J. CORPORATION, SUBMIT A COPY OF THE CERTIFICATE OF AUTHORITY TO PERFORM WORK IN N.J. AS ISSUED BY THE N.J. DEPARTMENT OF THE TREASURY, DIVISION OF REVENUE, BUSINESS SERVICES.

- How long has the Applicant Business Concern done business under its present name? \_\_\_\_\_ years.
- List each other name the Applicant Business Concern has done business under in the past ten (10) years:  
 D/B/A \_\_\_\_\_ Dates Name Used: \_\_\_\_\_  
 D/B/A \_\_\_\_\_ Dates Name Used: \_\_\_\_\_  
 D/B/A \_\_\_\_\_ Dates Name Used: \_\_\_\_\_
- At any time during the past five (5) years, has the Applicant Business Concern shared office space, warehouse space, yard, plant or shop facilities, staff, equipment, telecommunications or other assets with any other business concern? (If yes, disclose the name of the other business concern and provide a description of the sharing arrangement, including the location of the facilities.)  
 YES  NO

**DISCLOSURE OF OWNERS AND KEY PERSONS**

- "Key Person" means any individual employed by the Applicant Business Concern in a supervisory capacity or empowered to make discretionary decisions with respect to bids and/or contracts with the State of New Jersey. "Key Person" also means any person who owns a beneficial interest of 10% or more in the business concern, and the managing members of limited liability companies and corporate directors and officers (e.g., president, vice presidents, secretary and treasurer.)

For purposes of this questionnaire, "supervisory capacity or empowered to make discretionary decisions" means able to bind the Applicant Business Concern to New Jersey bids and/or contracts of \$50,000 or more and/or authorized to sign checks to make payments of \$50,000 or more in connection with New Jersey contracts.

Use this table to enter identifying information for each individual who is a "Key Person" of the Applicant Business Concern. Identify any entity or business concern that owns a beneficial interest of 10% or more as well. For entities or business concerns, disregard birth date and provide federal tax identification number instead of social security number.

Name (Last, First, Middle)	Address	Birth Date (MM/DD/YYYY)	Social Security Number	Position	Ownership %

**AT ANY TIME DURING THE PAST (10) YEARS HAS THE APPLICANT BUSINESS CONCERN:**

- Been indebted to an individual or entity, other than a bank or other commercial lending institution, in the cumulative amount of \$100,000 or more? (if yes, give details, including the name of each party to the transaction, the date and the amount of indebtedness.)  
 YES  NO
- Loaned monies generated by this business concern, in the cumulative amount of \$100,000 or more, to another business concern or individual? (If yes, give details, including the name of each party to the transaction, the date and the amount of indebtedness.)  
 YES  NO
- Had an injunction, order or lien entered against it in favor of any governmental agency including, but not limited to, judgments or liens based on taxes assessed or fines and penalties imposed by any government agency? If yes, give details, including the name of the government agency, caption, date, case number or docket number, and disposition. Be sure to note any judgments or liens that have not been fully satisfied.)  
 YES  NO
- Been a party in any civil litigation or administrative proceeding alleging violation of any of the following: antitrust statutes; racketeering statutes; environmental laws; laws banning workplace discrimination; laws governing wages, hours or labor standards (i.e. Dept. of Labor); laws governing the conduct of occupations, professions or regulated industries (i.e., OSHA); or any other law indicating a lack of business integrity or honesty? (If yes, give details, including the nature of the claims and defenses, the caption, date, case number or docket number, and name of the court or agency before which the case is pending or before which it was heard and current status.)  
 YES  NO

9. Paid a fine or otherwise paid to settle any of the allegations listed in Question 8, whether with or without an admission of responsibility? (If yes, give details, including the caption, date, case number or docket number, and name of the court or agency before which the case was brought.)
- YES  NO
10. Been denied any license, permit or other similar authorization required to engage in the business concern's trade(s) or professional discipline(s), or has any such license, permit or similar authorization been suspended or revoked by any agency of federal, state or local government? (If yes, give details, including name of the licensing or permitting agency, caption, date, case number or docket number, and disposition.)
- YES  NO
11. Been suspended, debarred, disqualified, denied a classification rating or prequalification or otherwise been declared not responsible to bid on or to perform work on any public contract or subcontract? (If yes, give details, including name of the contracting agency, caption, date, case number or docket number and disposition.)
- YES  NO
12. Been required by an agreement or settlement with any governmental agency (including any school board) to refrain from bidding or proposing on any public contract? (If yes, describe the agreement and give the name of the government agency, date, caption and case number or docket number, if any.)
- YES  NO
13. Been required to engage a monitor or independent private sector inspection general (IPSIG) as a condition of being classified or prequalified, or as a condition of any contract award, or as a condition for being permitted to complete a contract? (If yes, describe the agreement and give the name of the government agency, date and the name of the monitor or IPSIG.)
- YES  NO
14. Been indicted or otherwise charged as a defendant, or named as an unindicted co-conspirator, alleged to have committed any crime or offense other than a motor vehicle offense? (If yes, give details, including the conduct alleged, the caption, date, case number or docket number, and the name of the court before which the case is pending or before which it was heard.)
- YES  NO
15. Been convicted, after trial or by plea, of any crime or offense other than a motor vehicle offense? (If yes, give details, including the crime or offense, the caption, date, case number or docket number, and name of the court before which the case was heard.)
- YES  NO
16. Filed with, or submitted to, a government agency, or to any employee or representative thereof, any document which contained a false statement or false information? Filing or submission could be by any means, including telefax, e-mail, and any other form of electronic communication. (If yes, explain. Your explanation should include a description of the document(s), the date and the name of the government agency.)
- YES  NO
17. Paid anyone other than its own key persons or its own employees commissions or finders fees to obtain contracts or work? (If yes, give details, including a description of the transaction, the name of each party to the transaction, the date and the amount of the commission or finders fee paid.)
- YES  NO
18. Given, or offered to give money, gifts or anything of value, or any other benefit, to a labor official, public official, public employee or public servant with whom the Applicant Business Concern, or any affiliated entity disclosed in this questionnaire, conducted business? (If yes, give details, including the date(s), location(s), a description of the benefit(s) and the name(s) of the individual(s) to whom the benefits were given or offered.)
- YES  NO
19. Agreed with another business concern or representative thereof to submit identical or complementary bids, prices or proposals or to otherwise not bid competitively or to withdraw or abstain from bidding or proposing? (If yes, give details, including date(s), location(s), description(s) of the contract(s) that were the subject of the bid(s), who put the contract(s) out to bid and the name(s) of the other individual(s) with whom the Applicant Business Concern or any affiliated entity disclosed in this questionnaire agreed.)
- YES  NO

**REQUIRED SUBMITTALS CHECKLIST**

- Additional attachments necessary to support disclosures made in answer to any question.
- Notarized Affidavit of the Key Person (see Question #4) submitting this Moral Integrity Questionnaire on behalf of the Applicant Business Concern.

**AFFIDAVIT**

State of: \_\_\_\_\_

County of: \_\_\_\_\_

I, \_\_\_\_\_, hereby represent and state as follows:  
*(full name)*

That I am \_\_\_\_\_ of \_\_\_\_\_, that I am duly authorized to  
*(title)* *(business concern name and Federal Tax ID Number)*

submit this Moral Integrity Questionnaire ("Questionnaire") on behalf of the Applicant Business Concern, and that I have read and understood the nineteen (19) questions asked in the previous three (3) pages.

I represent and state that the information given in response to each questions is full, complete and truthful. Further, I represent and state that truthfully answering this Questionnaire is an event entirely within my control.

I recognize that all the information submitted is for the express purpose of inducing the State of New Jersey to award a contract and/or allow the Applicant Business Concern to participate in school facilities projects financed through the Educational Facilities Construction and Financing Act as a contractor, consultant or vendor. I understand and agree that the Questionnaire and any attachments filed with the State of New Jersey shall become the property of the State.

I acknowledge that the State of New Jersey may, by means it deems appropriate, determine the accuracy, truth and completeness of the statements made in this Questionnaire and any attachments submitted with it. Therefore, I authorize the State of New Jersey to contact any entity or person named in this Questionnaire for purposes of determining the accuracy, truth and completeness of the information supplied by me on behalf of the Applicant Business Concern. If required, a photocopy of this affidavit shall be considered as effective and valid as the original as evidence of the permission given by the Applicant Business Concern for others to release information to the State for purposes of verifying the accuracy, truth and completeness of the information supplied by me.

I represent that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment. Further, I am aware that a false statement or omission made in connection with this application may subject me to civil and criminal penalties available at law and is sufficient cause for denial of the application, revocation of a prior approval or termination for cause of any school facilities project contract that may be awarded to the Applicant Business Concern.

Sworn and subscribed to before me  
on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

SIGNATURE:

\_\_\_\_\_  
(Notary Public: Not an officer of the firm)  
(Notary stamp/seal)

\_\_\_\_\_  
SIGNATURE

Name: \_\_\_\_\_  
(PRINT OR TYPE)

SSN: \_\_\_\_\_



**ATTACHMENT H**

**DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM**

*{Please see attached}*

# NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

## DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

NJSDA Contract No: \_\_\_\_\_ Project Description: \_\_\_\_\_

Bidder Name and Address: \_\_\_\_\_

### PART 1

#### **BIDDER MUST COMPLETE PART 1 BY CHECKING ONE OF THE BOXES**

#### **FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE**

Pursuant to Public Law 2012, c. 25 (codified at N.J.S.A. 52:32-55, et seq.) (the "Act"), any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the New Jersey Schools Development Authority ("NJSDA") must complete the certification below to attest, under penalty of perjury, that neither the person nor entity, nor any of its parents, subsidiaries, or affiliates, is identified on the list created and maintained by the New Jersey Department of the Treasury ("Treasury") (referred to hereinafter as the "Chapter 25 List") as a person or entity engaging in investment activities in Iran. The Chapter 25 List is located at <http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Bidders **must** review the Chapter 25 List prior to completing the below certification. **Failure to complete the certification and/or to submit a completed Disclosure form will render the Bidder's proposal non-responsive.** If the NJSDA finds a person or entity to be in violation of the law, it shall take action as may be appropriate and permitted by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and/or seeking debarment or suspension of the party.

### CHECK THE APPROPRIATE BOX

<b>A.</b> <input type="checkbox"/>	I certify, pursuant to the Act, that neither the Bidder listed above nor any of its parents, subsidiaries, or affiliates is listed on the Chapter 25 List. Disregard Part 2 and complete and sign the Certification below.
<b>B.</b> <input type="checkbox"/>	I am unable to certify as above because the Bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Chapter 25 List. I will provide a detailed, accurate and precise description of the activities in Part 2 and sign and complete the Certification below. Failure to provide such information will result in the proposal being rendered as nonresponsive and appropriate penalties, fines, and/or sanctions will be assessed as provided by law.

### PART 2

#### **PLEASE PROVIDE ADDITIONAL INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN**

If you checked Box "B" above, provide a detailed, accurate and precise description of the activities of the Bidder, or any of its parents, subsidiaries or affiliates, engaged in the investment activities in Iran below:

**ENTITY NAME:** \_\_\_\_\_

**RELATIONSHIP TO BIDDER:** \_\_\_\_\_

**DESCRIPTION OF ACTIVITIES:** \_\_\_\_\_

**DURATION OF ENGAGEMENT:** \_\_\_\_\_

**ANTICIPATED CESSATION DATE:** \_\_\_\_\_

**BIDDER CONTACT NAME:** \_\_\_\_\_

**BIDDER CONTACT PHONE NO.:** \_\_\_\_\_

*Attach Additional Sheets If Necessary.*

### **CERTIFICATION**

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Bidder, that the foregoing information and any attachments hereto, are true and complete. I acknowledge that the NJSDA is relying on the information contained herein, and that the Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the NJSDA to notify the NJSDA in writing of any changes to the information contained herein. I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the NJSDA, permitting the NJSDA to declare any contract(s) resulting from this certification void and unenforceable.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

**ATTACHMENT I**

**SOURCE DISCLOSURE CERTIFICATION FORM**

*{Please see attached}*



**SOURCE DISCLOSURE CERTIFICATION FORM**

**Bidder:** \_\_\_\_\_

**Contract No.:** \_\_\_\_\_

I hereby certify and say:

1. I have personal knowledge of the facts set forth herein and am authorized to make this Certification on behalf of the Bidder.
2. The Bidder submits this Certification as part of a bid proposal in response to the referenced solicitation issued by the New Jersey Schools Development Authority (the "Authority"), in accordance with the requirements of N.J.S.A. 52:34-13.2.
3. The following is a list of every location where services will be performed by Bidder and all subcontractors. If any of the services cannot be performed within the United States, the Bidder shall state, with specificity, the reasons why the services cannot be performed in the United States.

<b>Bidder or Subcontractor</b>	<b>Description of Services</b>	<b>Performance Location(s) by Country</b>	<b>Reason Services Cannot be Performed in U.S.</b>

4. Any changes to the information set forth in this Certification during the term of any contract awarded under the referenced solicitation or extension thereof will be immediately reported by the Bidder to the NJSDA.
5. I understand that, after award of a contract to the Bidder, it is determined that the Bidder has shifted services declared above to be provided within the United States to sources outside the United States, prior to a written determination by the NJSDA that extraordinary circumstances require the shift of services or that the failure to shift the services would result in economic hardship to the State of New Jersey, the Bidder shall be deemed in breach of contract, which contract will be subject to termination for cause.
6. I further understand that this Certification is submitted on behalf of the Bidder in order to induce the Authority to accept a bid proposal, with knowledge that the Authority is relying upon the truth of the statements contained herein and that I am under a continuing obligation from the date of this certification through the

completion of any contracts with the NJSDA to notify the NJSDA in writing of any changes to the information contained herein.

7. I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the NJSDA, permitting the NJSDA to declare any contract(s) resulting from this certification void and unenforceable.

I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

Bidder: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT J**

**OWNERSHIP DISCLOSURE FORM**

*{Please see attached}*



**STATE OF NEW JERSEY  
DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY**

**33 WEST STATE STREET, P.O. BOX 230  
TRENTON, NEW JERSEY 08625-0230**

**OWNERSHIP DISCLOSURE FORM**

**BID SOLICITATION #:** \_\_\_\_\_ **VENDOR {BIDDER}:** \_\_\_\_\_

**ALL PARTIES ENTERING INTO A CONTRACT WITH THE STATE ARE REQUIRED TO PROVIDE THE  
INFORMATION REQUESTED PURSUANT TO N.J.S.A. 52:25-24.2.**

**PLEASE NOTE THAT IF THE VENDOR/BIDDER IS A NON-PROFIT ENTITY, THIS FORM IS NOT REQUIRED.**

**PART 1**

**YES NO**

Are there any individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest in the Vendor {Bidder}?

If you answered, "YES" above, you must disclose the following: (a) the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class; (b) all individual partners in the partnership who own a 10 percent or greater interest therein; or, (c) all members in the limited liability company who own a 10 percent or greater interest therein.

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

**Attach Additional Sheets If Necessary.**

**PART 2**

**YES NO**

Of those entities disclosed above owning a 10% or greater interest in the Vendor {Bidder}, are there any individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest of those listed entities?

If you answered, "YES" above, you must disclose the following: (a) the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class; (b) all individual partners in the partnership who own a 10 percent or greater interest therein; or, (c) all members in the limited liability company who own a 10 percent or greater interest therein. Please note that this disclosure shall be continued until names and addresses of every non-corporate stockholder, and individual partner, and member, exceeding the 10 percent ownership criteria established in this act, has been identified.

Name of the entity listed above to which the disclosure below applies: \_\_\_\_\_

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

NAME	_____
ADDRESS 1	_____
ADDRESS 2	_____
CITY	_____ STATE _____ ZIP _____

***Attach Additional Sheets If Necessary.***

**PART 3**

As an alternative to completing this form, a Vendor {Bidder} with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENT K**

**CERTIFICATION OF NON-DEBARMENT FORM**

*{Please see attached}*

# NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

## CERTIFICATION OF NON-DEBARMENT FORM

NJSDA Contract No: \_\_\_\_\_

Contract Name: \_\_\_\_\_

Bidder Name: \_\_\_\_\_

Bidder Address: \_\_\_\_\_

### STATEMENT OF NON-DEBARMENT OF BIDDER OR ASSOCIATED ENTITIES

Pursuant to Public Law 2019, c.406 (codified at N.J.S.A. 52:32-44.1), I, the undersigned, being duly authorized to complete this certification on behalf of the above-named Bidder, hereby certify and attest, under penalty of perjury, that:

- The Bidder is not debarred at the federal level from contracting with the federal government; and
- None of the parent entities, subsidiaries, or affiliates identified on the *Ownership Disclosure Form* submitted by the Bidder in connection with the procurement for the above-referenced NJSDA Contract Number as owning 50% or more of the Bidder are debarred at the federal level from contracting with the federal government.

**Failure to complete and submit this Certification Form will render the Bidder's proposal non-responsive.** If the NJSDA finds a person or entity to be in violation of the law, it shall take action as may be appropriate and permitted by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and/or seeking debarment or suspension of the party.

### CERTIFICATION

*I, the undersigned, certify that I am authorized to execute this certification on behalf of the Bidder, that the foregoing information and any attachments hereto, are true and complete. I acknowledge that the NJSDA is relying on the information contained herein, and that the Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the NJSDA to notify the NJSDA in writing of any changes to the information contained herein. I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the NJSDA, permitting the NJSDA to declare any contract(s) resulting from this certification void and unenforceable.*

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_