CONTRACT #3
RFS # 309.01-27915
Edison # 45348

Treasury

VENDOR:
The North Highland Company

STATE OF TENNESSEE

DAVID H. LILLARD, JR.
STATE TREASURER

TREASURY DEPARTMENT

STATE CAPITOL
NASHVILLE, TENNESSEE 37243-0225

615.741.2956
David.Lillard@tn.gov

MEMORANDUM

TO: Fiscal Review Committee

FROM: Courtney Hess, Assistant General Counsel CH

DATE: March 22, 2016

SUBJECT: **The North Highland Company Contract Amendment**

This memorandum describes the Department of Treasury's ("Department") proposed contract amendment to exercise its first option to extend its contract with the North Highland Company ("TCSA"), as well as the justification for the noncompetitive amendment. The Department requests approval from the Fiscal Review Committee for the proposed amendment.

The Department administers the Tennessee Consolidated Retirement System ("TCRS") for current and retired public employees. In 2010, the State entered into a Contract with Deloitte Consulting LLP for the provision of a new, integrated pension administration system for TCRS, called "Concord". The system allows TCRS staff to perform all of their duties using their PCs that are tied together through a TCRS-wide network via a fully browser-based application system. As Concord's functionality and implementation began to near completion, the Department issued a Request for Proposals ("RFP") in early 2015 for project management and consulting services to bring together all components of the Concord project, including information systems, accounting, and staffing components, to prepare the Department for effective use of Concord in the long term, and to provide recommendations and assistance in assessing system and its use. The RFP resulted in the current contract with the North Highland Company.

The contract contains three, one-year options to extend the contract on the same terms. The Department wishes to exercise its first option to extend for one year to June 30, 2017. When the Department entered into the Contract, it based its budget upon the estimate of resources needed to complete all projects related to the services under the Contract and the rates of the North Highland Company. Therefore, it is not requesting an increase in the maximum liability.

The services of the North Highland Company have been of great benefit to the Department during the current term. The North Highland Company continues to assist the Department in assessing long-term information systems needs for use of the Concord system, enabling the Department to structure and plan for information systems resources that will allow the system to benefit retirees for many years. Additionally, the North Highland Company continues to assist the Department in ensuring the Concord system is operating at its full capacity and potential, making sure any changes in programming are complete and that special functions and needs for specific areas of TCRS are addressed. As the Concord system nears full implementation, the Department has been able to identify desired adjustments and use of functionality that would make it more efficient for TCRS operations and retiree services, and the North Highland Company's services are integral in coordinating the implementation of these adjustments and added functionality.

As the Department continues to finalize implementation of the Concord system and prepare for its long-term use, including using it to identify trends in retirement statistics and improve effectiveness and efficiency of TCRS services, it has determined that it is in its best interest to continue to utilize the North Highland Company's project management and consulting services. A robust, user-friendly pension administration system that is equipped for long-term needs of TCRS, and the information systems resources to support such a system, aids the Department in its mission to serve public employees in their preparation for, and in, retirement.

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Courtney Hess	*Contact Phone:	Courtney.Hess@tn.gov
*Presenter's name(s):	State Treasurer David H. Lillard, Jr.		
Edison Contract Number: *(if applicable)*	45348	RFS Number: *(if applicable)*	30901-27915
*Original or Proposed Contract Begin Date:	March 18, 2015	*Current or Proposed End Date:	Current: June 30, 2016 Proposed: June 30, 2017
Current Request Amendment Number: *(if applicable)*		Amendment 1	
Proposed Amendment Effective Date: *(if applicable)*		July 1, 2016	
*Department Submitting:		Treasury	
*Division:		Tennessee Consolidated Retirement System	
*Date Submitted:		March 22, 2016	
*Submitted Within Sixty (60) days:		Yes	
If not, explain:			
*Contract Vendor Name:		The North Highland Company	
*Current or Proposed Maximum Liability:		Current: $3,200,000 (No change proposed)	
*Estimated Total Spend for Commodities:		N/A	

*Current or Proposed Contract Allocation by Fiscal Year:
(as Shown on Most Current Fully Executed Contract Summary Sheet)

FY:2015	FY:2016		FY:	FY	FY
$722,580	$2,477,420		$	$	$

*Current Total Expenditures by Fiscal Year of Contract:
(attach backup documentation from Edison)

FY:2015	FY:2016	FY:	FY:	FY	FY
$262,250	$832,007.50	$	$	$	$

IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	The Contract Allocation was based upon the rates proposed by the Contractor and anticipated need for resources from the Contractor to complete services under the Contract. The nature of the services is such that completion of individual projects is often necessary before further anticipated resources would be utilized. The Contract Allocation was based upon the entirety of the anticipated services needed; however, resources have been used as each project is

Supplemental Documentation Required for Fiscal Review Committee

	completed. The Department intends to fully utilize the allocation to complete all services anticipated under the Contract. Surplus funds were not spent.
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	N/A
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:	N/A

*Contract Funding Source/Amount:			
State:		Federal:	
Interdepartmental:	$1,662,375	*Other*:	$1,537,625
If "*other*" please define:		Concord Project (TCRS Earnings)	
If "*interdepartmental*" please define:		TCRS Administrative	

Dates of All Previous Amendments or Revisions: *(if applicable)*	Brief Description of Actions in Previous Amendments or Revisions: *(if applicable)*

Method of Original Award: *(if applicable)*	Request for Proposals 30901-27915
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?	Costs were determined based upon cost proposal and estimated number of hours necessary for services under the Contract. The Contract includes three, one-year options to extend, which was taken into account in estimating the number of hours and projected cost.
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.	Contract was awarded through a Request for Proposals competitive process. Contractor received the highest score of 4 proposals submitted.

Unit	Voucher	Invoice	Remit Vndr	Name	Gross Amt	Reference	Pymnt Date	Warrant Ar
30901	00056546	NAS-2015-05747	0000030884	The North Highland Company	73,265.00	0001614004 - April, 2015	6/10/2015	73265.(
30901	00056547	NAS-2015-05703	0000030884	The North Highland Company	27,940.00	0001617975 - March, 2015	6/12/2015	27940.(
30901	00056933	NAS-2015-05805	0000030884	The North Highland Company	75,600.00	0001659711 - May, 2015	7/8/2015	75600.(
30901	00057125	NAS-2015-05854	0000030884	The North Highland Company	85,445.00	0001683254 - June, 2015	7/23/2015	85445.(
				FY15 Total:	262,250.00			
30901	00059225	NAS-2015-06009	0000030884	The North Highland Company	100,870.00	0001847958 - August, 2015	11/17/2015	290225.(
30901	00059226	NAS-2015-06069	0000030884	The North Highland Company	96,425.00	0001847958 - September, 2015	11/17/2015	290225.(
30901	00059223	NAS-2015-05927	0000030884	The North Highland Company	92,930.00	0001847958 - July, 2015	11/17/2015	290225.(
30901	00059318	NAS-2015-06144	0000030884	The North Highland Company	109,860.00	0001856284 - October, 2015	11/24/2015	109860.(
30901	00059938	NAS-2015-06204	0000030884	The North Highland Company	92,960.00	0001908533 - November, 2015	1/5/2016	92960.(
30901	00060267	NAS-2015-06280	0000030884	The North Highland Company	74,740.00	0001937562 - December, 2015	1/27/2016	74740.(
30901	00060647	NAS-2016-06357	0000030884	The North Highland Company	128,790.00	0001980287 - January, 2016	2/25/2016	128790.(
					135,432.50	February, 2016 billed but not paid		
				FY16 Total:	832,007.50			

Message
May invoice payment from State of TN
April invoice payment State of TN
June invoice payment
June payment Treasury
Treasury August payment
September payment Treasury
July payment Treasury
Treasury payment November
December invoice
Treasury payment 12/1/2015-12/31/2015
service 1/1 thru 1/31

Renewal or Extension Request

Route a completed request, as one file in PDF format, via e-mail attachment to: Agsprs.Agsprs@tn.gov. This request should ONLY be used for renewals or extensions of contracts. ANY other change to a contract requires an Amendment Request.

APPROVED	
Kevin C. Bartels for Michael F. Perry	Digitally signed by Kevin C. Bartels for Michael F. Perry DN: cn=Kevin C. Bartels for Michael F. Perry, o=CPO, ou, email=Kevin.C.Bartels@tn.gov, c=US Date: 2016.03.21 11:39:46 -05'00'
CHIEF PROCUREMENT OFFICER	DATE

Edison Contract Number #	45348
1. Procuring State Agency Name and five-digit Business Unit #	Department of Treasury # 30901
2. Contractor Legal Name	The North Highland Company
3. Edison Vendor ID Number #	30884
4. Contract Begin Date	March 18, 2015
5. Current Contract End Date	June 30, 2016
6. Proposed Contract End Date – *Provide the new contract end date if this Renewal or Extension Request is granted*	June 30, 2017
7. Proposed Term of Contract Including all extensions and renewals	28 months (Proposed term exercising this extension option. There are two additional one-year extension options remaining in the contract after this one.)
8. Confirm that there is a valid renewal or extension option remaining in the contract and confirm that there has been no other change to the contract's term and conditions – *If there is not a valid renewal or extension option remaining in the contract, submit an Amendment Request instead. (Note: a contract cannot exceed sixty (60) months without an approved Rule Exception Request and Contract Amendment.)*	YES ☒
9. Confirm this renewal or extension does not require an increase to the Contract's Maximum Liability or Estimated Liability. – *If additional funds are required, submit an Amendment Request instead.*	YES ☒
10. Confirm that all necessary due diligence has been performed and it is in the State's best interest to renew or extend the contract. – *Considering such items as contractor performance, pricing, etc.*	YES ☒

Edison Contract Number #	45348
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

March 14, 2016

Approved for signature by CM 3/14/16

CONTRACT AMENDMENT COVER SHEET

Agency Tracking #	Edison ID	Contract #	Amendment #
30901-27915		45348	1

Contractor Legal Entity Name	Edison Vendor ID
The North Highland Company	30884

Amendment Purpose & Effect(s)

To exercise the first of the State's three options to renew the contract for one-year to June 30, 2017.

Amendment Changes Contract End Date: ☒ YES ☐ NO **End Date:** June 30, 2017

TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A): **$ 0**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2015				262,250	262,250
2016				1,275,375	1,275,375
2017			1,662,375		1,662,375
TOTAL:			**1,662,375**	**1,537,625**	**3,200,000**

American Recovery and Reinvestment Act (ARRA) Funding: ☐ YES ☒ NO

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Speed Chart (optional)	Account Code (optional)

CPO USE

AMENDMENT ONE
OF CONTRACT 45348

This Amendment is made and entered by and between the State of Tennessee, Department of Treasury, hereinafter referred to as the "State" and The North Highland Company, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section B.1 is deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective on March 18, 2015 ("Effective Date") and extend until June 30, 2017 ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the effective date.

Required Approvals. The State is not bound by this Amendment until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

Amendment Effective Date. The revisions set forth herein shall be effective July 1, 2016. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

THE NORTH HIGHLAND COMPANY:

_____

SIGNATURE **DATE**

_____

PRINTED NAME AND TITLE OF SIGNATORY (above)

STATE OF TENNESSEE, DEPARTMENT OF TREASURY:

_____

DAVID H. LILLARD, JR., STATE TREASURER **DATE**

CONTRACT

(fee-for-goods or services contract with an individual, business, non-profit, or governmental entity of another state)

Begin Date	End Date	Agency Tracking #	Edison Record ID
March 18, 2015	June 30, 2016	30901-27915	45348

Contractor Legal Entity Name	Edison Vendor ID
The North Highland Company	30884

Goods or Services Caption (one line only)

Project management and consulting services for implementation of the State's integrated pension administration system.

Subrecipient or Contractor	CFDA #
☐ Subrecipient ☒ Contractor	

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2015				$722,580	$722,580
2016				$2,477,420	$2,477,420
TOTAL:				$3,200,000	$3,200,000

Contractor Ownership Characteristics:

☐ Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American

☐ Woman Business Enterprise (WBE)

☐ Tennessee Service Disabled Veteran Enterprise (SDVBE)

☐ Tennessee Small Business Enterprise (SBE): $10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.

☐ Other:

Selection Method & Process Summary (mark the correct response to confirm the associated summary)

☒ Competitive Selection — The Contract was awarded to the Best Evaluated Proposer from Request for Proposals # 30901-27915.

☐ Other

Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

Larry Hartley

Speed Chart (optional)	Account Code (optional)

CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF TREASURY
AND
THE NORTH HIGHLAND COMPANY

This Contract, by and between the State of Tennessee, Department of Treasury ("State") and The North Highland Company ("Contractor"), is for the provision of project management and consulting services for implementation of the State's integrated pension administration system ("Concord"), as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a for-profit corporation.
Contractor Place of Incorporation or Organization: State of Georgia
Contractor Edison Registration ID # 30884

A. SCOPE:

A.1. The Contractor shall provide all goods or services and deliverables as required, described, and detailed below and shall meet all service and delivery timelines as specified by this Contract.

A.2. The Contractor agrees to perform project management and consulting services as requested by the State in connection with the implementation of the State's integrated pension administration system, "Concord". Said services shall include the following:

a. Project Management for final implementation of the Concord system. The Contractor shall perform the following project management services for the State:

i. Coordinating Concord operational functions among the Retirement division, the Accounting division, the Legal division, and the Information Systems division.

ii. Coordinating operational functions between the Treasury Department and the Concord development vendor, Deloitte.

iii. Coordinating resolution of Problem Incident Reports ("PIRs").

iv. Coordinating compliance with contractual terms of the Concord project.

v. Identifying and coordinating resolution of issues relative to the Concord system.

b. General consulting services regarding the Concord system. The Contractor shall serve as a general consultant to the State in integrating the technological, staffing and accounting components involved in the system for smooth long term operation of Concord. Such services shall include, but not be limited to, the following:

i. Assisting the State in implementing a Concord Manager position, including, but not limited to, preparing a job description, providing data regarding salary ranges, and identifying potential candidates for the position.

ii. Assisting the State in structuring and managing staff for implementing and utilizing Concord on a long-term basis.

iii. Assisting the State in evaluating long-term staffing and training needs.

iv. Assisting the State in utilizing Concord to build metrics for areas including, but not limited to, effectiveness of the retirement system, evaluation of staff members, and trends in retirement statistics.

v. Making recommendations to the State regarding information systems needs for the system long term.

vi. Assisting the State in developing business rules and operating procedures for Concord long term.

A.3. The Contractor shall be present for the duration of the Contract at the Treasury Department in Nashville, Tennessee. The State will provide the Contractor with office space.

A.4. Warranty. Contractor represents and warrants that throughout the Term of this Contract ("Warranty Period"), the goods or services provided under this Contract shall conform to the terms and conditions of this Contract. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, in conformity with standards generally accepted in Contractor's industry.

If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover the fees paid to Contractor for the Defective goods or services.

A.5. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

A.6. Applicable Gifts and Solicitations Policy. The Contractor shall not offer to give, or give, any gift to any employee of the Treasury Department or to any member of a Board, Commission or Committee administratively attached to the Treasury Department that would violate the Treasury Department's Gifts and Solicitations Policy, included as Attachment Two to this Contract.

B. TERM OF CONTRACT:

B.1. This Contract shall be effective on March 18, 2015 ("Effective Date") and extend until June 30, 2016 ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to three (3) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's ole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed three million, two hundred thousand dollars ($3,200,000.00) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it

will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

C.2. Compensation Firm. The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.

b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	**Amount** (per compensable increment)
Senior Consultant	$ 170.00 per HOUR
Consultant	$ 150.00 per HOUR

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

Budget Officer
Division of Administrative Services
Tennessee Treasury Department
14th Floor, Andrew Jackson State Office Building
502 Deaderick Street
Nashville, Tennessee 37243-0206

a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following information (calculations must be extended and totaled correctly):

(1) Invoice number (assigned by the Contractor);
(2) Invoice date;
(3) Contract number (assigned by the State);
(4) Customer account name: Tennessee Treasury Department
(5) Customer account number (assigned by the Contractor to the above-referenced Customer);
(6) Contractor name;
(7) Contractor Tennessee Edison registration ID number;
(8) Contractor contact for invoice questions (name, phone, or email);
(9) Contractor remittance address;

(10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
(11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
(12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
(13) Amount due for each compensable unit of good or service; and
(14) Total amount due for the invoice period.

b. Contractor's invoices shall:

(1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
(2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
(3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and
(4) Include shipping or delivery charges only as authorized in this Contract.

c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that meets the minimum requirements of this Section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee, any amounts that are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following, properly completed documentation.

a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, shall be made by automated clearing house.

b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number in the Substitute W-9 Form must be the same as the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID.

D. MANDATORY TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the

Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.

D.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Jill Bachus
Director, Tennessee Consolidated Retirement System
502 Deaderick Street, 15th Floor
Nashville, TN 37243
Jill.Bachus@tn.gov
Telephone # 615-253-3845

The Contractor:

Nancy Schultz
Vice President
The North Highland Company
5105 Maryland Way, Suite 200
Brentwood, TN 37027
Nancy.Schultz@northhighland.com
(615) 370-6240
(615) 370-2797

All instructions, notices, consents, demands, or other communications shall be considered effective upon receipt or recipient confirmation as may be required.

D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials.

D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.

D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.

D.6. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"),the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.

D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed under this Contract.

The Contractor acknowledges, understands, and agrees that this Contract shall be null and void if the Contractor is, or within the past six (6) months has been, an employee of the State of Tennessee or if the Contractor is an entity in which a controlling interest is held by an individual who is, or within the past six (6) months has been, an employee of the State of Tennessee.

D.9. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.10. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

a. The Contractor agrees that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment One, semi-annually during the Term. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.

b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.

c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.

d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

D.12. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.

D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.

D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the Parties.

D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one Party are not employees or agents of the other Party.

D.16 Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.

D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.

D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for intentional torts, criminal acts, fraudulent conduct, or omissions that result in personal injuries or death.

D.19. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate notice and provide all necessary assistance to respond. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

D.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.

b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement or signing another document.

d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired

member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

D.22 Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 6-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.

D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.

D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.

D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.

D.27. Entire Agreement. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.

D.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.

D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:

a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below);
c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
e. any technical specifications provided to proposers during the procurement process to award this Contract; and,
f. the Contractor's response seeking this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.

E.2. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

a. The Contractor shall maintain, at minimum, the following insurance coverage:

(1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars ($1,000,000) per occurrence for employers' liability whichever is greater.

(2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) aggregate.

(3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars ($1,000,000) per occurrence.

(4) Errors and Omission Coverage with a limit of not less than one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) aggregate.

b. The Contractor shall provide a valid Certificate of Insurance naming the State as an additional insured and detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Contractor shall obtain from Contractor's insurance carrier(s) and will deliver to the State waivers of the subrogation rights under the respective policies. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

E.3. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Contract.

E.4. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The

Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

IN WITNESS WHEREOF,

THE NORTH HIGHLAND COMPANY:

Nancy C. Schutz 3/12/15

CONTRACTOR SIGNATURE **DATE**

Nancy C. Schutz Vice President

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

STATE OF TENNESSEE, DEPARTMENT OF TREASURY:

David H. Lillard Jr. March 17, 2015

DAVID H. LILLARD, JR., STATE TREASURER **DATE**

Approved for signature by CH 3/16/15