



June 15, 2009 (Attachment D revised 6/26/09)

**REQUEST FOR PROPOSALS (RFP)**

The New Jersey Schools Development Authority (NJSDA) is seeking proposals to engage a contractor to provide HVAC preventative maintenance and repairs at NJSDA's Trenton Office, 1 West State Street, Trenton NJ 08625. NJSDA would like to engage a contractor for a one (1) year term with the option to renew for two (2) additional one (1) year terms. The option to renew for additional years is at the sole discretion of the NJSDA.

A **mandatory pre-bid meeting** will be held on Wednesday, July 1, 2009 at 10:30 AM at NJSDA, 1 West State Street, Trenton, NJ 08625. Any firm wishing to submit a proposal **must** attend the pre-bid meeting. Questions and/or concerns relating to the provisions of this procurement may be addressed pursuant to the instructions given at the pre-bid meeting. In the event that the NJSDA determines, at its sole discretion, that additional pre-bid meetings need to be held in order to increase the pool of bidders, it shall schedule subsequent pre-bid meetings.

**Completed proposal addressed to Sean Murphy, Procurement Manager, NJ Schools Development Authority, P.O. Box 991, 1 West State Street (Wachovia Bank Building), Trenton, NJ 08625 must be received on or prior to 5:00 PM, Friday, July 10, 2009. Proposal may also be emailed to [smurphy@njstda.gov](mailto:smurphy@njstda.gov).**

Any firm responding to this RFP shall thoroughly familiarize itself with the RFP to ensure responsiveness in its submission. To be considered complete, your submission must include:

1. Price Proposal (NJSDA Form 301)
2. Business Registration Certificate

The NJSDA will review all responsive proposals and determine the successful proposal based on the fee proposed and your firm's ability to complete the work in accordance with the Scope of Work.

This RFP consists of the following:

1. Attachment A: Price Proposal (NJSDA Form 301)
2. Attachment B: Scope of Work
3. Attachment C: Insurance Requirements
4. Attachment D: Preventative Maintenance Inspection Agreement

**PRICE PROPOSAL**

A firm must submit its Price Proposal (NJSDA Form 301) based on lump sum (Quarterly Preventative Maintenance) and hourly rates (Additional Repair Services) for this project. NJSDA Form 301 is included in Attachment A to this RFP.

## **EQUIPMENT SERVICE REQUIREMENTS**

A firm must submit documentation confirming that they have the equipment, both hardware and software, and training necessary to properly and effectively repair and maintain Johnson Controls TE-6700 temperature element connected to VAV Modular Assembly (VMA) 1400 Series.

## **BUSINESS REGISTRATION**

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

Any subcontracted firm must provide a firm selected as a Contractor with a copy of its business registration, which the Contractor must forward to the NJSDA. No firm selected as a Contractor may enter into any subcontract with a firm that has not provided proof of valid business registration to the selected firm, for forwarding to the NJSDA. The NJSDA shall duly file all business registrations with the other procurement documents relating to the contract. **Business registrations of proposed subcontractors, if any, are NOT required to be included in a firm’s Proposal.**

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

## **PRE-AWARD REQUIREMENTS**

After determination of the successful bidder, the NJSDA shall request the following information prior to the award of the contract:

(a) **Public Works Contractor Registration Act.** The Contractor must be properly registered pursuant to the Public Works Contractor Registration Act, N.J.S.A. 34:11-56.48 et seq.

(b) **Political Contributions.** P.L. 2005, c. 51 amended and supplemented N.J.S.A. 19:44A-20.1 et seq., and superseded Executive Order 134 (2004), addresses the effect of political contributions on State contracting. Additionally, Executive Order 117 (2008), 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. 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.

(c) **Anti-Discrimination Requirements.** In addition, the Contractor shall not discriminate in employment and shall abide by all anti-discrimination laws including those contained within N.J.S.A. 10:5-1 et seq. and all rules and regulations issued there under, including N.J.A.C. 17:27-1 et seq. **Accordingly, 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 contractor is operating under an existing Federally approved or sanctioned affirmative action program;

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

(d) **Insurance and Indemnification.** The successful firm shall be required to provide evidence of the insurance coverages required by this document, at the time of execution of the Agreement. In addition, proposing firms should take note of the provisions for indemnification of the NJSDA. Please ensure that the NJSDA (the “Authority”), the New Jersey Economic Development Authority (the “NJEDA”), the State of New Jersey, and DB Realty II are named as “additional insureds” under the required Comprehensive General Liability and the Comprehensive Automobile Liability insurance coverage.

(e) **Moral Integrity Review.** The successful firm shall be required to submit to the NJSDA one (1) original (and no copies) of a completed Moral Integrity Questionnaire for submission to the New Jersey State Police, in the form to be provided by the NJSDA. **Moral Integrity approval is a prerequisite for contract award.**

## **QUESTIONS**

Please direct all questions concerning this RFP to Sean Murphy, Procurement Manager at 609-341-5974 or [smurphy@njsda.gov](mailto:smurphy@njsda.gov).

**ATTACHMENT A**

**NJSDA FORM 301 - PRICE PROPOSAL**

**HVAC SERVICES**

Costs for services specified in the Quarterly Preventative Maintenance Scope of Work for all units on the respective year's equipment list are as follows:

<b>Preventative Maintenance Cost Year 1</b>	<b>Preventative Maintenance Cost Year 2</b>	<b>Preventative Maintenance Cost Year 3</b>

Repair services beyond those specified in the Quarterly Preventative Maintenance Scope of Work shall be billed as follows:

<b>Pay Category</b>	<b>Hourly Rate Year 1</b>	<b>Hourly Rate Year 2</b>	<b>Hourly Rate Year 3</b>	<b>Minimum Billable Hours Per Service Call</b>
Standard				
Overtime				
Holiday				

☐ By checking box and signing below, I am certifying that I will provide technicians who are properly trained and equipped to maintain and repair Johnson Controls equipment.

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

Firm: \_\_\_\_\_

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

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

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

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

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

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

## ATTACHMENT B

### SCOPE OF WORK

#### HVAC SERVICES

- Provide contracted response time of 4 hours to begin repairs of any units included in the below equipment list upon receipt of phone call requesting service.
- Quarterly Preventative Maintenance Scope of Work:
  - 1) Complete check of each unit's ability to respond to heating and cooling request.
  - 2) Provide written report on overall condition of each piece of equipment and recommend repairs or improvements.
  - 3) Complete lubrication of moving parts per manufacture's equipment specifications.
  - 4) Clean or replace all filters per manufacture's equipment specifications.
  - 5) Complete check of all units for fluid or gas leaks.
  - 6) Amperage level checks on all motors to confirm functionality.
  - 7) Inspect and repair all electrical connections, as need.
  - 8) Inspect, adjust, align or replace all belts, as required.
  - 9) Inspect and confirm proper operation of all condensation and circulatory pumps.
- Equipment List:

1 West State Street Air Conditioning Equipment List			
Quantity	Description of Equipment	Type	Make, Model
3	1 1/2 Ton Heat Pump	Console	Versatec, WaterFurnace
2	1 1/2 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
7	1 Ton Heat Pump	Console	Versatec, WaterFurnace
1	1 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
7	2 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
1	3 1/2 Ton Heat Pump	Vertical	Versatec, WaterFurnace
2	3 1/2 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
1	3 Ton Heat Pump	Console	Versatec, WaterFurnace
7	3 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
3	3 Ton, Wall Mount, Air Conditioners	Vertical	Fujitsu, AOU36CLX
2	3 Ton, Wall Mount, Air Conditioners	Vertical	Mitsubishi, PUY-A-NHA-BS
7	3/4 Ton Heat Pump	Console	Versatec, WaterFurnace
5	4 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
1	4 Ton Heat Pump	Vertical	Versatec, WaterFurnace
39	Tuttle & Bailey VAV		
39	Electronic Valve Actuator		Johnson Controls VA-7450
39	VAV Modular Assembly (VMA)		Metasys, 1400 Series
83	Temperature Elements		Johnson Controls TE-6700 Series 2nd Generation

## **ATTACHMENT C**

### **INSURANCE REQUIREMENTS**

#### **HVAC SERVICES**

XX. INSURANCE. Before any of the work hereunder is started, the Contractor, at its own cost and expense, shall procure and maintain during the performance of its work hereunder, insurance of the types and in the amounts described below. Contractor warrants that its Insurance Carriers are accurately informed regarding the business activities of the Contractor and intends to cover those business exposures. (The coverage limits below may be adjusted depending upon the work to be performed and an analysis of the insurable exposures).

XX.1 Commercial General Liability. Contractor shall maintain Commercial General Liability (CGL), and, if necessary, Commercial Umbrella Insurance with a limit of not less than \$1,000,000 each occurrence, \$1,000,000 aggregate limit for products/completed operations and \$2,000,000 general aggregate limit. If such CGL insurance contains a general aggregate limit, it shall apply separately to the Job Site.

CGL insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover 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.

The NJSDA, NJEDA, the State of New Jersey and DB Realty II shall be included as insured(s) under the CGL, using ISO additional insured endorsement under the Commercial Umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to NJSDA.

XX.2 Business Automobile Liability. Contractor shall, at its' sole cost and expense, maintain Business Automobile Liability and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). 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.

XX.3 Workers' Compensation and Employers' Liability. Contractor shall, at its own cost and expense, maintain Workers' Compensation and Employers' Liability insurance prescribed by applicable state Workers' Compensation acts and to be endorsed to include coverage for any federal or other state law that may be found to have legal jurisdiction. The Employers' liability limits (including Umbrella coverage) shall not be less than \$100,000 each accident for bodily injury by accident, \$100,000 each employee for bodily injury by disease and \$500,000 policy limit for bodily injury by disease.

XX.4 Contractors' Equipment Insurance. Any insurance policy covering the machinery and equipment of the contractor, subcontractors and subordinate subcontractors against loss by any cause shall include an endorsement providing that the underwriters waive their right of subrogation against the owner, the architect and/or engineer, the contractor and all subcontractors and subordinate subcontractors.

XX.5 Professional Liability Insurance. If the Contractor is to perform a Professional Service, they shall carry Errors and Omissions and/or Professional Liability Insurance sufficient to protect the Contractor from any liability arising out of professional obligations performed pursuant to this contract with minimum limits of \$1,000,000 per occurrence and \$3,000,000 aggregate for all operations conducted.

XX.6 Pollution Liability. In the event the Contractor efforts involve a Pollution Liability exposure, the following additional coverage is required they shall carry Pollution Liability insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 aggregate for all operations conducted. Where the Contractor is solely a Consultant, insurance coverage may be as an Endorsement to Professional Liability Policy, or it may be a separate Pollution Liability Policy. Where the Consultant performs and also utilizes the efforts of subcontractors, insurance coverage must provide a Pollution Liability Policy with a Contractor's Endorsement, which extends coverage to its subcontractors.

XX.7 Any deductible or self-insured retention, in excess of \$100,000, applicable to the aforementioned insurance shall be declared to and approved by NJSDA and written using ISO endorsement CG 03 00 (or a substitute providing equivalent terms and conditions) which otherwise requires the Contractor to be responsible for the deductible or retention.

If any of the aforementioned insurance is written on a "claims made basis", the Contractor warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of five (5) years beginning from the time the contract is terminated and 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, there should be a note "claims made retroactive date \_\_\_/\_\_\_/\_\_\_" (with the date inserted).

XX.8 Waiver of Rights. Contractor waives all rights against NJSDA and its agents for recovery of damages to the extent these damages are covered by the Commercial General Liability, Business Automobile Liability or Commercial Umbrella Liability Insurance maintained by Contractor.

If the policies of insurance purchased by Contractor as required above do not expressly allow the insured to waive rights of subrogation prior to loss, Contractor shall cause them to be endorsed with a waiver of subrogation as required above.

XX.9 Certificate of Insurance. Prior to the commencement of work hereunder, the Contractor shall furnish to NJSDA a Certificate of Insurance, executed by a duly authorized representative of each insurer, evidencing compliance with the insurance requirements set forth herein. All certificates shall provide for 30 days written notice to NJSDA prior to cancellation and/or material change of any insurance referred to therein. Failure of NJSDA to demand such certificate or other evidence of full compliance with these insurance requirements or failure of NJSDA to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this contract at NJSDA's option. Contractor shall provide certified copies of all insurance policies required within ten (10) days of NJSDA's written request for such policies. If Contractor fails to maintain the insurance as set forth herein, NJSDA shall have the right, but not the obligation, to purchase said insurance at Contractor's expense, and in connection therewith, including without limitation, NJSDA's reasonable attorneys fees, on

demand. By requiring insurance herein, NJSDA does not represent that coverage and limits will necessarily be adequate to protect Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor's liability under the indemnities granted to NJSDA in this Agreement.

XX.10 Form of Policies. All insurance policies shall be of a company or companies authorized to do business in the State of New Jersey with an A- or better rating as determined by A. M. Best Company. In addition, the Contractor may also be required to name other parties as Additional Insured 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.

XX.11 Additional Insurance. Contractor shall also provide such additional types of insurance in such amounts as NJSDA shall from time to time reasonably require. In the event that any such additional insurance is required, Contractor shall deliver two copies of each policy to Contractor.



## **ATTACHMENT D**

### **PREVENTATIVE MAINTENANCE INSPECTION AGREEMENT**

#### **HVAC SERVICES**

**Note:** The attached agreement was revised on 06/26/09. The changes consist of:

1. Paragraph 6 - The union labor reference has been removed and the Prevailing Wage Act provisions have been incorporated.
2. Paragraph 9 - Has been added.
3. Paragraph 21 - Has been added.
4. Paragraph 25 - Has been added.

## PREVENTIVE MAINTENANCE INSPECTION AGREEMENT

This Agreement is made between New Jersey Schools Development Authority ("NJSDA"), with offices located at 1 West State Street, P.O. Box 991, Trenton, NJ 08625-0991 and (Contactor), with offices located at (Address).

In consideration of the promises below, the parties mutually agree as follows

### **TERMS AND CONDITIONS**

1. The term of the Agreement is for one (1) year, with two (2) one year optional renewal terms. The option to renew can be exercised at any time by NJSDA by providing written notice to (Contactor) of its election to renew the Agreement. The initial term shall commence following the mutual execution of the Agreement by the parties.
2. The equipment to be serviced by (Contactor) under the Agreement during the course of the term(s) is located at **1 West State Street, Trenton, New Jersey 08625**, and is identified below as follows:

#### **Equipment List:**

<b>Quantity</b>	<b>Description of Equipment</b>	<b>Type</b>	<b>Make, Model</b>
3	1 1/2 Ton Heat Pump	Console	Versatec, WaterFurnace
2	1 1/2 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
7	1 Ton Heat Pump	Console	Versatec, WaterFurnace
1	1 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
7	2 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
1	3 1/2 Ton Heat Pump	Vertical	Versatec, WaterFurnace
2	3 1/2 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
1	3 Ton Heat Pump	Console	Versatec, WaterFurnace
7	3 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
3	3 Ton, Wall Mount, Air Conditioners	Vertical	Fujitsu, AOU36CLX
2	3 Ton, Wall Mount, Air Conditioners	Vertical	Mitsubishi, PUY-A-NHA-BS
7	3/4 Ton Heat Pump	Console	Versatec, WaterFurnace
5	4 Ton Heat Pump	Horizontal	Versatec, WaterFurnace
1	4 Ton Heat Pump	Vertical	Versatec, WaterFurnace
39	Tuttle & Bailey VAV		
39	Electronic Valve Actuator		Johnson Controls VA-7450
39	VAV Modular Assembly (VMA)		Metasys, 1400 Series
83	Temperature Elements		Johnson Controls TE-6700 Series 2nd Generation

The listed equipment shall be referred to collectively hereinafter as the "Equipment."

3. (Contactor) Responsibilities. (Contactor) agrees to:

- a. Provide the following quarterly preventative maintenance to the Equipment:
  - i. Complete check of each unit's ability to respond to heating and cooling request.
  - ii. Provide written report on overall condition of each piece of equipment and recommend repairs or improvements.
  - iii. Complete lubrication of moving parts per manufacture's equipment specifications.
  - iv. Clean or replace all filters per manufacture's equipment specifications.
  - v. Complete check of all units for fluid or gas leaks.
  - vi. Amperage level checks on all motors to confirm functionality.
  - vii. Inspect and repair all electrical connections, as need.
  - viii. Inspect, adjust, align or replace all belts, as required.
  - ix. Inspect and confirm proper operation of all condensation and circulatory pumps.
- b. Provide emergency service for the Equipment, whenever needed, twenty-four (24) hours a day, seven (7) days a week.
- c. Provide regularly scheduled inspections of the Equipment during the term of the Agreement.
- d. Provide the services necessary to maintain the Equipment in proper operating condition.
- e. Use qualified personnel directly employed or supervised by (Contactor). To provide normal maintenance and repairs of the Equipment, primary technicians will be trained and assigned by (Contactor). Additional technicians will be fully trained to provide back-up support.
- f. Provide NJSDA with written documentation of the service technician's daily report summarizing activities performed resulting from each inspection or repairs to the Equipment.
- g. To handle refrigerants and related materials in conformity with all applicable current and future federal and state regulations. Also, continue to respect the environment, and take proper precaution to protect NJSDA from potential liability.

- h. Take all reasonable precautions to avoid damage to property and injury to persons. All assigned technicians will be trained on special requirements specific to the Equipment.

3. NJSDA Responsibilities. NJSDA agrees:

- a. To notify (Contractor) of any unusual operating conditions and to operate the Equipment in accordance with the manufacturer's and (Contractor's) instructions.
  - b. To permit access to the building following reasonable notice from (Contractor), keep Equipment rooms free of extraneous materials, move any items necessary in order to gain access to Equipment and permit use of existing shop facilities and building services.
  - c. Not to hire or otherwise engage (Contractor's) personnel during their employment or within six (6) months of their termination of employment with (Contractor).
  - d. That (Contractor)'s scope of work shall not include the detection, identification, encapsulation, abatement, or removal of asbestos or products or materials containing asbestos or similar hazardous substances. (Contractor) has the right to discontinue work and remove its employees in the event (Contractor) encounters any such material in performing its work. (Contractor) will not return until the hazard is corrected or it is determined that no hazard exists.
4. The parties agree that the total costs for the services performed by (Contractor) for the initial term of the Agreement are not to exceed the following:

**Year One**

- a. preventative maintenance services not to exceed \$\_\_\_\_\_
- b. repairs services, as needed, not to exceed \$\_\_\_\_\_, unless (Contractor) first obtains the express written consent of NJSDA

Total costs for the services performed under the Agreement for the two optional renewal terms are not to exceed the following:

**Year Two**

- c. preventative maintenance services not to exceed \$\_\_\_\_\_
- d. repairs services, as needed, not to exceed \$\_\_\_\_\_, unless (Contractor) first obtains the express written consent of NJSDA

**Year Three**

- e. preventative maintenance services not to exceed \$\_\_\_\_\_
  - f. repairs services, as needed, not to exceed \$\_\_\_\_\_, unless (Contactor) first obtains the express written consent of NJSDA
5. The parties agree that hourly rates charged by (Contactor) for repair services by (Contactor) during the initial term of this Agreement are as follows:

**Year One**

Hourly Rate Standard	Hourly Rate Overtime	Hourly Rate Holiday
\$ _____	\$ _____	\$ _____

Hourly rates charged by (Contactor) for repair services during the optional renewal terms are as follows:

**Year Two**

Hourly Rate Standard	Hourly Rate Overtime	Hourly Rate Holiday
\$ _____	\$ _____	\$ _____

**Year Three**

Hourly Rate Standard	Hourly Rate Overtime	Hourly Rate Holiday
\$ _____	\$ _____	\$ _____

6. Except where provided otherwise in this Agreement, work will be performed during the standard work week, Monday through Friday, during the hours of 8:00 a.m. to 4:30 p.m. The (Contractor) and each of its subcontractors shall comply with the New Jersey Prevailing Wage Act Laws of 1963, Chapter 150, (N.J.S.A. 34:11-56.25 et seq.) and all amendments thereto. The (Contractor) and its subcontractors shall certify their compliance with this law on forms satisfactory to NJSDA prior to receiving payment.
7. Political Contributions. (Contactor) shall, on a continuing basis, disclose and report to the NJSDA any “contributions,” as that term is defined in P.L. 2005, c. 51 (formerly Executive Order No. 134 (2004)), made during the Term by it or any “Business Entity,” as that term is defined in P.L. 2005, c. 51, associated with the (Contractor), on the “Disclosure of Political Contribution” form provided by the NJSDA, at the time such contribution is made.
8. Political Contributions Disclosure. (Contactor) 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-20.13 (P.L. 2005, c. 271, section 3), in the event it receives

contracts in excess of \$50,000 from a public entity in a calendar year. It is (Contractor)'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).

1. (Contractor) must comply with any and all applicable Federal, State and local laws, acts, statutes, ordinances, codes, executive orders, rules and regulations in effect or hereinafter promulgated that apply to performance by (Contractor) under this Agreement. If NJSDA determines that (Contractor) has violated or failed to comply with applicable Federal, State or local laws, acts, statutes, ordinances, codes, executive orders, rules and/or regulations with respect to its performance under this Agreement, the NJSDA may withhold payments for such violation or failure and take such action that it deems appropriate until (Contractor) has complied with such laws or has remedied such violation or non-compliance to the satisfaction of NJSDA. (Contractor's) compliance with applicable Federal, State and local laws, acts, statutes, ordinances, codes, executive orders, rules and regulations and any legal requirements is mandatory and cannot be waived by NJSDA.
2. (Contractor) shall submit to NJSDA monthly invoices detailing fees, charges and expenses incurred during each month that services are rendered by (Contractor) to NJSDA under the Agreement. NJSDA shall pay invoiced amounts within thirty (30) days in accordance with the provisions set forth in the New Jersey Prompt Payment Act, N.J.S.A. 52:32-32, et seq.
3. Payment of Use Taxes. Pursuant to N.J.S.A. 52:32-44g, (Contractor) and any Subcontractor of (Contractor) and any affiliate of (Contractor) 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. (Contractor) shall provide in each contract with a Subcontractor that each such Subcontractor 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.
4. The parties agree that (Contractor) is neither an employee nor an agent of NJSDA for any purpose.

13. (Contractor) is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect NJSDA against such liability.
14. To the fullest extent permitted by law, the (Contractor) shall indemnify, protect, defend and save harmless the State of New Jersey, NJSDA, as well as their respective agents, servants, officers, directors and employees, from and against any loss, damage, injury, cost or expense; and from and against any Claim, demand, liability, lawsuit, judgment, action or other proceeding arising, to arise from, in connection with, or as a result of any of the following:
  - a. the negligent acts or omissions of (Contractor), its agents, servants, officers, employees, Subcontractors or any other person acting at (Contractor's) request, subject to its direction, or on its behalf;
  - b. 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 (Contractor), its agents, servants, officers, employees, Subcontractors or any other person acting at (Contractor's) request, subject to its direction, or on its behalf;
  - c. any gross negligence, default, or breach, of (Contractor), its agents, servants, officers, employees, Subcontractors or any other person acting at the (Contractor's) request, subject to its direction, or on its behalf;
  - d. violation or non-compliance with federal, State, local and municipal laws and regulations, ordinances, building codes (including without limitation the Americans with Disabilities Act and OSHA Environmental Protection Act) arising from the performance or non-performance of, or arising out of conditions created or caused to be created by, (Contractor), its agents, servants, officers, employees, Subcontractors or any other person acting at (Contractor's) request, subject to its direction, or on its behalf; and
  - e. (Contractor's) indemnification obligation is not limited by, but is in addition to, (Contractor's) insurance obligations contained in this Agreement.
15. (Contractor) shall hold and save NJSDA, its officers, agents, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of his contract.
16. **INSURANCE.** Before any of the work hereunder is started, (Contractor), at its own cost and expense, shall procure and maintain during the performance of its

work hereunder, insurance of the types and in the amounts described below. (Contractor) warrants that its Insurance Carriers are accurately informed regarding the business activities of (Contractor) and intends to cover those business exposures. (The coverage limits below may be adjusted depending upon the work to be performed and an analysis of the insurable exposures).

- a. Commercial General Liability. (Contractor) shall maintain Commercial General Liability (CGL), and, if necessary, Commercial Umbrella Insurance with a limit of not less than \$1,000,000 each occurrence, \$1,000,000 aggregate limit for products/completed operations and \$2,000,000 general aggregate limit. If such CGL insurance contains a general aggregate limit, it shall apply separately to the Job Site.
- b. CGL insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover 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.
- c. The NJSDA, NJEDA, and the State of New Jersey shall be included as insured(s) under the CGL, using ISO additional insured endorsement under the Commercial Umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to NJSDA.
- d. Business Automobile Liability. (Contractor) shall, at its' sole cost and expense, maintain Business Automobile Liability and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). 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.
- e. Workers' Compensation and Employers' Liability. (Contractor) shall, at its own cost and expense, maintain Workers' Compensation and Employers' Liability insurance prescribed by applicable state Workers' Compensation acts and to be endorsed to include coverage for any federal or other state law that may be found to have legal jurisdiction. The Employers' liability limits (including Umbrella coverage) shall not be less than \$100,000 each accident for bodily injury by accident, \$100,000 each employee for bodily injury by disease and \$500,000 policy limit for bodily injury by disease.
- f. (Contractor)'s Equipment Insurance. Any insurance policy covering the machinery and equipment of the contractor, subcontractors and



subordinate subcontractors against loss by any cause shall include an endorsement providing that the underwriters waive their right of subrogation against the owner, the architect and/or engineer, the contractor and all subcontractors and subordinate subcontractors.

- g. Professional Liability Insurance. If the Contractor is to perform a Professional Service, they shall carry Errors and Omissions and/or Professional Liability Insurance sufficient to protect (Contractor) from any liability arising out of professional obligations performed pursuant to this contract with minimum limits of \$1,000,000 per occurrence and \$3,000,000 aggregate for all operations conducted.
- h. Pollution Liability. In the event the (Contractor) efforts involve a Pollution Liability exposure, the following additional coverage is required they shall carry Pollution Liability insurance with minimum limits of \$1,000,000 per occurrence and \$3,000,000 aggregate for all operations conducted. Where (Contractor) is solely a Consultant, insurance coverage may be as an Endorsement to Professional Liability Policy, or it may be a separate Pollution Liability Policy. Where the Consultant performs and also utilizes the efforts of subcontractors, insurance coverage must provide a Pollution Liability Policy with a (Contractor)'s Endorsement, which extends coverage to its subcontractors.
- i. Any deductible or self-insured retention, in excess of \$100,000, applicable to the aforementioned insurance shall be declared to and approved by NJSDA and written using ISO endorsement CG 03 00 (or a substitute providing equivalent terms and conditions) which otherwise requires (Contractor) to be responsible for the deductible or retention.
- j. If any of the aforementioned insurance is written on a "claims made basis", (Contractor) warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of five (5) years beginning from the time the contract is terminated and 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, there should be a note "claims made retroactive date \_\_\_\_/\_\_\_\_/\_\_\_\_" (with the date inserted).
- k. Waiver of Rights. (Contractor) waives all rights against NJSDA and its agents for recovery of damages to the extent these damages are covered by the insurance required by this Agreement.
- l. If the policies of insurance purchased by (Contractor) as required above do not expressly allow the insured to waive rights of subrogation prior to loss,

(Contractor) shall cause them to be endorsed with a waiver of subrogation as required above.

- m. Certificate of Insurance. Prior to the commencement of work hereunder, (Contractor) shall furnish to NJSDA a Certificate of Insurance, executed by a duly authorized representative of each insurer, evidencing compliance with the insurance requirements set forth herein. All certificates shall provide for thirty (30) days written notice to NJSDA prior to cancellation and/or material change of any insurance referred to therein. Failure of NJSDA to demand such certificate or other evidence of full compliance with these insurance requirements or failure of NJSDA to identify a deficiency from evidence that is provided shall not be construed as a waiver of (Contractor)'s obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Agreement at NJSDA's option. (Contractor) shall provide certified copies of all insurance policies required within ten (10) days of NJSDA's written request for such policies. If (Contractor) fails to maintain the insurance as set forth herein, NJSDA shall have the right, but not the obligation, to purchase said insurance at (Contractor)'s expense, and in connection therewith, including without limitation, NJSDA 's reasonable attorneys fees, on demand. By requiring insurance herein, NJSDA does not represent that coverage and limits will necessarily be adequate to protect (Contractor), and such coverage and limits shall not be deemed as a limitation on (Contractor)'s liability under the indemnities granted to NJSDA in this Agreement.
  - n. Form of Policies. All insurance policies shall be of a company or companies authorized to do business in the State of New Jersey with an A- or better rating as determined by A. M. Best Company. In addition, (Contractor) may also be required to name other parties as Additional Insured 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.
  - o. Additional Insurance. (Contractor) shall also provide such additional types of insurance in such amounts as NJSDA shall from time to time reasonably require. In the event that any such additional insurance is required, (Contractor) shall deliver two copies of each policy to NJSDA.
17. (Contractor) shall not discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, inclusive, N.J.S.A. 10:5-1, et seq., and N.J.S.A. 10:5-38 and all rules and regulations issued thereunder.
18. (Contractor) shall abide by the provisions of the Americans with Disabilities Act, 42 U.S.C. §12101, and ET seq.
19. All Claims made by the (Contractor) against the NJSDA shall be governed

by the following:

- a. All Claims asserted against NJSDA by (Contractor) 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.
  - b. In the event that there is a dispute regarding any provision of the Agreement, the matter shall be submitted to the NJSDA Claims Unit.
  - c. (Contractor) shall file notice of the Claim on a form provided by the NJSDA, which form shall be completed in its entirety and signed by the (Contractor). Incomplete forms will be rejected and of 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 given within the time limits established by N.J.S.A. 59:13-5.
  - d. The NJSDA Claims Unit shall review any dispute submitted to it and make a determination. (Contractor) shall act in accordance with the determination made by the Claims Unit or may, at its option, request non-binding mediation, the costs of which shall be shared equally by the parties. The mediator shall be selected by NJSDA, with the concurrence of (Contractor). The rules of mediation shall be agreed to by NJSDA, (Contractor), and the mediator prior to the start of mediation. A failure by the parties to agree on the rules of mediation shall end the mediation process, and (Contractor) may reserve the right to assert a Claim pursuant to the New Jersey Contractual Liability Act.
20. This Agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws and principles.
21. 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.
22. Termination for Convenience by NJSDA
- a. Performance by the (Contractor) of its obligations under the Agreement may be terminated by the NJSDA, in whole or in part, whenever the NJSDA, in its sole discretion, determines that such termination is in its best interest.
  - b. Any such termination shall be effected by delivery of a "Notice of Termination" specifying the extent to which the Services under the Agreement are terminated and the date upon which such termination becomes effective.
  - c. If so terminated, (Contractor) shall be entitled only to that proportion of the compensation that the Services actually and satisfactorily performed by the (Contractor) bear to the total Services to be rendered under the Agreement, less payments previously made.
  - d. The NJSDA may negotiate with (Contractor) to establish an amount

of compensation for (Contractor)'s costs incurred in the close-out of the Agreement.

- e. Upon termination for convenience, the (Contractor) shall furnish to the NJSDA, free of charge, such close-out reports, documents, and materials as the NJSDA may reasonably require.

23. Termination for Cause

- a. Without prejudice to any other remedy, NJSDA may terminate this Agreement if (Contractor): (i) disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction; (ii) refuses or fails to supply enough properly skilled workers or proper materials; (iii) fails to make payments to Subcontractors for materials or labor in accordance with the respective agreements between the (Contractor) and the Subcontractors; (iv) fails to maintain or produce any records required by the Agreement to be so maintained or produced; (v) fails to cooperate with NJSDA where such cooperation is deemed necessary by NJSDA for the implementation of the Agreement; (vi) fails to obtain and properly maintain the level of insurance coverages outlined in this Agreement; (vii) assigns or transfers its obligations, privileges or rights under the Agreement without the prior written consent of NJSDA; (viii) makes any misrepresentation or conceals any material fact; or (ix) commences or has commenced against it any action under the United States Bankruptcy Code or any state or federal insolvency law, the commencement of which, in NJSDA's judgment, may effectively impair the ability of the (Contractor) to perform its obligations under the Agreement; or (x) violates or breaches the Agreement or any provision or material term thereof. For all such causes of termination except those contained in subsections (viii) and (ix), (Contractor) 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 NJSDA within the Notice of Termination; failure to do so shall result in termination of this Agreement. Upon termination by NJSDA, NJSDA may, without prejudice to any other rights or remedies of NJSDA, complete services under this Agreement by whatever methods NJSDA may deem appropriate.
- b. In the event this Agreement is terminated for cause, NJSDA reserves the right not to make any further payments to (Contractor) and may require (Contractor) to repay all or a portion of the monies already paid; and (Contractor) shall be obligated to take any steps necessary to enable NJSDA to complete the services itself, or for NJSDA to engage another Consultant to complete the services at (Contractor)'s own expense for the portion that exceeds the amount that would have been paid to (Contractor) for completing the services.

- c. No action by NJSDA pursuant to this section shall operate to waive or release any Claim NJSDA may have against the (Contractor) under the Agreement.

24. Assignment of the Agreement:

- a. (Contractor) shall not assign or transfer its obligations, privileges or rights under the Agreement without the prior written consent of NJSDA. Any assignment or transfer of (Contractor)'s rights under the Agreement without the prior written consent of NJSDA shall not relieve (Contractor) of any duty, obligation or liability assumed by it under the Agreement.
- b. Notwithstanding anything to the contrary, under no circumstance shall (Contractor) assign its right to receive money under the Agreement for any purpose or to any person whatsoever without the prior written approval of NJSDA or order of court.
- c. NJSDA 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, (Contractor) agrees to continue to perform all of its obligations as set forth in this Agreement. (Contractor) shall make no claim against NJSDA in the event of such assignment and shall execute such certificates, documents and instruments as may be reasonably requested by NJSDA to effect such an assignment.

25. 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 NJSDA. It is the policy of NJSDA to treat the offer of any gift or gratuity by (Contractor), its officers or employees, to any person employed by NJSDA as grounds for debarment or suspension from submitting proposals and providing Services or materials to NJSDA. The provisions cited in this Section shall not be construed to prohibit an NJSDA officer or employee from receiving gifts from or contracting with (Contractor) under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines that the Executive Commission on Ethical Standards may promulgate under the provisions contained herein. For the purposes of this Section, an "NJSDA, officer or employee," shall include special NJSDA officers or employees as defined by N.J.S.A. 52:13D-13b and 13e.

26. Changes mutually agreed upon by NJSDA and (Contractor), will be incorporated into this Agreement by written amendments signed by both parties

27. This Agreement represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

IN WITNESS WHEREOF, the Parties have executed this Preventative Maintenance Inspection Agreement on the dates noted below.

Witness:

\_\_\_\_\_

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_  
(Printed Name and Title)

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

\_\_\_\_\_

\_\_\_\_\_  
New Jersey Schools Development Authority

By: \_\_\_\_\_  
(Printed Name and Title)

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