

**CONTRACT #4**  
**RFS # 309.01-28316**  
**Edison # 48445**

**Treasury**

**VENDOR:**  
**Strategic Investment Solutions,**  
**Inc.**

STATE OF TENNESSEE



DAVID H. LILLARD, JR.  
STATE TREASURER

TREASURY DEPARTMENT

615.741.2956  
David.Lillard@tn.gov

STATE CAPITOL  
NASHVILLE, TENNESSEE 37243-0225

Sender's telephone: 615.253.6150  
Sender's email: Alison.Cleaves@tn.gov

**MEMORANDUM**

**TO:** Fiscal Review Committee

**FROM:** Alison Cleaves, Assistant General Counsel

**DATE:** March 22, 2016

**SUBJECT:** **Strategic Investment Solutions, Inc. Contract – Amendment 1**

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This memorandum details the terms of the Department of Treasury's ("Department") contract amendment with Strategic Investment Solutions, Inc. ("SIS") that is before the Fiscal Review Committee as well as the justification for the amendment.

The contract between the Department and SIS was competitively procured through a request for proposals which resulted in a five (5) year contract. The contract requires SIS to provide general investment consulting services to the Department relative to the funds that are invested and reinvested by the State Treasurer, including, but not limited to, the Tennessee Consolidated Retirement System and the State Pooled Investment Fund. Subsequent to the award of the contract to SIS as the best apparent proposer, SIS was acquired by Virus Advisory, Inc. dissolving the business entity of Strategic Investment Solutions, Inc. This amendment changes the contractor's name from Strategic Investment Solutions, Inc. to Virus Advisory, Inc. and does not extend or shorten the term of the original contract or change the original contract's maximum liability.

Supplemental Documentation Required for  
Fiscal Review Committee

*Contact Name:	Alison Cleaves	*Contact Phone:	(615) 253-6150		
*Presenter's name(s):	Alison Cleaves, Assistant General Counsel				
Edison Contract Number: <i>(if applicable)</i>	30901-28316	RFS Number: <i>(if applicable)</i>			
*Original or Proposed Contract Begin Date:	December 1, 2015	*Current or Proposed End Date:	November 30, 2020		
Current Request Amendment Number: <i>(if applicable)</i>	1				
Proposed Amendment Effective Date: <i>(if applicable)</i>	June 1, 2016				
*Department Submitting:	Department of Treasury				
*Division:	Investments				
*Date Submitted:	March 22, 2016				
*Submitted Within Sixty (60) days:	Yes				
<i>If not, explain:</i>					
*Contract Vendor Name:	Strategic Investment Solutions, Inc.				
*Current or Proposed Maximum Liability:	\$2,552,500.00				
*Estimated Total Spend for Commodities:					
<b>*Current or Proposed Contract Allocation by Fiscal Year:</b> <b><i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i></b>					
FY:2016	FY:2017	FY:2018	FY:2019	FY2020	FY2021
\$255,250	\$510,500	\$510,500	\$510,500	\$510,500	\$255,250
<b>*Current Total Expenditures by Fiscal Year of Contract:</b> <b><i>(attach backup documentation from Edison)</i></b>					
FY:2016	FY:2017	FY:2018	FY:2019	FY2020	FY2021
\$0	\$0	\$0	\$0	\$0	\$0
<b>IF</b> Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			N/A.		
<b>IF</b> surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			N/A.		
<b>IF</b> Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:			N/A.		

Supplemental Documentation Required for  
Fiscal Review Committee

<b>*Contract Funding Source/Amount:</b>			
State:		Federal:	
<i>Interdepartmental:</i>		<i>Other:</i>	\$2,552,500
If “ <i>other</i> ” please define:		Tennessee Consolidated Retirement System participant earnings.	
If “ <i>interdepartmental</i> ” please define:			
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
None.			
Method of Original Award: <i>(if applicable)</i>		Competitive procurement through a Request for Proposals.	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		Services obtained through a competitive procurement.	
*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.		Services obtained through a competitive procurement.	

# Amendment Request

This request form is not required for amendments to grant contracts. Route a completed request, as one file in PDF format, via e-mail attachment sent to: [Agsprrs.Agsprsr@tn.gov](mailto:Agsprrs.Agsprsr@tn.gov)

<b>APPROVED</b>	
<b>CHIEF PROCUREMENT OFFICER</b>	<b>DATE</b>

<b>Agency request tracking #</b>	30901-28316	
<b>1. Procuring Agency</b>	Treasury Department	
<b>2. Contractor</b>	Strategic Investment Solutions, Inc.	
<b>3. Edison contract ID #</b>	48445	
<b>4. Proposed amendment #</b>	1	
<b>5. Contract's Effective Date</b>	December 1, 2015	
<b>6. Current end date</b>	November 30, 2020	
<b>7. Proposed end date</b>	November 30, 2020	
<b>8. Current Maximum Liability or Estimated Liability</b>	\$ 2,552,500.00	
<b>9. Proposed Maximum Liability or Estimated Liability</b>	\$ 2,552,500.00	
<b>10. Office for Information Resources Pre-Approval Endorsement Request</b> <i>- information technology service (N/A to THDA)</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
<b>11. eHealth Pre-Approval Endorsement Request</b> <i>- health-related professional, pharmaceutical, laboratory, or imaging</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
<b>12. Human Resources Pre-Approval Endorsement Request</b> <i>- state employee training service</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
<b>13. Explain why the proposed amendment is needed</b>	<p>The amendment changes the name of the Contractor from Strategic Investment Solutions, Inc. ("SIS") to Verus Advisory, Inc. ("Verus). Subsequent to being awarded a contract as the best apparent proposer resulting from a request for proposals, SIS merged with Verus resulting in the dissolution of SIS, with Verus as the surviving entity. The amendment reflects this change in the Contractor's name.</p>	
<b>14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract.</b>		

Agency request tracking #	30901-28316
The amendment does not change the scope of services contained in the contract.	
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)	

*Don H. L. [Signature]* Feb 25, 2016  
Tennessee State Treasurer

Approved for signature by CH 2/24/16



## CONTRACT AMENDMENT COVER SHEET

<b>Agency Tracking #</b> 30901-28316	<b>Edison ID</b> 48445	<b>Contract #</b> 30901-28316	<b>Amendment #</b> 1		
<b>Contractor Legal Entity Name</b> Verus Advisory, Inc.			<b>Edison Vendor ID</b> 70965		
<b>Amendment Purpose &amp; Effect(s)</b> Consulting Services relative to Programs attached to the Department of Treasury, which include the following: Tennessee Consolidated Retirement System, Charis of Excellence Endowment Trust, Baccalaureate Education System Trust, State Pooled Investment Fund and the Optional Retirement Program.					
<b>Amendment Changes Contract End Date:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		<b>End Date:</b> November 30, 2020			
<b>TOTAL Contract Amount INCREASE or DECREASE per this Amendment</b> (zero if N/A):			<b>\$ 0</b>		
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2016				\$255,250	\$255,250
2017				\$510,500	\$510,500
2018				\$510,500	\$510,500
2019				\$510,500	\$510,500
2020				\$510,500	\$510,500
2021				\$255,250	\$255,250
<b>TOTAL:</b>				<b>\$2,552,500</b>	<b>\$2,552,500</b>
<b>American Recovery and Reinvestment Act (ARRA) Funding:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
<b>Budget Officer Confirmation:</b> 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.			<i>CPO USE</i>		
<b>Speed Chart</b> (optional)		<b>Account Code</b> (optional)			

**AMENDMENT 1  
OF CONTRACT 30901-28316**

This Amendment is made and entered by and between the State of Tennessee, Treasury Department, hereinafter referred to as the "State" and Strategic Investment Solutions, Inc., 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:

The following is added as Contract section E. 10.:

E.10. Contractor Name. All references to "Strategic Investment Solutions, Inc." shall be deleted and replaced with "Verus Advisory, Inc."

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 June 1, 2016. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,**

**VERUS ADVISORY, INC.:**

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**SIGNATURE**

**DATE**

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**PRINTED NAME AND TITLE OF SIGNATORY (above)**

**TREASURY DEPARTMENT:**

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**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)

<b>Begin Date</b> December 1, 2015	<b>End Date</b> November 30, 2020	<b>Agency Tracking #</b> 30901-28316	<b>Edison Record ID</b>
<b>Contractor Legal Entity Name</b> Strategic Investment Solutions, Inc.			<b>Edison Vendor ID</b>

**Goods or Services Caption (one line only)**  
 Consulting Services relative to Programs attached to the Department of Treasury, which include the following: Tennessee Consolidated Retirement System, Chairs of Excellence Endowment Trust, Baccalaureate Education System Trust, State Pooled Investment Fund, and the Optional Retirement Program.

<b>Subrecipient or Contractor</b> <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Contractor	<b>CFDA #</b>
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Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2016				\$255,250	\$255,250
2017				\$510,500	\$510,500
2018				\$510,500	\$510,500
2019				\$510,500	\$510,500
2020				\$510,500	\$510,500
2021				\$255,250	\$255,250
<b>TOTAL:</b>				<b>\$2,552,500.00</b>	<b>\$2,552,500.00</b>

**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      This contract resulted from a competitive process through Request for Proposals number 30901-28316.

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.

*Kerry Hartley*

<b>Speed Chart (optional)</b>	<b>Account Code (optional)</b>
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**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
TREASURY DEPARTMENT  
AND  
STRATEGIC INVESTMENT SOLUTIONS, INC.**

This Contract, by and between the State of Tennessee, Treasury Department ("State") and Strategic Investment Solutions, Inc. ("Contractor"), is for the provision of General Investment Consulting Services, 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: California  
Contractor Edison Registration ID # 70965

**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. In General. The Contractor shall perform investment consulting services requested by the State in connection with the Tennessee Consolidated Retirement System (the "Retirement System"), the Chairs of Excellence Program (COE), the Tennessee Baccalaureate Education System Trust (BEST), the State Pooled Investment Fund (SPIF), and the Optional Retirement Program (ORP), hereinafter collectively referred to as "the Programs", and shall be, in general, an advisor to the State in the investment operations of the Programs.
- A.3. Due Diligence Review. The Contractor shall commence, immediately upon the effective date of this Contract, a due diligence review of the investment operations of the Programs, excluding the SPIF. Such review shall include the investment policies, guidelines and procedures of the respective Programs, the organizational structure of the Programs' investment divisions and such other matters as shall be agreed to by the parties. Upon completion of the evaluation, the Contractor shall provide a written due diligence report to the State containing its conclusions and any recommendations as a result of such review. The report shall be provided to the State by no later than June 30, 2016.
- A.4. Performance Measurement and Portfolio Analytics. The Contractor shall provide monthly and quarterly performance measurement reports on the investment performance of the Programs, except for the SPIF, in the manner and within the time frames described in the Contractor's Proposal. The reports shall identify whether the Programs' investment portfolios are within the authorized asset ranges, whether performance is consistent with the investment objectives and policies of the Programs, and whether the investment managers are performing consistently within applicable standards. The reports shall also include the following analysis and shall contain such other information as is agreed upon by both parties from time to time:
- (i) Measurement of rates of return earned on the various segments of the Programs' portfolios in accordance with the methodology recommended by the CFAI; and
  - (ii) Comparison of the respective Program's investment performance against other tax-free funds. The Contractor shall further provide a separate comparison of each Program against public management funds and a separate comparison against funds having the same investment characteristics as the Program being evaluated.
- A.5. Consulting, Education and Research Services.
- a. General Consulting, Education and Research Services. At the State's request, the Contractor shall conduct in-depth research, and analysis on pension, endowment, and investment issues requested by the State as it relates to the Programs. Said research shall include current industry trends and developments, accounting, regulatory and legal

changes relative to pensions, endowments, and investments. In particular, the Contractor shall provide technical advice as requested by the State, either orally or in written form, in connection with miscellaneous problems and questions that may arise from time to time relative to pensions, endowments, and investments. The Contractor shall also provide continuing education on pensions, endowments, and investments to the State which shall be accomplished through biannual educational conferences, research projects and surveys, access to the Contractor's research and white papers and such other means as is agreed upon by both parties from time to time. The Contractor shall also assist the State in drafting policies, procedures, and guidelines relative to the Programs at the request of the State.

- b. Comprehensive Consulting, Education and Research Services or Other Significant Projects and Services. For consulting, education and research services described in Section A.5.a above that require more than four (4) hours of the Contractor's time, the Contractor shall provide the State with a written statement of the cost involved in performing such services. The Contractor shall provide such statement within five (5) days of the State's request therefore specifying the project services requested by the State, the maximum number of hours required and the maximum cost for completing the project. The maximum cost to the State for the project shall be determined by multiplying the maximum number of hours required by the hourly rate detailed for such projects in Contract Section C.3, below.

If approved by the State, the statement provided by the Contractor shall constitute a Memorandum of Understanding (MOU) which shall be signed by the State's Chief Investment Officer. The Contractor shall not perform any service related to a project until the State's Chief Investment Officer has signed and returned the MOU to the Contractor. Each signed MOU shall be incorporated as a part of this contract.

Subsequent to the State Chief Investment Officer's approval of the MOU, the Contractor shall provide and invoice the State for the project on an hourly basis. After the project has been completed, the Contractor shall invoice the State in accordance with the payment provisions of this Contract detailed in Section C.3 below. For each project, the State shall be liable to the Contractor only for the cost of the actual hours required for the project's completion, not to exceed the maximum cost for the project detailed in the MOU. In no instance shall the State be liable to the Contractor for the cost of any hours worked in excess of the maximum hours or any amount exceeding the maximum cost for project.

- A.6. Annual External Management Review Services. Currently, the State engages external investment managers to actively manage the international stock portfolio of the Retirement System (the "External Managers"). On an annual basis, the Contractor shall provide written evaluation reports on the international investment performance of each External Manager. In addition, the Contractor shall assist State staff in the ongoing evaluation of the performance of the External Managers.
- A.7. Annual Optional Retirement Plan (ORP) Review Services. On an annual basis, the Contractor shall provide written evaluation reports on the investment performance of each provider in the ORP. In addition, the Contractor shall assist State staff in the ongoing evaluation of the performance of the ORP managers.
- A.8. Biannual Meeting Presentations. The Contractor shall be available at least twice a year to meet with the Board of Trustees of the Retirement System at the State's facilities in Nashville to explain the reports and any studies described in this Section A in the Contract that relate to the Retirement System, or to discuss any other matter in connection with the services being performed by the Contractor hereunder relative to the Retirement System.
- A.9. Asset Allocation Study Services. At the State's request, the Contractor shall perform an asset allocation study on the Program's investment operations and make written recommendations to the State. The study shall be conducted in the manner mutually agreed to by the parties. The Contractor agrees to provide, at the State's request, the data and assumptions from any asset allocation study performed hereunder to the Retirement System's actuary for the purpose of

conducting an asset/liability study of the Retirement System. The data and assumptions shall be provided to the actuary in such format as shall be mutually agreed to by the parties.

- A.10. Investment Manager Search Services. At the State's request, the Contractor shall provide analysis of and assist the State in acquiring any additional External Managers desired by the State. At the direction of the State, the Contractor shall prepare and/or issue a request for information and/or questionnaire to entities that are in the business of providing international stock portfolio management. The purpose of such request for information or questionnaire shall be to define the international investment services needed by the State, to solicit proposals for the provision of such services and to gain adequate information by which the State may evaluate the services offered by proposers. If requested by the State, the Contractor shall review the proposals and recommend a certain number of international investment managers for consideration by the State. The State shall make the final decision in the selection of any such investment manager.
- A.11. Origination of Service Requests. The consulting relationship under this Contract is between the State Treasurer and the Contractor. Routine contact will be made through the State's Chief Investment Officer. In the event of direct contact by a party other than the Chief Investment Officer or the State Treasurer's office, the Contractor shall refer such party to the Chief Investment Officer from whom any such inquiries should originate.
- A.12. Warranty. Contractor represents and warrants that the term of the warranty ("Warranty Period") shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. 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 the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.
- 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, and 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. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.
- A.13. Inspection and Acceptance. The State shall have the right to inspect all good and services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods and 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. The State is responsible to for the accuracy and completeness of any and all information that the State submits to Contractor (the "State Information"). The State agrees to notify the Contractor as soon as possible of any problems or errors in the State Information submitted.
- A.14. Principal Consultants. The Contractor agrees to assign the individuals named in the Contractor's Proposal as the principal consultants to the State under this Contract. Should any of the named consultants assigned to the State's account leave the direct employment of the Contractor during the term of the Contract, the State reserves the right to: (1) approve the appointment of the person

designated to replace the consultant, which consent shall not be unreasonably withheld or delayed; or (2) immediately terminate the Contract. Upon such termination, the Contractor shall have no right to any actual, general, special, incidental, consequential, or any other damages whatsoever of the description or amount as a consequence of the State terminating the Contract under the provisions of this Section A. 14.

- A.15. Disclosures of Indirect and Direct Interests. The Contractor shall promptly advise the State of any direct or indirect interest it may have in any product the Program may invest in pursuant to this Contract. "Direct interest" means any contract with the Contractor itself or with any business in which the Contractor is the sole proprietor, a partner, or the entity having the controlling interest, i.e., largest number of outstanding shares owned by any single individual or corporation. "Indirect interest" means any contract in which the Contractor is interested but not directly so.
- A.16. Transition of Services Upon Termination. Upon the natural expiration of this Contract or in the event of its termination for any reason, the Contractor shall transfer, in accordance with the State's instructions, all historical performance data on the Program's investment operations to whomever the State may designate in writing to the Contractor. Such data shall be furnished to the State's written designee in a standard electronic format within thirty (30) calendar days after the State's written request therefore. The Contractor agrees to cooperate with the State, and any subsequent contractor selected by the State to perform the services hereunder, in the transition and conversion of the services hereunder. The Contractor shall remain liable to the State under this Contract for any acts or omissions occurring on or prior to the date on which all such data and all services hereunder have been successfully transferred or converted in accordance with this Paragraph.
- A.17. Services to Other Clients. The State understands and acknowledges that the Contractor performs investment advisory and management services for various clients. The State agrees that the Contractor may give advice and take action with respect to any of its other clients that may differ from advice given, or differ in the timing or nature of action taken, with respect to the State, so long as it is the Contractor's policy to allocate investment opportunities to the State over the term of this Contract on a prudent, fair and equitable basis. The Contractor shall not have any obligation to recommend the purchase or sale of any security or investment that the Contractor or its affiliates may purchase or sell for the accounts of any other client, if in the opinion of the Contractor, such transaction or investment appears unsuitable, impractical or undesirable for the State.
- A.18. Procurement of External Managers. In the event the State elects to acquire additional external international investment managers under Section A.10 above, the Contractor shall promptly advise the State of any indirect interest it may have in any individual, association, corporation, or product which may be so acquired by the State. The Contractor shall have no direct interest in any individual, association, corporation, or product which may be so acquired by the State. "Direct interest" means any contract with the Contractor itself or with any business in which the Contractor is the sole proprietor, a partner, or the entity having the controlling interest, i.e., largest number of outstanding shares owned by any single individual or corporation. "Indirect interest" means any contract in which the Contractor is interested but not directly so.
- A.19. Representations and Warranties. The Contractor represents and warrants that (1) it has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services under the Contract; (2) with respect to the Account, it shall not engage in transactions with either itself, including any affiliates or parent companies, except upon the prior written approval of the Retirement System; (3) it is duly authorized to execute and deliver this Contract, and to perform its obligations hereunder and has taken all necessary action to authorize such execution, delivery and performance; (4) the person signing this Contract on its behalf is duly authorized to do so on its behalf; (5) it has obtained all authorizations of any governmental body required in connection with this Contract and the transactions hereunder and such authorizations are in full force and effect; and (6) the execution, delivery and performance of this Contract will not violate any law, ordinance, charter, by-law or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected. The Contractor shall promptly notify the Retirement System in writing if any of the above representations change or

cease to be true and correct in all respects. The Contractor represents and warrants the following (to the extent applicable):

- a. With reference to Rule 206(4)-5 promulgated under the Investment Advisers Act, neither the Contractor nor any Affiliate has within the last five (5) years:
  - (i). contributed to an official of a Tennessee government entity;
  - (ii). provided or agreed to provide, directly or indirectly, payment to any person to solicit, on behalf of the Contractor, a Tennessee government entity for investment advisory services; or
  - (iii). coordinated, or solicited any person or political action committee to make, any contribution to an official of a Tennessee government entity to which the Managing Member is providing or seeking to provide investment advisory services; or
  - (iv). coordinated, or solicited any person or political action committee to make, any payment to a political party operating in Tennessee or a Tennessee county or incorporated municipality where the Contractor is providing or seeking to provide investment advisory services to Tennessee government.
- b. With reference to Municipal Securities Rulemaking Board Rule G-37, neither the Managing Member nor any Affiliate has within the last five (5) years engaged or sought to engage an issuer located in Tennessee in municipal securities business.
- c. With reference to Rule 23.451 of the Commodity Futures Trading Commission, neither the Contractor nor any Affiliate has within the last five (5) years engaged or sought to engage a Special Entity (as defined in Section 4s(h)(2)(C) of the Commodity Exchange Act) located in Tennessee in a swap or a trading strategy involving a swap.
- d. With reference to Tenn. Code Ann. §3-6-305, neither the Contractor nor any Affiliate has, within the last five (5) years, engaged in lobbying for compensation, or otherwise been involved with:
  - (i) any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation; (ii) any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons who engages in lobbying for compensation; or (iii) a person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation.
- e. The Contractor has not provided any compensation to any individual or entity for assisting in the solicitation of the State of Tennessee, Department of Treasury or any of its plans or programs.
- f. The Contractor has such policies and procedures in effect as are reasonably designed to monitor and report the activities described in a. through e. above.

No more than once per fiscal year, the Contractor shall either (i) affirm that the representations set forth in this Section A.19. are true and correct or (ii) disclose the circumstances preventing such affirmation.

- A.20. Back-up Procedures and Disaster Recovery. The Contractor shall maintain business interruption plans in the event of a loss of the Contractor's principal place of business due to natural or manmade causes, including back-up systems for data and other records, office space and other technology needed to perform the services hereunder. The Contractor shall resume services hereunder within seventy-two (72) hours of the disaster or malfunction. The Contractor shall provide notification of an incident to the State within two (2) hours after the beginning of operation of the Contractor's Emergency Operations Command Post.

A.21. On-Site Visits. The State or its duly appointed representatives shall be entitled to visit the Contractor's operational headquarters or other offices where the TCRS account is serviced and to examine all records pertaining to the TCRS account, and to make reasonable request for copies of such records.

A.22. Transfer of Contractor's Obligations.

- a. As soon as practicable, the Contractor shall notify the State in writing of a proposed merger, acquisition or sale of its business operation, or the part of its business operation that provides services under this Contract, or that this Contract will be sold to or assumed by another entity. The entity that is proposed to assume the Contractor's duties under this Contract, whether through merger, acquisition, sale or other transaction, will be hereinafter described as the "New Entity."
- b. The Contractor (or, if the Contractor no longer exists as a legal entity, the New Entity) will provide to the State within a reasonable time, information that the State may require about the merger, acquisition or sale, to the extent Contractor can provide such information under the laws and regulations of the United States Securities & Exchange Commission, which may include, but not be limited to the following:
  - i. the date and terms of the merger, acquisition or sale, including specifically, but not limited to, adequate documentation of the financial solvency and adequate capitalization of the proposed New Entity
  - ii. evidence of financial solvency and adequate capitalization of the proposed New Entity which may include, but not be limited to the following:
    - (1) Debt;
    - (2) Assets;
    - (3) Liabilities;
    - (4) Cash flow
    - (5) Percentage of the total revenues of the company that are represented by this Contract;
    - (6) The most recent annual financial reports; or
    - (7) The most recent annual financial reports filed with government agencies, if applicable; or
  - iii. a complete description of the relationship of any New Entity to any parent company or subsidiary or division resulting from the merger, acquisition or sale of the original Contractor's business or the part of the original Contractor's business that provides services under this Contract or from assumption by, or sale to, another entity of the contract itself, including, but not limited to:
    - (1) the names and positions of corporate or company officers, project managers, other Contractor management staff with responsibilities under the Contract, and numbers and the type of technical or other personnel who will be responsible for fulfilling the obligations of the Contract, and any subcontracts that will be used to provide any personal or other services under the Contract by the New Entity and,
    - (2) an organizational chart clearly describing the organizational structure of the New Entity, parent company, subsidiary, division or other unit of the entity or parent company with which it has merged or by which it, or the Contract, has been acquired.
  - iv. such additional evidence of financial solvency, adequate capitalization and information regarding corporate organizational and personnel assigned to the Contract as the State determines is necessary to evaluate the status of the proposed or consummated merger, acquisition or sale.

- c. The original Contractor shall immediately notify the State in writing in the event of a change in its legal name and/or Federal Employer Identification Number (FEIN). The Contractor shall comply with State requests for copies of any documents that have been filed with state corporate records officials or other officials in the state of its incorporation that verify the name change and a narrative description of the reasons for the name change. If a New Entity has succeeded to the interest of the original Contractor, it shall immediately provide the State written notification of its Federal Employer Identification Number (FEIN), its complete corporate name, State of incorporation, and other documentation required to effectuate the transfer.
- d. Notwithstanding any other provisions of this Contract to the contrary, the State may immediately terminate this Contract in whole or in stages in the event that it determines that the New Entity
  - i. has been debarred from State or Federal contracting in the past five years; or
  - ii. has had a contract terminated for cause by the State of Tennessee within the past five years.

The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor or New Entity for compensation for any service which has not been rendered. Upon such termination, the Contractor or New Entity shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- e. The New Entity shall provide to the State within thirty (30) business days of the State's request, a notarized statement signed by an individual authorized to bind the New Entity certifying that all liabilities and obligations incurred by the former Contractor are assumed by the New Entity.
- f. If the New Entity owes money to the State of Tennessee, it acknowledges that Tennessee Code Annotated Section 9-4-604 requires repayment of these funds and will enter into a legally binding agreement for repayment.

**B. TERM OF CONTRACT:**

This Contract shall be effective on December 1, 2015 ("Effective Date") and extend for a period of sixty (60) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

**C. PAYMENT TERMS AND CONDITIONS:**

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed two million five hundred fifty-two thousand five hundred dollars (\$ 2,552,500.00) ("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:
    - (1) For service performed from December 1, 2015 to November 30, 2016, the following rates shall apply:

Services Description	Amount (per compensable increment)
Investment Consulting Services (detailed at Contract Sections A.3 through A.5.a. and A.6. through A.8.) including <i>Due Diligence Review, Performance Measurement and Portfolio Analytics, Consulting, Education and Research Services, Annual External Management Review Services, Annual Optional Retirement Plan Review Services, Biannual Meeting Presentations</i>	\$ 30,000.00 per month
Asset Allocation Study (detailed at Contract Section A.9.)	\$ 25,000.00 per study
Investment Manager Search – including all associated services (detailed at Contract Section A.10.)	\$ 25,000.00 per search
Education and Research Projects (detailed at Contract Section A.5.b.)	\$ 250.00 per hour

- (2) For service performed from December 1, 2016, through November 30, 2017, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(1), above, but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, All Items expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in November 2016 and that figure published in the same month, 12- months prior, up to a maximum of four percent (4%).

- (3) For service performed from December 1, 2017, through November 30, 2018, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(1), above, but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, All Items expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in November 2017 and that figure published in the same month, 12- months prior, up to a maximum of four percent (4%).
- (4) For service performed from December 1, 2018, through November 30, 2019, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(1), above, but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, All Items expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in November 2018 and that figure published in the same month, 12- months prior, up to a maximum of four percent (4%).
- (5) For service performed from December 1, 2019, through November 30, 2020, the Contractor shall be compensated based upon the payment rates in Section C.3.b.(1), above, but adjusted by the percentage increase, if any, between the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, All Items expenditure category, not seasonally adjusted, index base period: 1982-84=100) published by the United States Department of Labor, Bureau of Labor Statistics in November 2019 and that figure published in the same month, 12- months prior, up to a maximum of four percent (4%).

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
- d. A "month" shall be defined as a calendar month. If the Contractor provides service during a period that is less than a calendar month, the Contractor shall bill *pro rata* for only the number of days of said period. The Contractor shall not bill more than the monthly rate regardless of the difficulty, time, or resources required by included and required services.

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 via email, 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:

Michael Brakebill, Chief Investment Officer  
State of Tennessee, Treasury Department  
Investment Division  
13<sup>th</sup> Floor, Andrew Jackson State Office Building  
502 Deaderick Street  
Nashville, Tennessee 37243

- 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: Treasury Department, Investment Division;
- (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 the "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, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and

- b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**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:

Michael Brakebill, Chief Investment Officer  
Treasury Department, Investment Division  
13<sup>th</sup> Floor, Andrew Jackson Building  
502 Deaderick Street  
Nashville, Tennessee 37243  
michael.brakebill@tn.gov  
Telephone # (615) 532-1157  
FAX # (615) 253-4969

The Contractor:

Barry Dennis, CEO and Managing Director  
Strategic Investment Solutions, Inc.  
333 Bush Street  
San Francisco, California 94104  
bwd@sis-sf.com  
Telephone # (415) 362-3484  
FAX # (415) 362-2752

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, or if the Contractor materially violates any terms of this Contract, ("Breach Condition"), the State shall provide written notice to Contractor specifying the Breach Condition. If, within thirty (30) days of notice, the Contractor has not cured the Breach Condition, the state may 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 of this Contract by the Contractor 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, which consent shall not be unreasonably withheld or delayed. 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 A, 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 mutually agreed upon by the parties.
- 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. Contractor shall have no responsibility or authority to (i) manage or in any way direct the investment of any assets of the State, or (ii) enter into any

agreement with any investment manager on behalf of, or otherwise bind, the State. Nothing contained herein shall require the State to engage any investment manager recommended by Contractor or to follow any advice provided by Contractor. Contractor has no responsibility for voting any proxies solicited by or with respect to issuers of securities in which the assets of the State may be invested from time to time.

- 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: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts 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. §§ 67-6-601 – 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), which includes Contract Attachment A: Attestations and Contract Attachment B. Treasury Department Gifts and Solicitations Policy;
- 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.

D.31. Insurance. Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI at least thirty (30) calendar days prior to the insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately. The COI shall be on a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number or federal employer identification number and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3rd floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation.

All insurance companies must be: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A-VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) ("Professional Liability") insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State. The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements.

The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than thirty (30) calendar days after the State becomes aware of such claim. 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 or its insurer, 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.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The State reserves the right to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on

the nature of the work. Purchases or contracts involving any hazardous activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, cyber-liability risks, environmental risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.

a. Commercial General Liability Insurance

- 1) The Contractor shall maintain commercial general liability insurance, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- 2) The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000). Umbrella liability limits may be used to satisfy the required limits of coverage.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
  - i. Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes; or
  - ii. In an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease. Umbrella liability limits may be used to satisfy the required limits of coverage.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
  - i. The Contractor employees fewer than five (5) employees;
  - ii. The Contractor is a sole proprietor;
  - iii. The Contractor is in the construction business or trades with no employees;
  - iv. The Contractor is in the coal mining industry with no employees;
  - v. The Contractor is a state or local government; or
  - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit. ). Umbrella liability limits may be used to satisfy the required limits of coverage

d. Professional Liability Insurance

- 1) Professional liability insurance shall be written on an occurrence basis. This coverage may be written on a claims-made basis but must include

- an extended reporting period or "tail coverage" of at least two (2) years after the Term;
- 2) Any professional liability insurance policy shall have a limit not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) in the aggregate (Umbrella liability limits may be used to satisfy the required limits of coverage); and
  - 3) If the Contract involves the provision of services by medical professionals, a policy limit not less than two million (\$2,000,000) per claim and three million dollars (\$3,000,000) in the aggregate for medical malpractice insurance.
- e. Errors and Omission Coverage
- 1) with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.

**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. 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.3. Work Papers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis work papers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.4. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

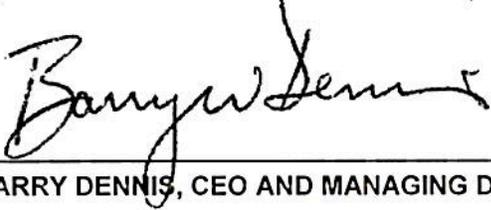
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- E.5. Partial Takeover of Contract. The State may, at its convenience and without cause, exercise a partial takeover of any service that the Contractor is obligated to perform under this Contract, including any service which is the subject of a subcontract between Contractor and a third party (a "Partial Takeover"). A Partial Takeover of this Contract by the State shall not be deemed a breach of contract. The Contractor shall be given at least thirty (30) days prior written notice of a Partial Takeover. The notice shall specify the areas of service the State will assume and the date the State will be assuming. The State's exercise of a Partial Takeover shall not alter the Contractor's other duties and responsibilities under this Contract. The State reserves the right to withhold from the Contractor any amounts the Contractor would have been paid but for the State's exercise of a Partial Takeover. The amounts shall be withheld effective as of the date the State exercises its right to a Partial Takeover. The State's exercise of its right to a Partial Takeover of this Contract shall not entitle the Contractor to any actual, general, special, incidental, consequential, or any other damages irrespective of any description or amount.
- E.6. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State.
- E.7. 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 the Board, Commission or Committee administratively attached to the Treasury Department that would violate the Treasury Department's Gifts and Solicitations Policy, attached hereto as Contract Attachment B which may be updated from time to time.
- E.8. Acknowledgments. The State acknowledges and agrees that:
- a. Contractor has not made and cannot make any promise, guarantee or other statement or representation regarding the future investment performance of the State's investments;
  - b. the past performance of the accounts of other clients of Contractor is not necessarily indicative of the future performance of the State's investments;
  - c. in the performance of its services under this Agreement, Contractor shall be entitled to rely on information furnished by investment managers, it being understood that Contractor shall have no liability for the accuracy or completeness of any information furnished or representation made by the investment managers, provided Contractor conducted due diligence and evaluation of such investment managers with reasonable care; and
  - d. to the extent permitted by applicable law, Contractor will not be liable for any losses or expenses incurred as a result of any action or omission by an investment manager, custodian or unrelated third party.
- E.9. Survival. The terms, provisions, representations, and warranties contained in this Contract which by their sense and context are intended to survive the performance and termination of this Contract, shall so survive the completion of performance and termination of this Contract.

IN WITNESS WHEREOF,

STRATEGIC INVESTMENT SOLUTIONS, INC.:



BARRY DENNIS, CEO AND MANAGING DIRECTOR

DATE 11/11/2015

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TREASURY DEPARTMENT:



DAVID H. LILLARD, JR., STATE TREASURER

NOV. 20, 2015

DATE

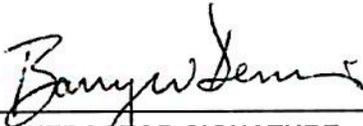
Approved for signature by CA 11/19/15

## CONTRACT ATTACHMENT A

## ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	STRATEGIC INVESTMENT SOLUTIONS, INC.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	94-3194697

The Contractor, identified above, does hereby attest, certify, warrant, and assure 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.




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CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

Barry W. Dennis, Managing Director

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PRINTED NAME AND TITLE OF SIGNATORY

11/11/2015

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DATE OF ATTESTATION

## TREASURY DEPARTMENT GIFTS AND SOLICITATION POLICY

No employee or any member of a Board, Commission or Committee administratively attached to the Department shall solicit, accept or agree to accept, directly or indirectly, on behalf themselves or their immediate family, any gift in violation of state law including, but not limited to, any gratuity, service, favor, entertainment, lodging, transportation, loan, loan guarantee rebate, money, any promise, obligation or contract for future awards or compensation or any other thing of monetary value, from any **individual or entity** that:

- Has, or is seeking to obtain, contractual or other business or financial relations with the Treasury Department or the Tennessee Consolidated Retirement System;
- Conducts operations or activities that are regulated by the Treasury Department;
- May bid on future procurement from the Department or a Board, Commission, or Committee administratively attached to the Department based on the employee's reasonable belief that the person or entity intends to submit a bid; or
- Has an interest that may be substantially affected by the performance or nonperformance of the employee's official duties.

Generally, gifts from a lobbyist or an employer of a lobbyist are prohibited; however, the following are exceptions to the general gift prohibition:

- A gift given for nonbusiness purpose and motivated by a close personal friendship and not by the position of the employee, and specifically authorized and defined by the Ethics Commission;
- Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;
- Sample merchandise, promotional items, and appreciation tokens if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;
- Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento, and similar items, provided that any such item shall not be in a form which can readily be converted to cash;
- Benefits resulting from business, employment, or other outside activities of the employee or the employee's immediate family, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the employee;
- Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to, discounts afforded to the general public or prizes and awards given out in public contests;
- Expenses of out-of-state travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state government officials;

**CONTRACT ATTACHMENT B**

- Food, refreshments, amenities, goody bags, entertainment, or beverages provided as part of a meal, reception or similar event including tradeshow and professional meetings; and
- Food, refreshments, meals, foodstuffs, entertainment, beverages that are provided in connection with the following: an event where the employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which regularly meets at in-state events in which invitations are extended to legislative or executive branch employees. The value of the items shall not exceed fifty dollars (\$50.00) per person, per day.\*

\* The amount may be increased to reflect the percentage of change in the average consumer price index. The Ethics Commission publishes the increased amount on its website.

For other gifts offered which are not included in the exceptions above, the employee must obtain the written approval of the Assistant Treasurer for Legal, Compliance, and Audit.