

REQUESTS FOR PROPOSAL

for

ACTUARY SERVICES

Contract No.: GP-0234-R01

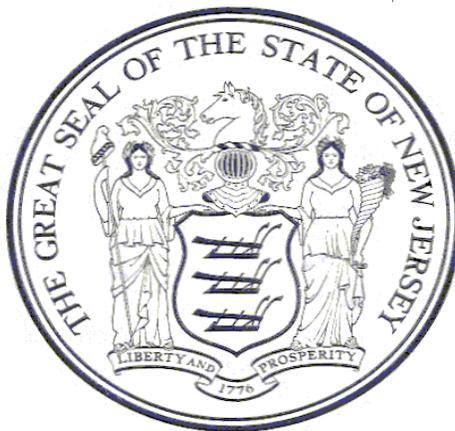
Issue Date: June 17, 2016

**Mandatory Electronic Notice of Intent to Participate Due Date:
July 1, 2016 by 2:00 PM Eastern Time**

{See the Introduction, within, for details}

**Proposal Due Date:
July 20, 2016 by 2:00 PM Eastern Time**

{See Section 1.0, within, for delivery addresses}



N.J. SCHOOLS DEVELOPMENT AUTHORITY

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

**REQUEST FOR PROPOSALS
FOR
ACTUARY SERVICES**

INTRODUCTION

Through this Request for Proposals (“RFP”), the New Jersey Schools Development Authority (“NJSDA” or the “Authority”) is seeking to engage an Actuary to provide an actuarial valuation report in accordance with Governmental Accounting Standards Board Statement No. 75 (“GASB 75”), *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*. Pursuant to the Scope of Services (Appendix B), the Actuary will be responsible for, among other things, calculating the Authority’s GASB 75 post-employment benefit liability for both active and retired employees employing standards of practice prescribed by the Actuarial Standards Board. The NJSDA currently plans to early adopt GASB 75 as of and for the year ending December 31, 2016, using a measurement date of January 1, 2016. This report will be due to the NJSDA within sixty (60) days of engagement. At the sole option of the NJSDA, the engagement may be extended to include actuarial valuation reports as of January 1, 2017 and January 1, 2018. During the term of the engagement, the NJSDA may request additional computations of the GASB 75 liability.

There is no standard NJSDA pre-qualification requirement applicable to this engagement. Firms must demonstrate experience and qualifications as more fully described below.

This REQUEST FOR PROPOSALS consists of the following items:

1. Request for Proposals
2. Attachment A: Actuary Services Agreement
3. Attachment B: NJSDA Fee Proposal Form
4. Attachment C: Moral Integrity Questionnaire
5. Attachment D: Ownership Disclosure Form
6. Attachment E: Disclosure of Investment Activities in Iran Form
7. Attachment F: Source Disclosure Certification Form

The selected Actuary shall be responsible for providing the services as outlined in the Scope of Services, included in Appendix B of the Agreement (Attachment A of this RFP). The RFP documents must be read in their entirety as they define the scope of services and responsibilities of the Actuary and the Authority. A firm wishing to submit a Proposal for Actuary Services must review and be thoroughly familiar with all terms and conditions of these documents.

Upon award, the NJSDA shall forward the Agreement for Actuary Services (the “Agreement”) to the selected firm for immediate execution, **without modification.**

Notice of Intent to Participate. The NJSDA shall not hold a traditional pre-proposal conference for this procurement. Any firm wishing to submit a proposal **must** sign in electronically by sending a mandatory e-mail Notice of Intent to Participate to Alison Perry at aperry@njsda.gov **no later than 2:00 PM Eastern**

Time on July 1, 2016.

Questions from Interested Firms. Firms may submit written questions regarding this procurement to the NJSDA by sending them by e-mail to Alison Perry at aperry@njsda.gov **no later than 2:00 PM Eastern Time on July 1, 2016.** The questions and NJSDA answers will be provided via an addendum to the RFP to each firm that submitted a timely e-mail Notice of Intent to Participate.

1.0 INSTRUCTIONS FOR SUBMITTING A TECHNICAL PROPOSAL

A firm responding to this RFP shall thoroughly familiarize itself with the RFP to ensure responsiveness in its submission. The submission is to consist of the following:

- 1.1 Cover Letter
- 1.2 Firm Experience - Case Studies
- 1.3 Organization Chart

The firm's Technical Proposal must be organized and presented in the foregoing order on 8.5" X 11" pages. Organizational charts, staffing structure, and schedules may be on larger paper. Each Technical Proposal will be ranked using the Evaluation Criteria listed in this RFP, with information contained in a Technical Proposal verified as may be necessary.

Proposal Package Mailing Instructions. The firm must submit one (1) unbound original, three (3) bound copies, and one (1) full cover-to-cover copy in PDF format on electronic media (CD or comparable) of a Technical Proposal; one (1) original, completed NJSDA Fee Proposal (in a separate envelope, which is sealed and then placed in the same package with the Technical Proposal); and one (1) original, completed Moral Integrity Questionnaire (in a separate envelope, which is sealed and then placed in the same package with the Technical and Fee Proposals). Proposal Packages must be received by the NJSDA **no later than 2:00 PM Eastern Time on July 20, 2016**, as follows:

If submitting by hand or overnight delivery, at the:

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
32 East Front Street
Trenton, New Jersey 08625-0991
Attention: Alison Perry, Procurement
Subject: Actuary Services Proposal – GP-0234-R01**

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

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
P.O. Box 991
Trenton, New Jersey 08625-0991
Attention: Alison Perry, Procurement
Subject: Actuary Services Proposal – GP-0234-R01**

Submissions received after the above date and time will not be considered. Faxed or emailed Proposals will not be accepted.

Any firm wishing to submit a Proposal must submit a timely electronic Notice of Intent to Participate, as provided in the Introduction, above.

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

1.1 Cover Letter

Present a statement that indicates that your firm can produce the required actuarial valuation report within sixty (60) days of engagement.

1.2 Firm Experience - Case Studies

Firm experience shall be assessed through a summary of the firm's general relevant experience through **no more than five (5) specific case studies**. 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 a sample of similar contracts performed with public sectors or those similar to the NJSDA**. The case studies must describe the effectiveness of the engagement, and the methodology used to measure such effectiveness. The firm must identify the name and address of the client entity and the name, title and telephone number of a contact person associated with the client entity who is familiar with and able to comment on the firm's performance.

1.3 Organization Chart

The organization chart must include all Key Team Members, their titles for this engagement and the firm they represent. In the event the proposing firm is a "joint venture," the proposing firm must indicate from which participating firm each Key Team Member originates. For the purpose of this engagement, a "Key Team Member" is a principal, partner, officer, project executive, project manager of the firm, or equivalent job title represented in the Technical Proposal as having a responsible role in the successful completion of the required Services.

2.0 INSTRUCTIONS FOR SUBMITTING A FEE PROPOSAL, MORAL INTEGRITY QUESTIONNAIRE, OWNERSHIP DISCLOSURE FORM, DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM, AND SOURCE DISCLOSURE CERTIFICATION FORM

2.1 Fee Proposal

A firm must complete and return a Fee Proposal in the form set forth in Attachment B to this RFP.

The firm must submit its Fee Proposal for: (1) a report of the January 1, 2016 measurement of the GASB 75 retiree post-employment benefit liability for the active and retired employees for the NJSDA; (2) a report of the

January 1, 2017 measurement of the GASB 75 retiree post-employment benefit liability for the active and retired employees for the NJSDA, if needed; and (3) a report of the January 1, 2018 measurement of the GASB 75 retiree post-employment benefit liability for the active and retired employees for the NJSDA, if needed.

Failure to submit such Fee Proposal will result in the disqualification of the bid and rejection of the firm's Technical Proposal.

2.2 Moral Integrity Questionnaire

At the same time as a Technical Proposal is submitted, the firm must submit to NJSDA one (1) completed Moral Integrity Questionnaire for submission to the New Jersey State Police, in the form attached as Attachment C to this RFP. NJSDA will hold all submitted Questionnaires, unopened, 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 to engagement of the firm.

2.3 Ownership Disclosure Form

At the same time as a Technical 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 Treasury, Division of Purchase and Property, which form is available as an interactive form on the Treasury website at:

<http://www.state.nj.us/treasury/purchase/forms/OwnershipFinal12-14.pdf>

If the firm is a corporation, the Ownership Disclosure Form requires the firm to set forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of any class of its stock. If the 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% or greater interest therein. If one or more such stockholder or partner in the firm is itself a corporation or partnership, then the stockholders holding 10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, 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, exceeding the 10% ownership criteria threshold established by N.J.S.A. 52:25-24.2, have been listed. The completed Ownership Disclosure Form must be submitted and included with the completed Technical Proposal.

Failure to submit such Ownership Disclosure Form will result in the disqualification of the bid and rejection of the firm's Technical and Fee Proposals.

2.4 Disclosure of Investment Activities in Iran Form

At the same time as a Technical Proposal is submitted, the firm must submit a Disclosure of Investment Activities in Iran Form, attached as Attachment E to this RFP, 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

("NJSDA") 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 ("Treasury") as a person or entity engaging in investment activities in Iran.

Failure to submit such Certification will result in the disqualification of the bid and rejection of the firm's Technical and Fee Proposals.

2.5 Outsourced Services Special Provisions

Under P.L. 2005, c. 92 (formerly Executive Order No. 129 (2004)), the NJSDA shall not award a contract to a bidder that submits a bid proposal to perform services, or to subcontract with a firm to perform services, outside the United States, unless one of the following conditions is met:

- (a) The bidder or its subcontractor provide a unique service, and no comparable, domestically-provided service can adequately duplicate the unique features of the service provided by the bidder and/or its subcontractor; or
- (b) A significant and substantial economic cost factor exists such that a failure to use the bidder's and/or subcontractor's services would result in economic hardship to the NJSDA; or
- (c) The Treasurer determines that a failure to use the bidder's and/or subcontractor's services would be inconsistent with the public interest.

Source Disclosure Requirements

All bidders seeking a contract with the NJSDA shall be required to disclose:

- (a) The location by country where services under the contract will be performed; and
- (b) The location by country where any subcontracted services will be performed.

Accordingly, at the same time as a Technical Proposal is submitted, the firm must submit a Source Disclosure Certification Form, attached as Attachment F to this RFP, filled out with the sourcing information required for itself and any proposed subcontractor.

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

If, during the term of the contract, the Actuary or 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 Actuary shall be deemed in breach of the Agreement, which shall 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.

3.0 SELECTION PROCEDURES

For this procurement, price shall be weighted as 40% of the overall weight, and all non-price factors shall have a combined weight of 60%.

Each Firm’s Technical Proposal will be reviewed to determine responsiveness. Non-responsive Proposals will be rejected without evaluation. Responsive Technical Proposals will be evaluated by a Selection Committee (“Committee”) established for the purpose of evaluating responsive Technical Proposals. 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 RFP, and any necessary verification thereof.

The members of the Selection Committee will evaluate each responsive Technical 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 Technical Proposal in all of the non-price evaluation categories described in this RFP, in accordance with the evaluation criteria described herein. Technical Proposals shall be evaluated in the following category:

- Firm Experience

Each Selection Committee Member will evaluate each Technical Proposal, assigning a raw score for each category 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 category to arrive at a total weighted category score as follows:

Technical Proposal Evaluation Category	Weighting Factor (Applied to Raw Score)	Maximum Available Points for Category
Firm Experience	10.0	100
Total Possible Technical Proposal Points:		100

For each Firm’s Technical Proposal, the individual category scores awarded by a particular Selection Committee member will be added together to calculate a score for that Technical Proposal. The maximum score for a Technical Proposal is 100.

All of the scores awarded by the Selection Committee members to a particular Firm’s Technical Proposal will be added together and averaged to arrive at a Non-Price Score for each Firm. The maximum Non-Price Score

is 100.

Once all the Non-Price Scores for all Firms have been calculated, the Authority will open the sealed Fee Proposals and will review them for responsiveness. For each Firm’s Fee Proposal, the 2016, 2017 and 2018 Full Report fees will be added together to calculate a Total Fee for that Fee Proposal. The Total Fee will be used to determine a Price Score for each responsive Fee Proposal.

The lowest responsive Fee Proposal shall be scored by awarding the maximum number of points for the price component, which shall be 100. All other Fee Proposals shall be scored by awarding points based on the percentage that each proposal exceeds the lowest Fee Proposal. For example, the following table demonstrates the method for calculation of price points:

SAMPLE Fee Proposal	SAMPLE Points Calculation
Firm #1: Price = \$ 900,000	Lowest Price = 100 points awarded
Firm #2: Price = \$1,100,000 Lowest Price - <u>\$ 900,000</u> Price Difference \$ 200,000	$\$200,000 \div \$900,000 = .22222 \times 100 = 22.222$ points $100 \text{ points} - 22.222 \text{ points} = \mathbf{77.778}$ points awarded
Firm #3: Price = \$1,200,000 Lowest Price - <u>\$ 900,000</u> Price Difference \$ 300,000	$\$300,000 \div \$900,000 = .33333 \times 100 = 33.333$ points $100 \text{ points} - 33.333 \text{ points} = \mathbf{66.667}$ points awarded
Firm #4: Price = \$1,400,000 Lowest Price - <u>\$ 900,000</u> Price Difference \$ 500,000	$\$500,000 \div \$900,000 = .55555 \times 100 = 55.556$ points $100 \text{ points} - 55.556 \text{ points} = \mathbf{44.444}$ points awarded
Firm #5: Price = \$1,000,000 Lowest Price - <u>\$ 900,000</u> Price Difference \$ 100,000	$\$100,000 \div \$900,000 = .11111 \times 100 = 11.111$ points $100 \text{ points} - 11.111 \text{ points} = \mathbf{88.889}$ points awarded

After the Price Scores are determined for all responsive firms, the Price Scores will be adjusted by a weighting factor of 40%. The Non-Price Scores for “other factors” criteria will be adjusted by a weighting factor of 60%. The Price Score and Non-Price Score for each responsive firm will then be added together for a Final Combined Score.

Once all the responsive firms’ Non-Price Scores and Price Scores are weighted and compiled, the Authority shall prepare a final ranking and determine the bidder with the highest Final Combined Score for price and the non-price “other factors” evaluative criteria, and will recommend that award be made to that firm.

**4.0 PRE-AWARD REQUIREMENTS
(INFORMATIONAL ONLY – DO NOT INCLUDE WITH RFP SUBMISSION)**

After completion of the RFP process and determination of the successful firm, the NJSDA will require the following additional information prior to the award of the contract:

4.1 Proof of Business Registration Certification

Pursuant to N.J.S.A. 52:32-44, each firm shall provide proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury (the “Division of Revenue”). Each firm may obtain New Jersey Business Registration assistance by visiting:

<http://www.state.nj.us/treasury/revenue/gettingregistered.shtml>

Please be advised, however, that business registrations are mailed generally within seven to ten days, so each firm should plan accordingly.

4.2 Campaign Contributions Disclosure and Contracting Ineligibility

The NJSDA and participants in this procurement are subject to the provisions of P.L. 2005, c. 51 (enacting N.J.S.A. 19:44-20.13 to -20.25, and amending and supplementing N.J.S.A. 19:44A-20.1 *et seq.*) which impose restrictions on State agencies and independent authorities to insulate the procurement, negotiation and award of state contracts from the risk or appearance of improper influence in connection with political contributions. Additionally, this procurement is subject to the terms of Executive Order No. 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”), and limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.

The provisions of Chapter 51 and Executive Order No. 117 (2008) make political contributors ineligible for award of state contracts for specific periods of time depending on the nature of the contribution. 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.

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

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

4.3 Annual Political Contributions Disclosure Statement

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 <http://www.elec.state.nj.us/>.

4.4 Anti-Discrimination Requirements

The Actuary and its subconsultants 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.* **Accordingly, in a Notice of Award, a firm and its subconsultants shall be required to submit to the NJSDA, with its executed Agreement, one of the following three documents:**

- (1) appropriate evidence that the Actuary 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. 17:27-4.2; or
- (3) an initial *Form AA302 - Employee Information Report* completed by the firm in accordance with N.J.A.C. 17:27-4.2. Please note the Authority only seeks a copy of the Form AA302. The original should be forwarded to the NJ Department of the Treasury, Division of Purchase & Property, Contract Compliance Audit Unit, EEO Monitoring Program as directed on the form. Forms may be downloaded at: http://www.state.nj.us/treasury/contract_compliance/forms.shtml.

4.5 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 RFP, at the time of execution of the Agreement.

4.6 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

ACTUARY SERVICES AGREEMENT

AGREEMENT

Between the

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

And

THE CONSULTANT

For

ACTUARY SERVICES

CONTRACT NO.: GP-0234-R01

THIS AGREEMENT is made and entered into this ____ day of _____, 2016 (the “Effective Date”) between the New Jersey Schools Development Authority (the “SDA” or the “Authority”), having an office located at 32 East Front Street, Trenton, New Jersey 08625-0991, and _____ (“Actuary Consultant” or “Actuary”), a _____ corporation with its principal place of business at _____.

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

Contract Number: GP-0234-R01

Project Name: Actuary Services

in strict conformity with this Agreement, which includes the following terms and conditions, as well as Appendices “A” through “F” and any other attachments hereto or matters incorporated herein by reference.

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

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

[SIGNATURES ON THE FOLLOWING PAGE]

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

ACTUARY

**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 _____, 20__:

By:
Title:

Notary Public of _____

My commission expires: _____, 20__.

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1.0 DEFINITIONS

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

- 1.1 **“Actuary”** means the firm engaged by the SDA for the Services required by this Agreement.
- 1.2 **“Additional Services”** means services other than the Services set forth in the Scope of Services on the Effective Date.
- 1.3 **“Amendment”** means an amendment to this Agreement executed by the Parties.
- 1.4 **“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.
- 1.5 **“Contractual Documents”** means all documents setting forth Actuary and SDA obligations and responsibilities and includes, but is not limited to, the RFP, the Proposal, this Agreement, any Amendments and addenda, and all exhibits and schedules attached to such documents.
- 1.6 **“Deliverable”** the report as detailed in Appendix B.
- 1.7 **“EDA”** means the New Jersey Economic Development Authority, created pursuant to P.L. 1974, c. 80, as amended (N.J.S.A. 34:1B-1 et seq.) or any successor thereto.
- 1.8 **“Effective Date”** means the date on which this Agreement became effective, and for purposes of this Agreement, as that date so identified and set forth on page 1.
- 1.9 **“Fee Proposal”** means the Fee Proposal submitted by the Actuary in response to the RFP.
- 1.10 **“Fiscal Year”** means the fiscal year of the SDA, which commences on January 1 of each year and ends on December 31 of the same year.
- 1.11 **“Notice to Proceed”** means a notice from the SDA to the Actuary, directing the Actuary to commence performing its responsibilities pursuant to this Agreement.
- 1.12 **“Office of Fiscal Integrity”** means any designee of the Attorney General performing the functions and duties of the Office of Fiscal Integrity in School Construction within the Office of the Attorney General pursuant to N.J.S.A. 18A:7G-43, as amended.
- 1.13 **“Parties”** means the Authority and the Actuary, which are the parties to this Agreement.
- 1.14 **“Program Manager”** means the SDA staff member(s) designated to manage the Actuary’s performance of Services.
- 1.15 **“Request for Proposals”** or **“RFP”** means the request issued by the Authority for proposals for the

provision of Services, including a request for a Technical Proposal and a request for a Fee Proposal.

- 1.16 **“Scope of Services”** means the scope of services required to be provided by the Actuary, as set forth in Appendix B (Scope of Services).
- 1.17 **“SDA,” “New Jersey Schools Development Authority,” or the “Authority”** means the public body corporate and politic established in, but not of, the Department of Treasury pursuant to P.L. 2007, c. 137, for the purpose of implementing provisions of the Educational Facilities Financing and Construction Act, N.J.S.A. 18A:17G-1 et seq. The SDA is the Party that has engaged the Actuary pursuant to this Agreement.
- 1.18 **“Services”** means the services performed by the Actuary pursuant to the Contractual Documents, and includes all other labor, materials and equipment provided or to be provided to fulfill such obligations.
- 1.19 **“Special Conditions”** means that document attached as Appendix A to this Agreement, and made a part thereof, as such document may be amended from time to time.
- 1.20 **“State”** means the State of New Jersey.
- 1.21 **“Technical Proposal”** means the proposal submitted by the Actuary in response to the RFP.
- 1.22 **“Term”** means the term of this Agreement, as set forth in Section 4.0.

2.0 RESPONSIBILITIES OF THE ACTUARY

2.1 General

- 2.1.1 The Actuary shall be responsible for being thoroughly familiar with: (i) GASB 75 retiree post-employment benefit liability for the active and retired employees for the SDA.
- 2.1.2 The Contractual Documents establish the obligations of the Actuary. The Services and Deliverable described in this Agreement establish the minimum obligations of the Actuary.
- 2.1.3 The Actuary understands and agrees that any change to this Agreement must be made in writing in the form of an Amendment.
- 2.1.4 Any Services performed by the Actuary, without an Amendment that differ from or are in addition to the Services prescribed by this Agreement shall be done at the Actuary’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.
- 2.1.5 The Actuary shall perform all Services in a good, skillful, and prompt manner. The Actuary shall perform the Services and provide the Deliverable consistent with the level of skill and care ordinarily exercised by members of the Actuarial profession, currently practicing under similar circumstances.
- 2.1.6 The Actuary shall, without additional compensation, cure any errors, omissions, or other deficiencies in the Deliverable. The approval of interim Deliverables shall not relieve the Actuary

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 SDA of any of its rights under the Contractual Documents or of any cause of action arising out of the Actuary's performance or non-performance under the Contractual Documents.

- 2.1.7 For all Services rendered, the Actuary shall, in accordance with generally accepted accounting principles and practices, maintain weekly payroll, overhead, cost and accounting records, as well as all other records the Actuary may customarily maintain in its business. Such records shall be maintained and made available for inspection by the SDA and the State Police (or their agents) as to all aspects of the Services provided under the Contractual Documents, whether the Services are performed by the Actuary, or any other firm. The Actuary shall retain all electronic records for a period of six (6) Fiscal Years following final payment by the SDA or the end of the Fiscal Year in which this Agreement expires, whichever occurs later. After this period, the Actuary may dispose of these records after first offering them (at no cost) to the SDA in writing; the SDA shall have thirty (30) Days within which to accept them.
- 2.1.8 The Actuary agrees that it shall assist and cooperate with the SDA 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 SDA and the Actuary 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 Actuary 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.
- 2.1.9 The Actuary shall designate a Key Team Member at the Actuary's firm, satisfactory to the Program Manager, as the Actuary Client Manager. So long as the Actuary Client Manager's performance is acceptable, he or she shall remain in charge of the firm's Services, shall represent the Actuary, and be available for general consultation throughout the Term.
- 2.1.10 The Actuary, 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.
- 2.1.11 The Actuary shall provide to the SDA 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(b), as set forth in Appendix F hereto.
- 2.1.12 Pursuant to N.J.S.A. 52:32-44(g), the Actuary 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.
- 2.1.13 Consistent with the requirements of P.L. 2005, c. 51, N.J.S.A. 19:44A-20.1 et seq., as amended ("Chapter 51")(formerly Executive Order No. 134 (2004)), the Actuary shall, on a continuing basis, have the obligation to disclose and report to the SDA any "contributions" made during the Term of the Agreement by the Actuary or any "Business Entity" associated with the Actuary on the "Disclosure of Political Contribution" form provided by the SDA, at the time such contribution is made. As part of this obligation, the selected firm shall be required to comply with

Executive Order No. 117, which was issued to enhance New Jersey's efforts to protect the integrity of government contractual decisions and increase the public's confidence in government. Executive Order No. 117 builds on the provisions of Chapter 51, which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government contractors.

- 2.1.14 Actuary 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 the Actuary's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.
- 2.1.15 The Actuary shall have a continuing duty to comply with the provisions of N.J.S.A. 52:34-13.2 (P.L. 2005, c. 92 (formerly Executive Order No. 129 (2004))), as applicable. By executing this Agreement, the Actuary agrees that all Services performed by the Actuary pursuant to this Agreement shall be performed within the United States. If, during the Term, the Actuary proceeds to shift the performance of the Services outside of the United States, the Actuary shall be deemed in breach of the Agreement, which shall be subject to termination for cause, unless the SDA 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 SDA or the State.

2.2 Final Release

The Actuary's acceptance of final payment shall constitute a final release from and waiver of all the Actuary's Claims except for: (i) those Claims the Actuary 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 Actuary by third parties; and (iii) those Claims arising after final payment due to an alleged breach by the SDA of any Agreement provision that survives after the Term.

3.0 COMPENSATION

3.1 General Provisions

- 3.1.1 The Actuary shall be compensated in accordance with the Agreement in accordance with the proposal dated July 20, 2016, attached hereto as Appendix C.
- 3.1.2 The compensation specified in Appendix C shall compensate the Actuary in full for all Services rendered pursuant to the Contractual Documents.
- 3.1.3 The Actuary shall be paid as invoices are submitted, subject to the provisions of Section 3.2.
- 3.1.4 The Actuary shall be paid after invoices are submitted and approved. Acceptance or approval of, or payment for, any of the Services performed by the Actuary under the Contractual Documents shall not constitute a release or waiver of any Claim the SDA has or may have for latent defects, errors, breaches, or negligence.
- 3.1.5 All payments for Services under the Contractual Documents will be made only to the Actuary.

- 3.1.6 Unless otherwise set forth in writing by the SDA, prices quotes shall be firm and not subject to increase during the Term.
- 3.1.7 The SDA assumes no responsibility for costs the Actuary incurred prior to the Effective Date, and thereafter only as explicitly set forth in the Contractual Documents.

3.2 Invoices

- 3.2.1 Invoices for Services shall be submitted on a form approved by the SDA or, if directed by the SDA, shall be submitted electronically via a dedicated website or web page. Invoices shall be accompanied by such supporting documentation as may be required by the SDA.
- 3.2.2 Invoices submitted to the Program Manager must identify this Agreement's contract number.
- 3.2.3 Invoices submitted to the Program Manager shall be processed and paid only after the Program Manager 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 SDA shall not pay invoices if the Program Manager determines that the Services for which payment is sought are incomplete or non-compliant with the Contractual Documents or the Invoice is materially non-compliant.
- 3.2.4 All invoices shall be accompanied by appropriate detailed backup to ensure billing accurately represents work incurred.
- 3.2.5 If Actuary submits any false or fraudulent Invoice to the SDA for payment, Actuary shall be held liable and subject to all penalties and damages under New Jersey's False Claims Act, N.J.S.A. 2A:32C-1, et seq.
- 3.2.6 In the event of a dispute between the SDA and the Actuary as to whether an amount is owed for certain Services, or as to whether an amount has been reasonably withheld by the SDA, the SDA shall pay all amounts that are not in dispute but shall not be required to pay the amount that is in dispute until the parties settle or otherwise resolve such dispute. The Actuary shall continue to perform all of its obligations under this Agreement notwithstanding such dispute.
- 3.2.7 Actuary shall receive payment from the SDA by one of the following electronic payment methods: (1) the Automated Clearing House ("ACH") payment system, or (2) wire transfer. Any fees or costs associated with the use of either of the listed electronic payment methods shall be solely the Actuary's responsibility. Actuary may obtain the documents required to use either electronic payment method from the SDA's website. Actuary shall provide to the SDA all documents necessary to use the electronic payment method selected before any payment will be made to the Actuary by the SDA.

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

- 3.3.1 If the Program Manager determines that any Services are incomplete or unsatisfactory, or if the Program Manager determines that Deliverables have not been delivered at the times and in the manner and form specified in the Contractual Documents, the SDA will return the relevant invoice to the Actuary, who shall resubmit the invoice once all of the Services have been

completed or corrected or the Deliverables have been delivered. The withholding of payments does in no way effect SDA's rights to pursue termination under Section 6.

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 SDA of the Actuary's obligation to timely furnish fully compliant Services, inclusive of Deliverables, as required under the Contractual Documents. In the event the Actuary fails to timely furnish fully compliant Services, inclusive of Deliverables, the SDA shall, in addition to, and not in lieu of, the sums withheld in accordance with this Section 3.3, have those rights and remedies provided by law, equity or elsewhere.

3.3.3 In addition to any other right to withhold payments under this Agreement, after timely notice thereof, the SDA shall have the right to withhold from payments due the Actuary such sums as necessary to protect the SDA against any loss or damage which may result by reason of: (a) any willful misconduct or wanton or negligent act, error or omission by the Actuary, or any of its employees, representatives or agents which gives, or may give, rise to a claim by the SDA or by some other person or entity against the SDA; (b) the Actuary's breach of any of its material obligations under the Contractual Documents; (c) reasonable evidence that the Actuary will not complete the Services required by the Contractual Documents within the Term of this Agreement, and that the unpaid balance will not cover the actual damages suffered for the delay; and (d) the Actuary's inability or failure to complete any of the Services required by the Contractual Documents.

4.0 TERM

Unless terminated sooner under Section 6 of this Agreement, the Term of this Agreement shall extend from the Effective Date for sixty (60) days or to such extended time when all obligations of the Actuary to deliver Services pursuant to this Agreement have been performed to the satisfaction of the SDA, unless at the sole option of the SDA, it is extended for the 2017 report and 2018 report, in which case the Term shall extend from the Effective Date through such additional period or until all obligations of the Actuary to deliver Services pursuant to this Agreement have been performed to the satisfaction of the SDA, whichever occurs later.

5.0 GENERAL COVENANTS

5.1 Insurance

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

5.1.2 The Actuary shall maintain, and/or cause their sub-consultants to maintain, at their own cost and expense, the following insurance coverage / policies insuring the Actuary, its employees, sub-consultants and agents. The Actuary 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 Actuary shall have incorporated a provision, in accordance with the laws of the State of New Jersey, requiring written notice to the SDA at least thirty (30) Days prior to cancellation or non-renewal of any insurance coverage required under this Section. The Actuary warrants that if the insurer or coverage is not subject to the provisions requiring (30) day prior notification, that it will notify the SDA in writing of any cancellation or non-renewal of any insurance coverage required under this Section. Any

and all deductibles shall be paid by the Actuary. The Actuary warrants that its insurance carriers are accurately informed regarding the business activities of the Actuary and intend to cover those business exposures. All insurance policies, exclusive of Professional Liability, Workers' Compensation and Business Auto Liability, shall name the SDA as Additional Insured and will include a Waiver of Subrogation. All policies of insurance provided by the Actuary shall be written on a primary and non-contributory basis. In addition, the Actuary 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. The types and minimum amounts of insurance required are as follows:

- 5.1.2.1 Professional Liability Insurance (Errors & Omissions). The Actuary shall maintain Professional Liability Insurance with coverage retroactive to the Effective Date, sufficient to protect the Actuary from any liability arising from the Services and professional obligations performed pursuant to this Agreement in an amount not less than \$1,000,000 per claim and \$1,000,000 in the aggregate for all operations conducted. The Actuary warrants they will notify the SDA in writing of any reduction in the aggregate coverage within thirty (30) days. The Actuary 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 Actuary shall maintain Commercial General Liability Insurance (CGL), and, if necessary, Commercial Umbrella Insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate limit for products/completed operations and \$4,000,000 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 SDA, 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 Actuary 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 SDA.
- 5.1.2.3 Worker's Compensation Insurance. The Actuary 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 Actuary 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 Actuary 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).

- 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 SDA, evidencing compliance with the insurance requirements. An insurance certificate must be submitted to evidence each insurance renewal required by this Section. Failure of the SDA to demand such certificates or other evidence of full compliance with the insurance requirements set forth herein or failure of the SDA to identify a deficiency in the insurance provided shall not be construed as a waiver of the Actuary's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Agreement at the SDA's sole option. The Actuary shall provide certified copies of all insurance policies, including any and all amendatory endorsements, within ten (10) Days of the SDA's written request for such policies.
- 5.1.4 Liability in Excess of Coverage. By executing this Agreement, the Actuary expressly agrees that any insurance protection required herein or by the Actuary's Documents shall in no way limit the Actuary's obligations under this Agreement or the Actuary's Documents and shall not be construed to relieve the Actuary from liability in excess of such coverage, nor shall it preclude the SDA from taking such other actions as are available to it under other provisions of this Agreement or the Actuary's Documents or otherwise in law or equity. By requiring insurance herein, the SDA does not represent that coverage and limits will necessarily be adequate to protect the Actuary, and such coverage and limits shall not be deemed as a limitation on the Actuary's liability under this Agreement.
- 5.1.5 Right to Remedy. If the Actuary 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 SDA may: (i) purchase insurance at the Actuary'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 Actuary and the SDA; (iv) suspend performance by the Actuary under this Agreement; or (v) terminate this Agreement. Any funds retained pursuant to this Section may be used, at the SDA's discretion, to renew or purchase the Actuary's insurance for the periods and amounts as set forth in this Agreement. In the event the SDA purchases said insurance the SDA may, at its discretion, reduce the Actuary's Compensation under this Agreement by the amount paid for such insurance plus reasonable attorney's fees.
- 5.1.6 Additional Insurance. The Actuary shall also provide such additional types of insurance in such amounts as the SDA shall reasonably require. In the event that any such additional insurance is required, the Actuary shall deliver certified copies of each policy to the SDA within ten (10) days of the SDA's written request for such insurance.
- 5.1.7 Waiver of Subrogation. The Actuary waives all rights of subrogation and recovery against the SDA, agents or employees of the SDA to the extent these damages are covered by the CGL, Business Automobile Liability or Commercial Umbrella Liability Insurance obtained by the Actuary. If the policies of insurance purchased by the Actuary as required above do not expressly

allow the insured to waive rights of subrogation prior to loss, the Actuary 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 SDA and written using ISO endorsement CG 03 00 (or a substitute providing equivalent terms and conditions). The Actuary shall not be permitted to have a SIR larger than \$100,000 unless it obtains the express, written consent of the SDA 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 Actuary 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 SDA and the Actuary 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 Actuary shall insert a note "claims made retroactive date ___/___/___" (with the date inserted).

5.2 Ownership of Documents

- 5.2.1 In consideration of the SDA's execution of this Agreement and for other good and valuable consideration, all Deliverables shall be the sole property of the SDA.
- 5.2.2 The Actuary's promotional and professional (or other) materials shall not include SDA information of any kind, except with the written consent of the SDA.

5.3 Copyrights and Patents

- 5.3.1 If the Actuary 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 Actuary 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 Actuary shall defend, indemnify and save harmless the SDA 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 SDA 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. The use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in performing Services.

5.4 Confidentiality

- 5.4.1 All data contained in documents supplied by the SDA or by any other party under an SDA contract or otherwise involved in the School Construction Program and data gathered by the Actuary in fulfillment of the Contractual Documents and any analyses thereof (whether in fulfillment of the Contractual Documents or not), are to be considered strictly confidential and

shall be solely for use in connection with the provision of the Actuary's Services to the SDA. The foregoing notwithstanding, the SDA will comply with all applicable laws with regard to disclosing government documents within the meaning of N.J.S.A. 47:1A-1 et seq.

- 5.4.2 The Actuary shall not disclose to any third party the contents of the information, reports, findings, analyses, surveys, data or any other materials generated or produced in performance of this Agreement, or provide copies of same, without the prior, written consent of the SDA, except where disclosure of such materials are legally required by order of court or administrative agency, whether State or Federal, in which case the Actuary shall provide immediate notice to the SDA of such order.
- 5.4.3 The Actuary is required to use reasonable care to protect the confidentiality of all data and information supplied by the SDA to the Actuary. Any use, sale or offering of this data in any form by the Actuary, its employees, or assignees will be considered a material breach of this Agreement. The Actuary shall be liable for any and all damages arising from its breach of this confidentiality provision, including damages, costs and/or attorneys' fees. The SDA shall also have the right to terminate this Agreement for cause in the event of a breach of this confidentiality provision without the SDA being liable for damages, costs and/or attorney's fees.
- 5.4.4 The Actuary's promotional and professional (or other) materials shall never include the SDA's confidential or proprietary information.

5.5 Contractual Relationship

- 5.5.1 The Actuary's status shall be that of an independent contractor, not an employee of the SDA. The Actuary 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 SDA by reason hereof. The Actuary shall not, by reason hereof, make any Claim, demand or application to any SDA officer or employee for any right or privilege afforded to an SDA officer or employee, including, but not limited to, workers' compensation, unemployment or other insurance benefits, social security coverage, or retirement membership or credit.
- 5.5.2 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, SDA, or any combination thereof, which supplies materials, labor, services or equipment to the Actuary for the performance of Services shall become thereby a third party beneficiary of the Contractual Documents.
- 5.5.3 The Parties hereby agree that the duties and obligations of the Contractual Documents shall be binding upon themselves, their partners, subsidiaries successors, and assigns.

5.6 Assignment

- 5.6.1 The Actuary shall not assign or transfer its obligations, privileges or rights under the Contractual Documents without the prior written consent of the SDA. Any assignment or transfer of the Actuary's rights under the Contractual Documents without the prior written consent of the SDA shall not relieve the Actuary 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 Actuary 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 SDA or order of court.

5.6.3 The SDA 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 Actuary agrees to continue to perform all of its obligations as set forth in this Agreement. The Actuary shall make no Claim against the SDA in the event of such assignment and shall execute such certificates, documents and instruments as may be reasonably requested by the SDA to effect such assignment.

5.7 Mergers, Acquisitions, and Dissolutions

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

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

5.7.3 If the SDA approves a merger or acquisition, the Actuary shall submit to the SDA: (i) corporate resolutions prepared by the Actuary and the new entity ratifying acceptance of the Contractual Documents; (ii) information necessary to ensure that the new entity satisfies the SDA'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 SDA may require.

5.7.4 If the SDA approves a dissolution, the Actuary shall submit to the SDA: (i) a copy of the corporate resolution(s), or the written statement(s) of the partnership, general partner, receiver or custodian thereof, or the written agreement(s) of the principal parties of a joint venture to dissolve the SDA, partnership or joint venture, respectively; (ii) information necessary to ensure that the new entity satisfies the SDA'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 SDA may require.

5.8 Mandatory Compliance With Law

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

5.8.4 The Actuary'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 SDA.

5.9 Affirmative Action and Non-discrimination

5.9.1 The Actuary shall abide by affirmative action rules established by the SDA pursuant to Sections 6 and 36 of the legislation creating the SDA, P.L. 2007, c. 137, and any rules and regulations associated therewith.

5.9.2 The Actuary shall not discriminate in employment and shall abide by all anti-discrimination laws, including those set forth in New Jersey's Law Against Discrimination, N.J.S.A. 10:5-1 et seq., and all rules and regulations issued thereunder. During the performance of this Agreement, the Actuary agrees as follows:

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

5.9.2.2 The Actuary will in all solicitations or advertisements for employees placed by or on behalf of the Actuary, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affection or sexual orientation or sex;

5.9.2.3 The Actuary will send to each labor union or representative of workers with which they have a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Actuary's commitments under this act [N.J.S.A. 10:5-1 et seq.] and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5.9.2.4 The Actuary, when applicable, shall comply with the regulations promulgated by the

State Treasurer pursuant to P.L. 1975, c. 127 (N.J.S.A. 10:5-31 et seq.) as amended and supplemented from time to time, and with the Americans With Disabilities Act, 42 U.S.C. § 12101 et seq., with respect to its employment practices;

5.9.2.5 The Actuary agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 70 (N.J.S.A. 10:5-31 et seq.), as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Division of Contract Compliance & EEO pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127 (N.J.S.A. 10:5-31 et seq.);

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

5.9.2.7 The Actuary agrees to revise any of its testing procedures, if necessary, to ensure that all personnel testing conforms to 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;

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

5.9.2.9 The Actuary shall furnish such reports or other documents to the Division of Contract Compliance & EEO 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 Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

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

5.10 Anti-collusion

5.10.1 The Actuary, 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 SDA.

- 5.10.2 The penalty for breach or violation of this Section 5.10 may, at the sole option of the SDA, result in: (i) the termination of this Agreement without the SDA being liable for damages, costs and/or attorney fees; and/or (ii) a deduction from the payments to be made by the SDA pursuant to this Agreement.

5.11 Conflict of Interest

- 5.11.1 The Actuary 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 EDA or SDA officer or employee with which the Actuary transacts, or offers or proposes to transact, business; or (ii) any member of the immediate family (defined by N.J.S.A. 52:13D-13(i)) of any such EDA or SDA officer or employee; or (iii) any partnership, firm or SDA with which such EDA or SDA 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-13(g).
- 5.11.2 The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any EDA or SDA officer or employee from the Actuary shall be reported in writing forthwith by the Actuary to the State Attorney General and the Executive Commission on Ethical Standards.
- 5.11.3 The Actuary 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 Actuary to, any EDA or SDA officer or employee having any duties in connection with the purchase, acquisition or sale of any property or services by or to the SDA; and shall not undertake any such relationship with, or sell any such interest to, any person, firm or entity with which such EDA or SDA officer or employee is employed or associated, or in which such EDA or SDA officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13(g). Any relationship subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the SDA 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 Actuary shall not cause or influence or attempt to cause or influence, any EDA or SDA 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 Actuary or any other person.
- 5.11.5 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 SDA. It is the policy of the SDA to treat the offer of any gift or gratuity by the Actuary, its officers or employees, to any person employed by the SDA as grounds for debarment or suspension from submitting proposals and providing work or materials to the SDA.
- 5.11.6 The provisions cited in this Section 5.11 shall not be construed to prohibit an EDA or SDA officer or employee from receiving gifts from or contracting with the Actuary 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.

5.11.7 For the purposes of this Section 5.11, an “SDA officer or employee” shall include special SDA officers or employees as defined by N.J.S.A. 52:13D-13(b) and -13(e).

5.12 Indemnification

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

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

5.12.1.3 any gross negligence, default, or breach, of the Actuary, its agents, servants, officers, employees, or any other person acting at the Actuary’s request, subject to its direction, or on its behalf; and

5.12.1.4 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, the Actuary, its agents, servants, officers, employees, or any other person acting at the Actuary’s request, subject to its direction, or on its behalf.

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

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

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

6.0 TERMINATION AND SUSPENSION

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

6.1 Termination for Convenience of the SDA

- 6.1.1 Performance by the Actuary of its obligations under the Contractual Documents may be terminated by the SDA in accordance with this Section 6.1 in whole or in part, whenever the SDA, in its sole discretion, determines that such termination is in its best interest.
- 6.1.2 Any such termination shall be effected by delivery of a "Notice of Termination" specifying the extent to which the Services under the Contractual Documents are terminated and the date upon which such termination becomes effective.
- 6.1.3 If so terminated, the Actuary shall be entitled only to that proportion of the compensation that the Services actually and satisfactorily performed by the Actuary bear to the total Services to be rendered under the Contractual Documents, less payments previously made.
- 6.1.4 Upon termination for convenience, the Actuary shall furnish to the SDA, free of charge, such close-out reports, documents, and materials as the SDA may reasonably require.

6.2 Termination for Cause

- 6.2.1 Without prejudice to any other remedy, the SDA may terminate this Agreement if the Actuary: (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 maintain or produce any Deliverables or records required by the Contractual Documents to be so maintained or produced; (iv) fails to cooperate with the SDA where such cooperation is deemed necessary by the SDA for the implementation of the Contractual Documents; (v) fails to obtain and properly maintain the level of insurance coverage outlined in Section 5.1; (vi) assigns or transfers its obligations, privileges or rights under the Contractual Documents without the prior written consent of the SDA; (vii) makes any misrepresentation or conceals any material fact; or (viii) 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 SDA's judgment, may effectively impair the ability of the Actuary to perform its obligations under the Contractual Documents; (ix) fails to timely provide any Services required under this Agreement; or (x) materially violates or breaches the Contractual Documents or any provision or material term thereof. Such a termination shall be called a "Termination for Cause."
- 6.2.2 Any such Termination for Cause shall be effected by delivering a "Notice of Termination for Cause," specifying the extent to which the Services under the Contractual Documents are terminated and the date upon which such termination becomes effective.
- 6.2.3 For all such causes of termination except those contained in subsections 6.2.1(vii) and (viii) and those as to which a cure is not feasible, the Actuary may avoid termination if, within seven (7) Days of Notice of Termination for Cause, it commences correction of such default, neglect or violation, with diligence and promptness, fully curing same within the time prescribed by the SDA within the Notice of Termination for Cause. Failure of the Actuary to commence an effective

means of correction of its default, neglect or violation within seven (7) days of receipt of the Notice of Termination for Cause, or to cure same within the time prescribed by the SDA, shall result in a warranted and justified termination of this Agreement for cause, and the SDA shall confirm in writing to the Actuary the fact of its termination.

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

6.2.5 In the event this Agreement is terminated for cause pursuant to this Section 6.2, the SDA reserves the right not to make any further payments to the Actuary and may require the Actuary to repay all or a portion of the monies already paid. The Actuary, at its own expense, shall be obligated to take any steps necessary to enable the SDA to complete the Services itself, or for the SDA to engage another actuary to complete the Services. Such steps may include, but are not limited to, the prompt delivery to the SDA of all Deliverables, documents or other items identified herein. If the payments then or thereafter due to Actuary are not sufficient to cover the SDA's cost to complete the Services itself or by means of another actuary, the Actuary shall pay, within ten (10) days, to the SDA the difference between what the SDA would have paid the Actuary and the SDA's actual expense to complete, in addition to any other re-procurement expense, inclusive of professional fees incurred, inclusive of monies paid to the Actuary and the SDA's legal counsel and the SDA's own administrative or in-house expenses. If the SDA is required to file a legal action against Actuary in order to recover monies owed by Actuary on account of its Termination for Cause, Actuary shall be liable to the SDA for all legal fees so incurred, as well as all other litigation costs incurred. Further, Actuary shall be liable to the SDA for interest on all monies due and owing from Actuary to the SDA under this Section or any other Section of this Agreement.

6.2.6 No action by the SDA pursuant to this Section 6.2 shall operate to waive or release any Claim the SDA may have against the Actuary under the Contractual Documents.

6.3 Suspension for Convenience of the SDA

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

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

6.3.2.1 If the SDA determines that the Services have been suspended for a period cumulatively totaling less than forty-five (45) Days, there shall be no additional compensation paid to the Actuary.

6.3.2.2 If the SDA determines that the Services have been suspended for a period cumulatively totaling forty-five (45) Days or more, and if the SDA determines that the suspension has resulted from no fault of the Actuary, the Parties shall amend this Agreement to cover the remaining Services to be performed. Such Amendment shall

provide a compensation adjustment in an amount equal to the reasonable, direct, foreseeable and out-of-pocket cost actually incurred by the Actuary, due solely to the suspension period exceeding forty-four (44) Days, taking into account, Actuary's duty to mitigate such costs. No such Amendment will change other terms of the Contractual Documents.

- 6.3.3 When the SDA has determined that a suspension is the fault of the Actuary, the SDA may, at its sole option, suspend all payments to the Actuary. Payment may be reinstated by the SDA 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 SDA 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 SDA's Right to Carry Out the Services

- 6.4.1 If the Actuary 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 SDA may take steps to remedy such failure without prejudice to any other remedy the SDA may have. In such case, an appropriate written notice shall be issued deducting from the payments then or thereafter due the Actuary the cost of correcting such failure, including compensation for other Professional Services Actuary additional services made necessary by such failure. If the payments then or thereafter due the Actuary are not sufficient to cover such amount, the Actuary shall pay the difference to the SDA upon demand. A failure to timely honor such payment demand shall entitle the SDA to interest and, if the SDA files suit to collect, the SDA shall be entitled to recover its litigation costs, inclusive of its counsel fees.

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

6.5 Unacceptable Services; Duty to Cure Errors and Omissions

- 6.5.1 The SDA shall give the Actuary written notice as soon as practicable after it becomes aware of an error or omission by the Actuary. If the SDA 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 Actuary shall correct and revise the unacceptable Services under the SDA's direction at no cost to the SDA. The corrected and revised Services shall be resubmitted to the SDA for approval.

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

7.0 CLAIMS

All Claims by the Actuary against the SDA shall be governed by the following provisions.

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

7.2 **Notice of Claim.** The Actuary shall file notice of its Claim on a form provided by the SDA (Form 505 Notice of Claim), which form shall be completed in its entirety and signed by the Actuary. 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. Actuary must file the necessary forms as required by this Section to comply with the New Jersey Contractual Liability Act and in order to begin the administrative process for the review of Claims by the Actuary.

7.3 **Review of Claims.** The administrative process for review of Claims is sequential in nature and mandatory. The SDA’s Claims procedure is composed of the following steps:

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

A legal action may only be filed by the Actuary after this two-step process has been exhausted or waived in writing by the SDA.

7.4 **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 Actuary submits a written objection to the prior step and requests that its Claim proceed to the next step. If at any step in the process a Claim is resolved, the Actuary must sign a full and final release as to any and all matters arising from the Claim.

7.5 **Step One: The SDA’s Review.**

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

7.5.2 **SDA Review and Decision.** At the option of the SDA, a meeting may be scheduled with the Actuary to discuss the Claim. The SDA shall render its decision regarding the Claim in writing within ninety (90) Days of the receipt of the complete supporting documentation or within ninety (90) Days of any meeting between the Actuary and the SDA, whichever is later. This time limit may be extended by mutual agreement of the Parties or by the SDA, when additional time is required by the SDA to properly review and respond to the Claim.

The Actuary, within fifteen (15) Days of the receipt of the decision by the SDA, shall accept or reject the SDA's decision in writing. If the Actuary neither accepts nor rejects in writing the SDA's decision within fifteen (15) Days, the SDA will consider the Step One process administratively closed, and the claim will be eligible for Step Two Non-binding mediation, if a request for mediation is made by the Actuary in the time and manner indicated in the following section.

7.6 **Step Two: Non-Binding Mediation.** If the Actuary rejects in writing the decision of the SDA, there is no further automatic administrative review of the Claim. Within fifteen (15) Days after issuance of the SDA's decision, the Actuary 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, non-binding mediation. Such request for mediation must be in writing and must identify with specificity the Claims to be mediated. No Claim will proceed automatically to Step Two and the Actuary 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 Actuary and the SDA. The mediator shall be selected by the SDA, with the concurrence of the Actuary. The rules for the mediation shall be agreed to by the SDA, the Actuary 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 Actuary hereby represents as follows:

- 8.1** The Actuary 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 Actuary is able to furnish the workplace, tools, materials, supplies, equipment and labor necessary to complete the Services and perform all of its obligations under the Contractual Documents, and has sufficient experience and competence to do so.
- 8.3** The Actuary 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 Actuary and the Services it will be performing.
- 8.4** The Actuary's execution of and performance under this Agreement are within its duly authorized powers.
- 8.5** The Actuary certifies that it has satisfied itself, from its own investigation, of the conditions to be met, and that it fully understands its obligations and agrees that it will not make any Claim for, or have right to, cancellation or relief from the Contractual Documents without penalty because of its misunderstanding or lack of information.
- 8.6** The Actuary certifies that all representations made by it in any of the Contractual Documents are true, subject to penalty of law. The Actuary 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 Actuary understands and agrees that the Actuary'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 Actuary's enforcement of its rights under the Contractual Documents, including any and all Claims at law or equity.

- 8.7** The Actuary and any firm it has subcontracted has provided to the SDA 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 Actuary shall not enter into any subcontract with a firm that has not provided it and the SDA with proof of such valid business registration.
- 8.8** Actuary assumes full responsibility to the SDA for the acts and omissions of its officers, employees, and others employed or retained by it in connection with the performance of the Services.
- 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 Actuary by this Agreement or by Applicable Laws.

9.0 SDA'S RIGHTS AND RESPONSIBILITIES

9.1 SDA's Rights

- 9.1.1 The SDA shall have the right to perform Services and to award contracts in connection with same that are not part of the Actuary's responsibilities under this Agreement.
- 9.1.2 The SDA shall have the right, in its sole discretion, to accept or reject personnel provided by the Actuary. The Actuary shall make a timely and prompt resubmission to provide other personnel to replace any that are rejected by the SDA, both at the initial submittal or upon any subsequent rejection or substitution of personnel.
- 9.1.3 The SDA shall have the right to establish and maintain an Actuary Performance Evaluation Policy and Procedure. The Actuary's performance under this Agreement shall be evaluated by the SDA and shall be a factor used in the technical scoring of the Actuary with respect to any future submission by the Actuary in response to a Request for Proposals by the SDA. This evaluation shall consider, among other things, the Actuary's ability to provide all required Services.
- 9.1.4 The SDA's approval, acceptance, use of or payment for all or any part of Actuary's Services hereunder shall in no way alter the Actuary's obligations hereunder.
- 9.1.5 The SDA and any other State inspecting or oversight agencies have the right to audit (or have their agents audit) the records of the Actuary in connection with all matters related to the Contractual Documents. If, as a result of such audit, the Actuary is discovered for any reason to owe any money or refund to the SDA, the SDA may reduce the Actuary's invoice amount to an amount considered commensurate with the actual services provided.
- 9.1.6 The SDA and their agents have the right to request, and the Actuary agrees to furnish free of charge, all information and copies of all records, documents or books relating to the provision of Service, which the SDA or their agents may request. The Actuary shall allow representatives of the SDA and their agent(s) to visit the office(s) of the Actuary periodically, upon reasonable notice, in order to review any information, records, documents or books related to the Contractual Documents or to otherwise monitor any Services being performed.

9.2 SDA's Responsibilities

The SDA shall, on a timely basis, provide the Actuary 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 Proposals and the responses thereto; and any Amendments and any addenda.

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

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

10.4 No Waiver of Warranties or Legal/Equitable Remedies. Nothing in the Contractual Documents shall be construed to be a waiver by the SDA 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 SDA.

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

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 Superior Court of 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 Actuary and the SDA 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 Actuary and the SDA. Should the Actuary at any time find existing conditions that would make modification in requirements desirable, it shall promptly report such matters to the SDA 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 such breach is 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 written consent by the SDA to a delay in Actuary'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 SDA's enforcement of any remedy in the event of a breach by the Actuary of any term or condition of the Contractual Documents or any delay in the SDA'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 Execution in Counterparts.** This Agreement and any other Contractual Documents, where applicable, may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- 10.13 Office of the State Comptroller.** The Office of the State Comptroller, the Office of the State Inspector General, or any other State inspecting or oversight agencies may, at their discretion, investigate, examine and inspect the activities of the Actuary and all other parties involved with the Services. The Office of the State Comptroller, the Office of the State Inspector General, or any other State inspecting or oversight agencies may require the Actuary or any other party involved with the Services to submit duly verified reports, which shall include such information and be in such form as that those agencies may require. In addition to the foregoing, the Office of the State Comptroller, the Office of the State Inspector General, or any other State inspecting or oversight agencies may investigate, examine, inspect or audit in any manner and at such times as they may deem necessary.
- 10.14 Limitation of Liability.** Whether as a result of breach of Contract, tort (including negligence), or otherwise, the SDA will not be liable to the Actuary for any special, consequential, incidental, or penal damages, including, but not limited to, loss of profit or revenues, loss of rental value for Actuary-owned equipment, damages to associated equipment, cost of capital, punitive damages or interest of any nature.
- 10.15 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.
- 10.16 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.
- 10.17 Parties are not Joint Venturers or Partners.** Nothing contained in this Agreement shall be construed to mean that Actuary and the SDA are joint venturers or partners.

10.18 Notice of State Vendor Set-Off For State Tax

10.18.1 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 set-off under this act.

10.18.2 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.

10.19 All Services to be Performed in United States. The Actuary shall have a continuing duty to comply with Executive Order No. 129 (2004) ("EO 129"), and with N.J.S.A. 52:34-13.2, as applicable. By executing this Agreement, the Actuary agrees that all Services performed by the Actuary pursuant to this Agreement shall be performed within the United States. If, during the Term, the Actuary or a subcontracted firm proceeds to shift the performance of the Services outside of the United States, the Actuary shall be deemed in breach of the Agreement and shall be subject to termination for cause, unless the SDA 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 SDA or the State.

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: Sherman Cole

Actuary:

APPENDIX B

SCOPE OF SERVICES

Governmental Accounting Standards Board Statement No. 75, *Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions*, replaces the requirements of Statements No. 45, *Accounting and Financial Reporting by Employers for Post Employment Benefits Other Than Pensions*, as amended, and No. 57, *OPEB Measurements by Agent Employers and Agent Multiple-Employer Plans, for OPEB*. The scope of Statement No. 75 addresses accounting and financial reporting for OPEB that is provided to the employees of state and local governmental employers. This statement establishes standards for recognizing and measuring liabilities, deferred outflows of resources, deferred inflow of resources and expense/expenditures. For defined benefit OPEB, this Statement identifies the methods and assumptions that are required to be used to project benefit payments, discount projected benefit payments to their actuarial present value, and attribute that present value to periods of employee service. Note disclosure and required supplementary information requirements about defined benefit OPEB also are addressed. This statement is effective for periods beginning after June 15, 2016; however, NJSDA plans to early adopt this accounting standard as of and for the year ending December 31, 2016, using a measurement date of January 1, 2016.

Based on data received from the NJSDA, the Actuary shall provide a GASB 75 actuarial valuation as of January 1, 2016 for the retiree health benefits provided by the NJSDA through the *New Jersey State Health Benefits Program* (the “SHBP”).

Deliverable: The Actuary shall provide a report of the GASB 75 retiree post-employment benefit liability for the active and retired employees for the NJSDA within sixty (60) days of receipt of the Notice to Proceed.

Additional Service: At the sole option of the SDA, the Actuary may be engaged to perform additional GASB 75 actuarial valuations, including roll-forward valuations, for up to two additional years (i.e., measurement dates as of January 1, 2017 and January 1, 2018).

Additional Service Deliverable: The Actuary shall provide a report of any measurement, other than the January 1, 2016 measurement of the GASB 75 retiree post-employment benefit liability for the active and retired employees for the NJSDA, within sixty (60) days of receipt of a Notice from the SDA to proceed with the additional service.

APPENDIX C

COMPENSATION – FEE PROPOSAL

{See Attached Sheets}

APPENDIX D-1

**DISCLOSURE TO UNIT OF FISCAL INTEGRITY
GENERAL CONSENT AND WAIVER**

Contract #: GP-0234-R01

STATE: _____

COUNTY: _____

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

A. I am _____ of the firm of _____, (the "Actuary"), which has been awarded the referenced contract (the "Agreement") for the School Construction Program, and that I execute said Agreement with full authority to do so; that said Actuary agrees to and hereby consents to permit the Unit of Fiscal Integrity in School Construction in the Office of the State Attorney General, established pursuant to Public Law 2000, Chapter 72, Section 70 or its authorized representatives (the "Unit"), access as described below, to:

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

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

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

B. The Actuary agrees to allow the Unit upon request, at all reasonable times, to inspect and photocopy any and all of the documents described above that are in its possession or custody, or are subject to its control. The Actuary agrees to make the requested documents available for inspection and photocopying within the State of New Jersey regardless where those documents are located prior to inspection.

- C. The Actuary further certifies that there have been no changes in circumstance, conditions or status of the Actuary's prequalification with the EDA or the SDA since the latest prequalification application was filed by the Actuary with the EDA or the SDA.
- D. The Actuary certifies that, if applicable, any change in the information provided by the Actuary in its prequalification application currently on file with the EDA or the SDA will be immediately reported to the SDA.
- E. The Actuary certifies that, if applicable, it shall immediately notify the SDA and the Unit of Fiscal Integrity (PO Box 063, Trenton, NJ 08625) if any director, partner, officer, employee of the Actuary or any shareholder owning 5% or more of the Actuary's stock:
 - 1. Is the subject of investigation involving any violation of criminal law or other federal, state, or local law or regulation by any governmental agency; or
 - 2. Is arrested, indicted or named as an unindicted co-conspirator in any indictment or other accusatory instrument; or
 - 3. Is convicted of any crime under state or federal law, or of any disorderly person's offense or misdemeanor involving a business-related offense.
- F. The Actuary hereby waives any objection it might otherwise raise permitting the Unit to investigate, examine and inspect all activities related to the Agreement pursuant to Public Law 2000, Chapter 72, Section 70. The Actuary further releases and holds harmless the Unit, the EDA, the SDA, and the State of New Jersey. All statements contained in the Actuary's Technical Proposal and Fee Proposal and in this waiver and consent are true and correct, and made with full knowledge that the SDA and the State of New Jersey rely upon the truth of the statements contained in this affidavit in awarding the Agreement.

Sworn and subscribed to before me

this _____ day of _____, 20__.

Signature of Principal

Notary Public of

Print Name of Principal

My commission expires: _____, 20__.

APPENDIX D-2

INTEGRITY AFFIDAVIT

Contract #: GP-0234-R01

STATE: _____

COUNTY: _____

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

(NO GRATUITIES)

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

(NO COLLUSION)

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

(NO DISCRIMINATION)

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

(PREVAILING WAGE)

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

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

Sworn and subscribed to before me

this _____ day of _____, 20__.

Signature of Principal

Notary Public of

Print Name of Principal

My commission expires: _____, 20__.

APPENDIX E

INSURANCE CERTIFICATE(S)

{See Attached Sheets}

APPENDIX F

OTHER DOCUMENTATION

{See Attached Sheets}

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

ATTACHMENT B

NJSDA FEE PROPOSAL FORM

ACTUARY SERVICES FEE PROPOSAL

	2016 Report Fee	2017 Report Fee	2018 Report Fee
Full Report	\$	\$	\$
Roll-Forward Report	\$ Not Applicable	\$	\$

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

Firm: _____

Signature: _____

Print Name: _____

Title: _____

Address: _____

Telephone: _____

Email: _____

Date: _____

ATTACHMENT C

MORAL INTEGRITY QUESTIONNAIRE



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

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

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: _____	NEW JERSEY DIVISION OF REVENUE & ENTERPRISE SERVICES <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)
---	---

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 D

OWNERSHIP DISCLOSURE FORM

Download form at: <http://www.state.nj.us/treasury/purchase/forms/OwnershipFinal12-14.pdf>

ATTACHMENT E

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

NJSDA Contract No: GP-0234-R01

Project Description: Actuary Services

Vendor Name and Address: _____

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 the person or entity, or one of the person or entity's parents, subsidiaries, or affiliates, is not identified on a list created and maintained by the New Jersey Department of the Treasury ("Treasury") as a person or entity engaging in investment activities in Iran. If the NJSDA finds a person or entity to be in violation of the Act or of the principles which are the subject of the Act, the NJSDA 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 seeking debarment or suspension of the person or entity.

CERTIFICATION

County of _____)

State of _____)

I _____ certify, pursuant the Act, that the person or entity listed above as "Vendor" for which I am authorized to submit a proposal:

- a) is not identified on the list created and maintained by Treasury pursuant to N.J.S.A. 52:32-57(b); and
- b) has not engaged in investment activities in Iran, as defined by N.J.S.A. 52:32-56(f).

I, _____ being duly sworn upon my oath, hereby represent and state under the pains and penalties of perjury, that the foregoing information is true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that the State of New Jersey is relying on the information contained herein. I acknowledge that 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 recognize that I and/or my firm am subject to criminal prosecution, and further penalties as described in N.J.S.A. 52:32-59.

Full Name (Print): _____ Signature: _____

Title: _____ Date: _____

Sworn and subscribed to before me this _____ day of _____, 20__.

Notary Public of _____

My commission expires: _____, 20__.

In the event that the Vendor referenced above is unable to make the above certification because it or one of its parents, subsidiaries, or affiliates has engaged in the above-referenced activities, **a separate detailed, accurate and precise description** of the activities must be provided to the NJSDA under penalty of perjury. Failure to provide such description will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

ATTACHMENT F

SOURCE DISCLOSURE CERTIFICATION FORM

EXECUTIVE ORDER 129 CERTIFICATION
SOURCE DISCLOSURE CERTIFICATION FORM

Bidder: _____

Contract No.: GP-0234-R01

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 Executive Order 129, issued by Governor James E. McGreevey on September 9, 2004 (hereinafter "E.O. No. 129").
3. The following is a list of every location where services will be performed by the bidder and all subcontractors.

Bidder or Subcontractor	Description of Services	Performance Location(s) by Country

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.

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: _____