



Request for Proposal # 2022-RFP-159

FOR: Real Estate Broker for Selected NJEDA Parcels

Event	Date	Time
Bidder's Electronic Question Due Date (Refer to Section 1.3.1 of this RFP for more information.)	January 19, 2023	02:00 PM ET
Pre-Proposal Conference (Refer to Section 1.3.2 of this RFP for more information.)	N/A	N/A
Site Visit (Refer to Section 1.3.3 of this RFP for more information.)	N/A	N/A
Proposal Submission Date (Refer to Section 1.3.6 of this RFP for more information.)	February 6, 2023	02:00 PM ET

Dates are subject to change. All changes will be reflected in Addenda to the RFP posted on the New Jersey Economic Development Authority's website.

Designation	Status	Category
Small Business Set-Aside	Not Applicable <input checked="" type="checkbox"/>	Not Applicable <input checked="" type="checkbox"/>
	Entire Contract <input type="checkbox"/>	I <input type="checkbox"/>
	Partial Contract <input type="checkbox"/>	II <input type="checkbox"/>
	Subcontracting Only <input type="checkbox"/>	III <input type="checkbox"/>
Disabled Veteran-Owned Business Set-Aside	Not Applicable <input checked="" type="checkbox"/>	
	Entire Contract <input type="checkbox"/>	
	Partial Contract <input type="checkbox"/>	
	Subcontracting Only <input type="checkbox"/>	

RFP Issued By:

New Jersey Economic Development Authority
Procurement
36 West State Street, PO Box 990
Trenton, NJ 08625-0990
Main Reception Desk–Telephone: 609-858-6700

Date: 1/9/23

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1.0 INFORMATION FOR BIDDERS

This Request for Proposals (RFP) is issued by the New Jersey Economic Development Authority (“Authority”, “EDA”) to solicit Proposals from highly qualified firms to provide Real Estate Brokerage Services for selected EDA properties.

1.1 PURPOSE AND INTENT

The purpose of this Request for Proposal is to solicit and obtain proposals from highly qualified firms to provide real estate brokerage services for select properties within EDA portfolio. The selected broker will market and negotiate the sale of the selected properties. These services will also include selected lease transactions that require the sale of the property at the end of lease term.

The successful firm will be required to assume sole responsibility for the complete effort as required in this RFP. By submitting a proposal, the proposer covenants and agrees that it has satisfied itself, from its own investigation, of the conditions to be met, and that it fully understands its obligations.

The successful firm’s responsibilities will include, but not be limited to, real estate brokerage services further outlined in Section 3.0 entitled the Scope of Work. The Scope of Work is intended as a guide for the proposer to understand the overall basic requirements of the contract and is not intended to identify each specific activity of work that is needed or desirable. The selected firm shall recommend the level of detail and activities required to perform the services under the contract based upon the firm’s experience and expertise for real estate brokerage services.

Brokerage services by the successful firm are for services and expressly includes brokerage services for the sale or transfer of ownership or control by the EDA of the Property or any other site owned or controlled by the EDA. This RFP shall entitle the successful firm to sales commission arising out of a sale or transfer of ownership or control of any site owned or controlled by the EDA.

Furthermore, the successful firm may also be retained by the EDA to provide additional services for additional EDA owned, operated, leased, or managed properties. It is understood that the successful firm may be retained by the EDA if, in the sole discretion of the EDA, it is determined that additional services are required and that such procurement is in the best interest of the EDA. It is further understood that the EDA is under no obligation to solicit a proposal and/or retain the successful firm on a sole source basis to provide any such additional services. Where applicable, payment for these additional services will be based on the commission rates as outlined in the successful firm’s Fee Proposal.

The intent of this RFP is to award a three (3) year contract, with two (2) one-year extension options for real estate brokerage services, which is at the sole discretion of the Authority if deemed necessary by the Authority and dependent upon funding, to the responsible Proposer whose Proposal, conforming to this RFP is most advantageous to the Authority, price and other factors considered.

The Authority reserves the right to award in total or in part and reject any and all Proposals when it is determined to be in the best interest of the Authority, price and other factors considered.

The Authority’s Contract for Professional Services, please refer to **Exhibit A**, are in addition to the Terms and Conditions set forth in this RFP and should be read in conjunction with them unless the RFP specifically indicates otherwise.

1.2 BACKGROUND

The New Jersey Economic Development Authority serves as the State's principal agency for driving economic growth. The Authority is committed to making New Jersey a national model for inclusive and sustainable economic development by focusing on key strategies to help build strong and dynamic communities, create good jobs for New Jersey residents and provide pathways to a stronger and fairer economy. Through partnerships with a diverse range of stakeholders, the Authority creates and implements initiatives to enhance the economic vitality and quality of life in the State and strengthen New Jersey's long-term economic competitiveness.

Since its inception in 1974, the Authority has provided billions of dollars in assistance to numerous projects within the State. These projects have created almost a half million jobs. In 2020, the Authority provided over \$628 million dollars in assistance to 42,708 projects and created more than 600 new full-time jobs.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The Authority will electronically accept written questions and inquiries from all potential Proposers via the web at EDAProcurementQA@njeda.com by the date and time shown on Page 1 of this RFP. Phone calls and/or faxes shall not be accepted.

The subject line of the e-mail should state:

QUESTIONS-2022-RFP-159 – Real Estate Broker

- A. Questions should be directly tied to the RFP and asked in consecutive order, from beginning to end, following the organization of the RFP and should begin by referencing the RFP page number and section number to which it relates;

A Proposer must not contact the Authority's requesting department or any other staff/board member directly, in person, by telephone or by e-mail concerning this RFP **prior to the final award**. Any contact made outside of emailing inquiries via EDAProcurementQA@njeda.com will result in disqualification of the Proposer's Proposal;

- B. All Questions received and Answers given in response to this RFP will be answered in the form of an Addendum. Addenda, if any, will be posted on the Authority's website, <https://www.njeda.com/bidding/> as a separate file attachment, or incorporated into a revised, posted RFP, after the posted cut-off date for electronic questions and inquiries indicated on the RFP cover sheet; and
- C. Any Amendment to this RFP will become part of this Solicitation and part of any Contract awarded as a result of this RFP.

1.3.1.1 EXCEPTIONS TO THE AUTHORITY'S CONTRACT FOR PROFESSIONAL SERVICES

Questions regarding the Authority's Contract for Professional Services, please refer to Exhibit A, and exceptions or modifications to its mandatory requirements **must be requested by the Proposer during this Electronic Question and Answer Period** and should contain the Proposer's suggested changes and the reason(s) for the suggested changes. The Authority shall be under no obligation to grant or accept any requested changes (i.e., exceptions taken) to the specimen form of the Contract and will post all answers in the Addendum. Exceptions and/or modifications to the terms of the RFP and/or Contract submitted with the Proposal, subsequent to

the expiration of the Question and Answer Period, will result in the rejection of the Proposer's Proposal.

1.3.2 PRE-PROPOSAL CONFERENCE

Not applicable.

1.3.3 SITE VISIT

Not applicable.

1.3.4 PROJECTED MILESTONE DATES

The following dates are provided to Interested Proposers for planning purposes only. These are estimated timeline dates and do not represent a firm date commitment by which the Authority will take action:

Pre-Proposal Conference:	Not applicable.
Q&A Period Ends:	on or before January 19, 2023 @ 2:00 p.m. ET
If required, Addendum:	on or about January 26, 2023 @ 2:00 p.m. ET
Proposals Due:	on or before February 6, 2023 @ 2:00 p.m. ET
Estimated Recommendation for Award:	April 12, 2023 via Authority Board Scheduled Meeting
Estimated Contract Execution:	On or about April 26, 2023

1.3.5 TIMELY SUBMISSION OF PROPOSALS

In order to be considered for award, the Proposal must be received by the Authority at the appropriate location by the required time. Proposals not received prior to the Proposal opening deadline, as indicated on the RFP cover sheet, shall be rejected. If the Proposal opening deadline has been revised, the new RFP opening deadline will be shown on a posted RFP Amendment.

1.3.6 SUBMISSION OF PROPOSAL – ELECTRONIC OR HARD COPY

In order to be evaluated and considered for award, the Proposal must be received by the Authority at the appropriate location and by the required time indicated on the cover sheet, either electronically or hard copy.

1.3.6.1 ELECTRONIC PROPOSAL SUBMISSION (STRONGLY PREFERRED)

Proposers should submit a complete, ELECTRONIC Proposal, in "read only" PDF file format using Adobe Acrobat Reader software that must be viewable by Authority evaluators.

The subject line of the RFP submission and any attachments are all to be clearly labeled.

EACH electronically uploaded file (Proposal, Attachment Submittals, etc.) submission, should follow the following format:

"(Proposer's Company Name) - Bid Submission-2022-RFP-159 Real Estate Broker, and the (file/document title)"

All RFP electronic Proposal documents must be uploaded to the Authority's ShareFile system via:

<https://njeda.sharefile.com/r-rff3ce178a76a4c7f8a4610cdb2265211>

It is highly recommended that you initiate the upload of your bid Proposal/submission a minimum of four (4) hours prior to the Proposal Submission due date/time on the front cover to allow some time to identify and troubleshoot any issues that may arise when using the Sharefile application. Technical inquiries may be directed to EDAProcurementQA@njeda.com.

NOTE: Any bids received after the date and time specified shall not be considered. All Proposal submissions, once opened, become the property of the Authority and cannot be returned to the Proposer. If a Proposer uploads multiple documents, the NJEDA will only consider the last version of the document uploaded, provided it is uploaded by the stated deadline.

1.3.6.2 ELECTRONIC SIGNATURE

Proposers submitting Proposals electronically may sign the forms listed in Section 4.0 Proposal Preparation and Submission – Requirements of the Proposer (Required Compliance Documentation Pre- and Post-Proposal Submission).

Pursuant to written policy, the Authority allows documents to be signed electronically and hereby agrees to be bound by such electronic signatures. Proposers submitting Proposals electronically, as signatory to the documents, may sign the forms listed in Section 4.2.4 (Section D - Requested Compliance Documentation Pre & Post Proposal Submission) of this Bid Solicitation, electronically, and agree to be bound by the electronic signatures. The Authority will accept the following types of electronic signatures: (1) Within Microsoft Word, an individual can go to the “Insert” ribbon at the top of the screen, then within the “Text” section go to the “Signature Line” and enter the information, which creates a security procedure/record attributable to the person signing when transmitted via e-mail or other electronic transfer or; (2) Within Adobe Acrobat DC, go to the “Fill & Sign” “Stamps-Dynamics” or “Certificates” within the “Tools” ribbon and enter the information, which creates a security procedure/record attributable to the person signing when transmitted via e-mail or other electronic transfer; or (3) Digital signatures from Adobe Acrobat DC or produced via similar signature authenticating program (i.e., DocuSign or similar software), which creates a security procedure/record attributable to the person signing.

By submitting an electronic signature, the Proposer is agreeing to be bound by the electronic signature.

Scanned physical signatures will also be accepted, provided that the forms are otherwise properly completed.

This practice applies only to Proposals submitted electronically and the forms listed above. Both electronic signatures and scanned physical signatures will also be accepted, provided that the forms are otherwise properly completed.

Proposers submitting Proposals in hard copy format must provide forms with original, physical signatures; otherwise the Proposal may be deemed non-responsive per Hard Copy Proposal Submission, Section 1.3.6.3.

1.3.6.3 HARD COPY PROPOSAL SUBMISSION

If submitting a hard copy Proposal, a sealed Proposal must be delivered by the required date and time indicated on the cover sheet, in order to be considered for award to the following:

Asteris (Ted) Fanikos
Senior Procurement Officer
NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY
36 WEST STATE STREET

PO BOX 990
TRENTON NEW JERSEY 08625-0990

The exterior of all Proposal packages is to be clearly labeled with the Proposal title, bid opening date and time, and the Proposer's Name and Address:

**2022-RFP-159 Real Estate Brokerage Services
February 6, 2023 @ 2:00 p.m. ET**

Submit one (1) ink signed, original hard copy Proposal with all the required documentation and signatures in ink, and one (1) copy marked "COPY".

Proposals submitted by facsimile will not be considered.

ANY PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED, WILL BE AUTOMATICALLY REJECTED. THE AUTHORITY WILL NOT BE RESPONSIBLE FOR LATE POSTAL OR DELIVERY SERVICE. THE POSTMARK DATE WILL NOT BE CONSIDERED IN HONORING THE BID DATE RECEIPT AND TIME.

The Authority shall not be responsible for any delivery/postal service's failure to deliver in a timely manner. A Proposer using U.S. Postal Service regular or express mail services should allow additional time to ensure timely receipt of Proposals since the U.S. Postal Service does not deliver directly to the Authority.

Directions to the Authority's Trenton location can be found at the following web address: <https://www.njeda.com/about/> at the bottom of the screen under the "Locations" section of the website.

Any Proposal received after the date and time specified shall not be considered, whether submitted electronically or in hard copy.

1.4 ADDITIONAL INFORMATION

1.4.1 ADDENDA: REVISIONS TO THIS RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by Addendum. Any Addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

ALL RFP ADDENDA WILL BE ISSUED ON THE AUTHORITY'S WEB SITE. TO ACCESS ADDENDA, THE PROPOSER MUST LOCATE THE PROPOSAL NUMBER OF INTEREST AT <https://www.njeda.com/bidding/> - "Business Support Administrative Goods and Services - Bidding Opportunities".

There are no designated dates for release of Addenda. Therefore all interested Proposers should check the Authority's "Bidding Opportunities" website on a daily basis from time of RFP issuance through the Proposal submission opening.

It is the sole responsibility of the Proposer to be knowledgeable of all Addenda related to this procurement.

1.4.2 PROPOSER RESPONSIBILITY

The Proposer assumes sole responsibility for the complete effort required in submitting a Proposal in response to this RFP. No special consideration will be given after Proposals are opened because of a Proposer's failure to be knowledgeable as to all requirements of this RFP Solicitation.

1.4.3 COST LIABILITY

The Authority assumes no responsibility and bears no liability for costs incurred by a Proposer in the preparation and submittal of a Proposal in response to this RFP Solicitation.

1.4.4 CONTENTS OF PROPOSAL – OPEN PUBLIC RECORDS ACT

The Authority, as an instrumentality of the State of New Jersey, is subject to the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1.1 et seq.), as amended and including all applicable regulations and policies and applicable case law, including the common law right to know. Subsequent to the Proposal submission opening, all information submitted by Proposer in response to a solicitation is considered public information, notwithstanding any disclaimers to the contrary submitted by a Bidder. When the RFP contains a negotiation component, the Proposal will not be subject to public disclosure until a conditional Notice of Award is issued.

As part of its Proposal, a Bidder may designate any data or materials it asserts are exempt from public disclosure under OPRA and/or the common law, explaining the basis for such assertion. The location in the Proposal of any such designation should be clearly stated in a cover letter.

A Bidder shall not designate any price lists and/or catalogs submitted as exempt from public disclosure.

Any proprietary and/or confidential information in the Bidder's Proposal will be redacted by the Authority. A Bidder may designate specific information as not subject to disclosure pursuant to the exceptions to OPRA found at N.J.S.A. 47:1A-1.1, when the Proposer has a good faith legal and/or factual basis for such assertion. The Authority reserves the right to make the determination as to what is proprietary or confidential, and will advise the Proposer accordingly. **The Authority will not honor any attempt by a Proposer to designate its entire Proposal as proprietary, confidential and/or to claim copyright protection for its entire Proposal.** Copyright law does not prohibit access to a record which is otherwise available under OPRA. In the event of any challenge to the Proposer's assertion of confidentiality with which the Authority does not concur, the Proposer shall be solely responsible for defending its designation, but in doing so, all costs and expenses associated therewith shall be the responsibility of the Bidder. The Authority assumes no such responsibility or liability.

1.4.5 PROPOSAL SUBMISSION ANNOUNCEMENT

On the date and time Proposals are due under the RFP, only the names and addresses of the Proposer(s) submitting Proposals will be publicly announced and the contents of the Proposals shall remain proprietary and/or confidential, pursuant to Negotiation and Best and Final Offer (BAFO) Section 6.8, until the Conditional/Notice of Intent to Award is issued.

NOTE: All Proposal submissions, once publicly opened, become the property of the Authority and cannot be returned to the Proposer.

1.4.6 PROPOSAL ERRORS – BEFORE & AFTER BID OPENING

A Proposer(s) may withdraw its Proposal as described below:

A Proposer(s) may request that its Proposal be withdrawn prior to the Proposal submission opening. Such request must be made, in writing, via e-mail to the Procurement Department at email: EDAProcurementQA@njeda.com, with a reference to company name, RFP number, RFP Title, a Proposal identifier if one was applied, Proposal submission date, and method of Proposal

submission (i.e., electronic version or hard copy delivery). The written withdrawal request must be signed and submitted by a duly authorized representative of the Proposing entity to be valid.

In the event the Proposer withdraws its bid Proposal in person, a business card and proper identification must be presented. Proposals so withdrawn will be returned to the Proposer unopened.

If the withdrawal request is granted, the Proposer(s) may submit a revised Proposal as long as the Proposal is received prior to the announced date and time for Proposal submission and at the place specified.

If, after the Proposal submission opening but before contract award, a Proposer(s) discovers an error in its Proposal, the Proposer(s) may make a written request to the Procurement Department for authorization to withdraw its Proposal from consideration for award. Evidence of the Proposer's good faith in making this request shall be used in making the determination. The factors that will be considered are that the mistake is so significant that to enforce the contract resulting from the Proposal would be unconscionable; that the mistake relates to a material feature of the contract; that the mistake occurred notwithstanding the Proposer's exercise of reasonable care; and that the Authority will not be significantly prejudiced by granting the withdrawal of the Proposal. After the Proposal submission opening, while pursuant to the provisions of this section, the Proposer may request to withdraw the Proposal and the Authority may, in its sole discretion allow the Proposer to withdraw it, the Authority also may take notice of repeated or unusual requests to withdraw by a Proposer(s) and take those prior requests to withdraw into consideration when evaluating the Proposer(s) future bids or Proposals.

If during a Proposal evaluation process an obvious pricing error made by a potential contract awardee is found, the Authority shall issue written notice to the Proposer(s). The Proposer(s) will have five (5) days after receipt of the notice to confirm its pricing. If the Proposer fails to respond, its Proposal shall be considered withdrawn, and no further consideration shall be given it.

If it is discovered that there is an arithmetic disparity between the unit price and the total extended price, the unit price shall prevail. If there is any other ambiguity in the pricing other than a disparity between the unit price and extended price and the Proposer's intention is not readily discernible from other parts of the Proposal, the Procurement Department may seek clarification from the Proposer(s) to ascertain the true intent of the Proposal.

1.4.7 JOINT VENTURE

The Authority will **NOT** consider Proposals submitted by joint ventures, in the performance of the Work for this RFP.

Proposers shall note that any and all reference to "joint venture(s)", "joint venture partner(s)"/"joint venture partnership(s)" in any documents included as a part of the RFP specifications, exhibits or attachments shall be read as though the words are stricken and removed.

1.4.8 SUBCONTRACTORS/SUBCONSULTANTS

For purposes of this RFP, the Authority will consider Proposals submitted which may employ the use of Subcontractors and/or subconsultants to satisfy the requirements and deliverables required of the resulting contract.

See Proposer's Checklist – Subcontractor Utilization Form, complete & submit, if applicable.

The Contractor shall be fully responsible to the Authority for the acts and omissions of its Subcontractors and/or subconsultants, and of persons either directly or indirectly employed by

them, as the Contractor is responsible for the acts and omissions of persons directly employed by the Contractor.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contracts Documents in so far as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Authority may exercise over the Contractor under any provision of the Contract Documents.

Proposers should note that the Contractor retains the sole and absolute responsibility for the management and supervision of all Subcontractors to a high quality of service. Such Subcontractors must possess a valid "Business Registration Certificate", as further detailed in "Section 4.2.4.5 Compliance – Business Registration Certificate" of this RFP. Additionally, the Contractor assumes sole and absolute responsibility for all payments and monies due to its Subcontractors.

Nothing contained in this RFP and subsequent Contract shall create any contractual relation between any Subcontractor and the Authority.

1.4.9 CONFLICT OF INTEREST

Proposer must indicate and detail any Conflict of Interest that exists with either their personnel or any Subcontracting personnel being utilized for these services. Such conflicts include a direct, familial, or personal monetary interest or any previous or existing personal/professional relationships with the Authority and any personnel assigned to work on the Authority's account, regarding these requisite services.

If such a Conflict of Interest exists with any vendor personnel or any Subcontracting personnel being utilized for these services, the Proposer must disclose such possible conflicts in the Proposal. Should a conflict(s) be found to exist, whether real or perceived, the Authority, in its sole discretion, shall determine whether it is a conflict(s) and the individual(s) involved are to be immediately removed.

1.4.10 PROPOSAL ACCEPTANCES AND REJECTIONS

The Authority's staff reserves the right to reject any and all Proposals, if deemed to be in the best interest of the Authority, to request redefined Proposals from any entity responding to this RFP, to schedule interviews with no Proposers, all Proposers, or only the most highly qualified Proposers, as determined by the Authority; or to request clarifications of any portion of the Proposal received. Further, the Authority's staff reserves the right, at its sole discretion, to waive minor elements of non-compliance of any entity's Proposal, regarding the requirements outlined in this RFP. The Authority retains the discretion to modify, expand or delete any portion of this RFP or terminate this RFP process at any time.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

The following definitions will be part of any contract awarded or order placed as a result of this RFP.

Addendum – Written clarification or revision to this RFP issued by the Authority.

All-Inclusive Hourly Rate – An hourly rate comprised of all direct and indirect costs including, but not limited to: overhead, fee or profit, clerical support, travel expenses, per diem, safety equipment, materials, supplies, managerial support and all documents, forms, and reproductions thereof. This rate also includes portal-to-portal expenses as well as per diem expenses such as food.

Amendment – An alteration or modification of the terms of a contract between the Authority and the Contractor(s). An amendment is not effective until approved in writing by the Authority.

Authority – The New Jersey Economic Development Authority.

Best and Final Offer or BAFO – Pricing submitted by a Proposer upon invitation by the Authority after Proposal opening, with or without prior discussion or negotiation.

Bid or Proposal – Proposer's timely response to the RFP including, but not limited to, the technical Proposal, fully completed Fee Schedule, and any licenses, forms, certifications, or other documentation required by the RFP.

Bidder – An individual or business entity submitting a Proposal in response to this RFP.

Board of Directors – Responsible for the management of all New Jersey Economic Development Authority operations.

Business Day – Any weekday, excluding Saturdays, Sundays, Authority legal holidays, and State-mandated closings unless otherwise indicated.

Calendar Day – Any day, including Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

Contract – The Contract for Professional Services – Exhibit A, this RFP, any addendum to this RFP, and the Bidder's Proposal submitted in response to this RFP, as accepted by the Authority.

Contractor – The Bidder/Proposer awarded a contract resulting from this RFP.

Chief Executive Officer (CEO) – The Individual, or his/her designee, who has authority as the Chief Contracting Officer for the New Jersey Economic Development Authority.

Designated Contract Manager – Individual responsible for the overall management and administration of the contract and Contractor relationship.

Director – The Director of Procurement, New Jersey Economic Development Authority.

Disabled Veterans' Business – means a business which has its principal place of business in the State, is independently owned and operated and at least 51% of which is owned and controlled by persons who are disabled veterans or a business which has its principal place of business in this State and has been officially verified by the United States Department of Veterans Affairs as a service disabled veteran-owned business for the purposes of department contracts pursuant to federal law. N.J.S.A. 52:32-31.2.

Disabled Veterans' Business Set-Aside Contract – means a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from disabled veterans' businesses, or a portion of a contract when that portion has been so designated. N.J.S.A. 52:32-31.2.

Evaluation Committee – A committee established, or Authority staff member assigned by the requesting department, to review and evaluate Proposals submitted in response to this RFP and to recommend a contract award to the CEO and/or the Board of Directors.

Firm Fixed Price – A price that is all-inclusive of direct cost and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, travel, reproduction and any other costs. No additional fees or costs shall be paid by the Authority unless there is a change in the scope of work.

Procurement (Procurement) – The Department of the New Jersey Economic Development Authority responsible for the tasks and activities associated with procurement.

Joint Venture – A business undertaking by two or more entities to share risk and responsibility for a specific project.

May – Denotes that which is permissible, not mandatory.

Must – Denotes that which is a mandatory requirement. Failure to meet a mandatory material requirement will result in the rejection of a Proposal as non-responsive

No Charge – The Proposer will supply an item on a price line free of charge.

Proposer - An individual or business entity submitting a Proposal in response to this RFP.

Project – The undertaking or services that are the subject of this RFP.

Request for Proposal (RFP) – This series of documents, which establish the bidding and Contract requirements and solicits Proposals to meet the needs of the Authority, as identified herein, and includes the Request for Proposal, Sample Contract, fee/price schedule, attachments and addenda.

Retainage – The amount withheld from the Contractor's payment that is retained and subsequently released upon satisfactory completion of performance milestones by the Contractor.

Revision – A response to a BAFO request or a requested clarification of the Proposal.

Shall – Denotes that which is a mandatory requirement. Failure to meet a mandatory material requirement will result in the rejection of a Proposal as non-responsive.

Should – Denotes that which is recommended, not mandatory.

Small Business – Pursuant to N.J.A.C. 17:13-1.2, "small business" means a business that meets the requirements and definitions of "small business" and has applied for and been approved by the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit as (i) independently owned and operated, (ii) incorporated or registered in and has its principal place of business in the State of New Jersey; (iii) has 100 or fewer full-time employees; and has gross revenues falling in one (1) of the three (3) following categories: For goods and services – (A) 0 to \$500,000 (Category I); (B) \$500,001 to \$5,000,000 (Category II); and (C) \$5,000,001 to \$12,000,000, or the applicable federal revenue standards established at 13 CFR 1221.201, whichever is higher (Category III); For construction services: (A) 0 to \$3,000,000

(Category IV); (B) gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201 (Category V); and (C) gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201 (Category VI).

Small Business Set-Aside Contract – means (1) a contract for goods, equipment, construction or services which is designated as a contract with respect to which bids are invited and accepted only from small businesses, or (2) a portion of a contract when that portion has been so designated. N.J.S.A. 52:32-19.

State – The State of New Jersey.

Subtasks – Detailed activities that comprise the actual performance of a task.

Subcontractor/Subconsultant – An entity having an arrangement with an Authority Contractor, where by the Authority Contractor uses the products and/or services of that entity to fulfill some of its obligations under its Authority contract, while retaining full responsibility for the performance of all of its (the Contractor's) obligations under the contract, including payment to the Subcontractor/Subconsultant. The Subcontractor/Subconsultant has no legal relationship with the Authority, only with the Contractor.

Task – A discrete unit of work to be performed.

TOR (Task Order Request) – A Task Order is issued for the performance of tasks/services. In TOR-based solicitations, a TOR is a description of the individual task/service for which proposals and quotes will be solicited.

Transaction - The payment or remuneration to the Contractor for services rendered or products provided to the Authority pursuant to the terms of the contract, including but not limited to the following: purchase orders, invoices, hourly rates, firm fixed price, commission payments, progress payments and contingency payments.

Unit Cost or Unit Price – All inclusive, firm fixed price charged by the Proposer for a single unit identified on a price line.

Vendor - An individual or business entity submitting a Proposal in response to this RFP.

Will – Denotes that which is permissible or recommended, not mandatory.

2.1.1 CONTRACT-SPECIFIC DEFINITIONS

Broker – The Bidder/Proposer awarded a contract resulting from this RFP.

Commission – The Broker's compensation for his/her/its services calculated using the Commission Rate, when applicable.

3.0 SCOPE OF WORK – REQUIREMENTS OF THE VENDOR {CONTRACTOR}

The responsibilities of the successful firm (the “Broker”) will include, but not be limited to, the following real estate brokerage services for the certain properties owned by the Authority.

3.1 REAL ESTATE BROKERAGE SERVICES – SUMMARY

For each property that the Authority will sell under this contract, the successful Proposer’s responsibilities will include, but not be limited to, the following (as applicable to each respective property):

1. Review all pertinent documentation regarding the properties including, but not limited to:
 - a. Deeds
 - b. Survey
 - c. Easements or other encumbrances on the property
 - d. If applicable, tenant leases, subleases, ground leases, rights of entry or other agreements regarding the use of the property
 - e. Existing appraisal(s) of the property, if available
2. Perform a market analysis of comparable property recently sold and provide an opinion as the property’s current market price.
3. Prepare a marketing and advertising strategy/plan which will include a schedule for implementation.
4. Advertise and promote the sale of the property, which includes but is not limited to:
 - a. listing on appropriate internet commercial real estate databases,
 - b. the creation and dissemination of marketing materials, brochures and advertisements - hard copy and electronically in appropriate commercial real estate periodicals, groups and organizations, and other relevant sites
 - c. property signage
5. Interview prospective purchasers and show the property.
6. Prepare monthly activity reports, which will include but not be limited to:
 - a. Marketing activities to date
 - b. List of contacts or prospective purchasers regarding the property and current status
 - c. Advise whether an adjustment to the asking price is required
 - d. Other issues regarding the marketing and sale of the property
7. Obtain offers and financial information from qualified prospective purchasers.
8. Analyze offers from qualified prospective purchasers and compare offers to current market conditions.
9. Negotiate and draft term sheets subject to NJEDA’s approval.
10. Assist with the drafting of the purchase and sale agreement, subject to NJEDA’s approval.
11. Other services required to sell the property as required and reasonably requested.

3.2 Real Estate Brokerage Services

3.2.1. Potential Purchasers

The Broker shall use its best efforts and due diligence to obtain proposals from qualified prospective purchasers, and shall promptly present in writing all such proposals to EDA for consideration. Such proposals will be accompanied by financial statements, guarantees, and other data pertaining to prospective purchasers as reasonably requested by EDA, and to the extent such information or data is available to Broker. Broker makes no representations or warranties as to the accuracy or reliability of such information or data; provided, however, that Broker hereby represents and warrants that it shall have no actual knowledge that (i) the information or data provided is not accurate and true and (ii) no further information or data is necessary to make the disclosed information or data not misleading.

The Broker is required to disseminate consistent project information as set forth by the EDA, provide an informational survey to prospective purchasers as developed by the Broker (with input from EDA), and request background and financial information on prospective purchasers. If the inquiry is determined to be a viable prospective purchaser, a copy of the informational survey, all background information and all financial information obtained will be provided to EDA. A record of all inquiries, regardless of outcome, will be maintained by the Broker, including all information received regarding the inquirer. At the termination of the contract for these services, all records will be provided to and become the property of the EDA.

3.2.2. Showings to Prospective Purchaser

Responsibilities will include: accompanying a prospective purchaser to the site and providing a guided tour, providing specifics with regard to the technical aspects of the site, and responding to prospective purchaser questions. Broker will act as the EDA's agent and representative with regard to the showing of the site.

On or before the tenth (10th) day of each month, Broker shall provide EDA with a written report describing: (a) Broker's sale efforts during the preceding calendar month (including, but not limited to, all listings, mailings, showings, or other promotional or advertising efforts), and (b) all significant expressions of interest in sale of the property received by Broker (including, but not limited to, any offers to lease or requests to visit or inspect the property with the intent to consider leasing a portion thereof).

3.2.3. Identifying Prospective Purchaser

Broker will endeavor to determine the prospective purchaser's needs with regard to size of space, types of spaces, specific improvements, special equipment, special permits, and any other specific requirements. Broker will keep the EDA informed on all of the above.

3.2.4. Purchase Negotiations

Under the direction of EDA, the Broker will initiate sale negotiations with prospective purchasers subject to approval by the EDA. The Broker can, at the direction of the EDA, act as the agent of EDA throughout the duration of sale negotiations but shall not obligate the EDA without the EDA's prior consent. The Broker will at all times represent the best interests of the EDA. EDA reserves the right to accept or reject any proposed sale. Broker shall have no authority to vary the terms from the guidelines or otherwise bind EDA with any purchaser. The Broker is not authorized to execute any sale contracts or related documents on EDA's behalf.

3.2.5 Real Estate Brokerage Commissions

- a. Calculation of Commissions. Real Estate commissions will be paid in accordance with the successful firm's Fee Proposal and calculated using the final sales price of each parcel.
- b. NJEDA's Consideration. NJEDA shall have the right in the exercise of its sole and absolute subjective discretion to reject any prospective purchaser. In such event, no real estate commission or compensation shall be earned or payable in connection with such proposed sale for the activities of the successful firm or any other broker in connection therewith.
- c. Commissions to Cooperating Broker. NJEDA will not directly pay any fees or commissions for a cooperating broker. All commission rates specified in the successful firm's Fee Proposal must include commissions payable to a cooperating broker. In no event shall the total amount paid by NJEDA to the successful firm in connection with a sale of property be in excess of the rate outlined in the successful firm's Fee Proposal for the sale of the Property. If applicable, the successful firm will be responsible for entering into an agreement with a cooperating broker and for paying all commissions due to the cooperating broker.
- d. Letter. Before the execution of any Purchase and Sale Agreement for which NJEDA is to pay a real estate commission to the successful firm, any cooperating broker must acknowledge that NJEDA is not obligated to pay any real estate commission to the cooperating broker. The successful firm shall obtain from such cooperating broker a signed representation form, in a format to be approved by NJEDA, and the successful firm shall forward such executed representation form to NJEDA for its approval.
- e. Credits. For the purpose of calculating the real estate commissions earned by the successful firm, other than standard proration, the sales price for the Property will be reduced by any credit given by Seller to Purchaser.
- f. Purchase and Sale Agreement Cancellation. If a Purchase and Sale Agreement provides for a right of cancellation/termination at a specified time, and the Agreement is terminated, then no commission will be due and payable to the successful firm. Commissions will not be earned until title is transferred and the purchase price paid. Any commission due will be paid at closing.
- g. Existing Letters of Intent. The successful firm will not be entitled to a real estate commission on any sale if the NJEDA has issued a Letter of Intent prior to the execution of the resulting Contract. NJEDA will provide the successful firm with copies of all such Letters of Intent upon execution of the Contract.
- h. NJEDA/State of New Jersey Sales. The successful firm will not be entitled to a real estate commission on sale or transfer between the NJEDA and any agency or instrumentality of the State of New Jersey.
- i. Post-Agreement Purchase and Sale Agreements. For a Purchase and Sale Agreement executed by NJEDA within sixty (60) days after the expiration or earlier termination of the Contract, real estate commissions will be earned by the successful firm at closing, provided that the successful firm marketed the Property directly to the prospective purchaser during the term of the Contract and identified the purchaser as a prospective purchaser, in writing, prior to the expiration or termination of the Contract. The successful firm must provide NJEDA with a list of all prospective purchasers and the Property marketed to the prospective purchaser within ten (10) days prior to the expiration or earlier termination of the Contract.

- j. Conflicts. In the event the successful firm has been engaged as the agent of a prospective purchaser, NJEDA reserves the right to select and engage an alternate broker to represent NJEDA with respect to this specific prospective purchaser. If the successful firm is acting as the agent of a prospective purchaser and NJEDA engages an alternate broker with respect to the specific transaction, the alternate broker and the successful firm will both be compensated, however, the total real estate brokerage commission paid to the two firms on the transaction will be limited to the commission rates specified in the successful firm's Fee Proposal.
- k. Lease with Option to Purchase. Confirmed that applicable commission will be provided in instances where agreement is made to lease certain properties with an option to purchase; and upon option being exercised and as required in this RFP.

3.3 Advertising and Promotion of the Properties

3.3.1. Marketing Collateral

The Broker, subject to EDA approval, will create marketing collateral as part of its advertising and promotion of the properties. Broker shall, at its own expense develop and implement, subject to the prior written consent of EDA as to form, scope, substance, and placement, an advertising brochure describing the properties. Such brochure shall be commensurate with the highest standards of similar brochures in the area where the property is located.

3.3.2. Website

The Broker will market all of the properties and provide for a web presence, subject to the prior written consent of the EDA as to form, scope, substance and placement.

3.3.3. Advertising

The Broker, subject to EDA approval, will be responsible to provide placement of advertising materials for the sites, in appropriate industry journals, trade reports, conferences, etc. The Broker, subject to EDA approval, will be responsible for making necessary contacts, scheduling events, promotional tours, etc. No advertising will take place without approval from the EDA.

3.3.4. Marketing Plan

The Broker will create the marketing of the sites. The Broker will prepare an overall calendar plan at the beginning of the assignment and then detail monthly events during the term of the contract. The calendar plan must be approved by the EDA.

3.3.5. Service Plan

The Broker must provide a detailed proposed service plan as broker for the properties. The presentation need not be limited to the items referenced above. The proposed service plan should include: 1) an explanation of how an effective and productive prospective purchaser inquiry management system will be developed; 2) how market analyses will be performed and what information will be provided; 3) what advertising and promotion will be utilized; and 4) a critique on the physical design of the facility with respect to market appeal and management efficiency.

3.3.6. Signage

EDA authorizes Broker to place a sign or signs on the properties if, in Broker's opinion, such would facilitate the sale of the properties. All advertising and signage shall be subject to EDA's prior written consent, which consent shall not be unreasonably withheld, and must be in compliance with all applicable signage laws and with all applicable covenants, conditions, and restrictions affecting the properties.

3.4 Additional Responsibilities

- A. Reports. The successful firm will provide such documents and/or reports as the EDA may reasonably require within five (5) business days after request by the EDA. The successful firm must advise the EDA in writing if it cannot meet the deadline for the request and provide a detailed reason and expected delivery date.
- B. Compliance with Laws, Rules and Regulations. The successful firm must comply with all local, state and federal laws, rules and regulations applicable to the contract issued pursuant to this RFP and to the services performed hereunder.

3.5 Related Brokerage Services

Broker further agrees to perform such other services as are customarily performed or rendered by real estate agents in the area of the property. Brokerage services by the successful firm are limited to brokerage services at the site(s) that is identified in the RFP and expressly includes brokerage services for the sale or transfer of ownership or control by EDA of any site owned or controlled by EDA.

Furthermore, the successful firm may also be retained by the EDA to provide additional services for additional EDA owned, operated, leased, or managed properties. It is understood that the successful firm may be retained by the EDA if, in the sole discretion of the EDA, it is determined that additional services are required and in the best interest of the EDA. It is further understood that the EDA is under no obligation to solicit a proposal and/or retain the successful firm to provide any such additional services. Payment for these additional services will be based on the commission rates as outlined in the successful firm's Fee Proposal.

The Scope of Work is intended as a guide for the proposer to understand the overall basic requirements of the contract and is not intended to identify each specific activity of work that is needed or desirable. The selected firm shall recommend the level of detail and activities required to perform the services under the contract based on the firm's experience and expertise for leasing brokerage services.

3.6 Specific Prohibition of Brokerage Services Commission Fee

The Proposer will not be entitled to receive a Brokerage Services Commission Fee for a sale between the Authority and any instrumentality or agency of the State of New Jersey or any corporate entity comprised of an instrumentality or agency of the State of New Jersey ("State Related Sales"), including but not limited to State universities and/or colleges, and local government (county or municipal) or any instrumentality of any local government, including but not limited to any county college, agency, or corporate entity of any local government.

It is also expressly provided that the Proposer will not be entitled to receive a Brokerage Services Commission Fee under the following circumstance:

- A. Marketing Period for Property by NJEDA Staff. In furtherance and pursuant to NJEDA internal policy and procedures, NJEDA staff markets a property for sale, and during the NJEDA staff marketing period NJEDA receives a purchase

offer which is presented to the Board Members for consideration and the Board Members approve the offer.

- B. Unsolicited Offers to Purchase Properties NJEDA Is Not Marketing for Sale. In no event shall a Brokers Service Commission be paid for a sale that is a result of an unsolicited offer to purchase a property that NJEDA is not currently marketing for sale either through NJEDA staff or under this Contract.

However, the Brokerage Services Commission Fee(s) shall be paid as required by the NJEDA internal policies and procedures when:

1. NJEDA identifies a property for sale
2. NJEDA staff markets the property for at least sixty (60) days
3. NJEDA receives no offers or no received offers are presented to the Members for consideration
4. The broker provides services under this Contract.

4.0 PROPOSAL PREPARATION AND SUBMISSION – REQUIREMENTS OF THE PROPOSER

Failure to submit information as indicated below may result in your Proposal being deemed non-responsive.

4.1 GENERAL

Proposals that conflict with those terms and conditions contained in this RFP or the Authority's Contract for Professional Services, Exhibit A, as may be amended by addenda, or that diminish the Authority's rights under any contract resulting from the RFP will result in the entire Proposal being rejected. The Authority is not responsible for identifying conflicting terms and conditions before issuing a contract award. In the event that prior to the notice of intent to award, the Authority notifies the Proposer of any such term or condition and the conflict it poses, the Authority may require the Proposer to either withdraw it or withdraw its Proposal.

After award of contract:

- A. if a conflict arises between a supplemental term or condition included in the Proposal and a term or condition of the RFP, the term or condition of the Authority's Contract for Professional Services, Exhibit A and/or the Authority's RFP will prevail; and
- B. if the result of the application of a supplemental term or condition included in the Proposal would diminish the Authority's rights, the supplemental term or condition will be considered null and void.

The Proposer is advised to thoroughly read and follow all instructions contained in this RFP, including the instructions on the RFP's Signatory Page, in preparing and submitting its Proposal.

Use of URLs in a Proposal should be kept to a minimum and may not be used to satisfy any material term of an RFP.

4.1.1 NON-COLLUSION

By submitting a Proposal and signing the Signatory Page, the Proposer certifies as follows:

- A. The price(s) and amount of its Proposal have been arrived at independently and without consultation, communication or agreement with any other Contractor, Proposer or potential Proposer;
- B. Neither the price(s) nor the amount of its Proposal, and neither the approximate price(s) nor approximate amount of this Proposal, have been disclosed to any other entity or person who

is a Proposer or potential Proposer, and they will not be disclosed before the Proposal submission;

- C. No attempt has been made or will be made to induce any entity or person to refrain from bidding on this contract, or to submit a Proposal higher than this Proposal, or to submit any intentionally high or noncompetitive Proposal or other form of complementary Proposal;
- D. The Proposal of the entity is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any entity or person to submit a complementary or other noncompetitive Proposal; and
- E. The Proposer, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last five (5) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

The forms discussed herein for Business Support Administrative Services Bidding Opportunities and required for submission of a Proposal in response to this RFP are available on the Authority's website at <https://www.njeda.com/bidding/> see RFP Proposer Checklist – 2022-RFP-159 Real Estate Broker, unless noted otherwise.

4.2 PROPOSAL CONTENT AND SUBMISSION ORDER

Submit a Proposal in three (3) volumes (i.e., upload separate electronic volumes; or, if submitting in hard-copy, submit in separate folders or binders). One (1) volume must contain the **mandatory** compliance documentation. One volume must contain only the **mandatory** Fee Schedule. The additional volume must contain, at a minimum, the **mandatory** portions of the Proposer's Proposal. If the Proposal is extra large in size, submitting multiple additional volumes for the Technical Proposal is permissible.

If a Proposer's Proposal does not conform to the requirements and fails to provide all mandatory submissions by the date and time of bid opening, the Proposer's Proposal will be rejected as being non-responsive for non-compliance of mandatory requirements.

Technical Proposal Volume

Technical Proposal. Please reference Section 4.2.1 in this RFP. Do not include pricing in this Volume.

Pricing Volume

Fee Schedule. Please reference Section 4.2.2 in this RFP.

Compliance Volume

Please reference all Subsections in Section 4.2.3 in this RFP and also reference the Proposer's Checklist attachment accompanying this RFP for items that are **mandatory submissions** and those that are required **prior to** Contract Award.

4.2.1 TECHNICAL PROPOSAL, ORGANIZATIONAL QUALIFICATIONS, EXPERIENCE AND MISCELLANEOUS INFORMATION (MANDATORY SUBMISSION WITH BID PROPOSAL)

In this section, the Proposer must set forth its understanding of the requirements of this RFP and its ability to successfully complete the contract. The Proposer shall describe its approach and plans for accomplishing the work outlined in the Scope of Work, Section 3.0. The Proposer must include

information relating to its organization, personnel, and experience evidencing the Proposer's qualifications and capabilities to perform the services required by this RFP.

The Technical Proposal must, at a minimum, contain the information below and be submitted in the following order:

- I. Cover Letter (Optional);
- II. Management Overview and Technical Approach to Achieve the Scope of Work;
- III. Organization Chart, if applicable and not a sole proprietor;
- IV. Key Team Member List, if applicable and not a sole proprietor;
- V. Resumes of Key Team Members;
- VI. References of Key Team Members;
- VII. Description and Documentation of Proposer's Prior Experience and Qualifications; and
- VIII. Financial Capability of the Proposer.

The Proposer should include the level of detail it determines necessary to assist the evaluation committee in its review of Bidder's Proposal.

I. Cover Letter (Optional)

All Respondents should submit a cover letter, which includes the full company name and address of the entity performing the services described in this RFP, and the name, e-mail address and telephone number for the individual who will be the primary contact person for the responding Proposer for this engagement. Also indicate the state of incorporation, whether the Proposer is operating as an individual proprietorship, partnership, or corporation, including the identification of any and all Subcontractors/Sub-consultants.

II. Management Overview and Technical Approach to Achieve the Scope of Work

- A. The Proposer shall set forth its overall technical approach and plans to meet the requirements of the RFP in a narrative format, in order to convince the Authority that the Proposer understands the objectives that the engagement is intended to meet, the nature of the required work and the level of effort necessary to successfully complete the engagement. This narrative should convince the Authority that the Proposer's general approach and plans to undertake and complete the engagement are appropriate to the tasks and subtasks involved;
- B. The Proposer shall provide a discussion/rationale for why the Proposer's approach(s) (e.g., Real Estate Broker) will best meet the needs of the authority; and
- C. The Proposer shall also set forth a detailed work plan indicating how each task in the Scope of Services, Section 3.0, will be accomplished, including an outline of a proposed meeting schedule with Authority staff and timeline for key milestones and ability to complete the scope of work within the maximum timeline. The Proposer should provide a proposed schedule that includes dates for completion of relevant tasks outlined in the Scope of Work.

III. Organization Chart, if applicable (not required for a sole proprietor)

Provide an organization chart that must include all key team members, their labor category, and titles for this engagement. For the purposes of this engagement, a "key team member" is identified as having a responsible role in the successful completion of the services requested pursuant to this RFP and who generally spends or is expected to spend twenty (20) percent or more of his/her time on this engagement.

If the Proposer has access to additional professional resources, such as Subject Matter Experts (SMEs), who are technically and/or professionally qualified, the Proposer should list these additional resources in its Proposal, and include the individual(s) on the Organization Chart.

Note: If the Proposal submission includes a “key team member that is a Subcontractor(s) and/or Subconsultant(s)”, the “Organization Chart” must clearly indicate that they are a Subcontractor(s) and/or Subconsultant(s), and submit a completed Subcontractor/ Subconsultant Utilization form (See Proposer’s Checklist).

IV. Key Team Member List, if applicable (not required for a sole proprietor)

List each key team member who will be utilized for this contract by name and title.

Note: If the Proposal submission includes a “key team member that is a Subcontractor(s) and/or Subconsultant(s)”, the “Organization Chart” must clearly indicate that they are a Subcontractor(s) and/or Subconsultant(s), and submit a completed Subcontractor/ Subconsultant Utilization form (See Proposer’s Checklist).

V. Resumes/Bios of Key Team Members

A resume/bio for each key team member must be included. The resume and/or bio must outline the lead consultant’s qualifications and experience, their experience providing the requisite services for properties of similar size and complexity, and the anticipated percentage of direct involvement the lead consultant will have in relation to the work in the resulting contract.

In addition, the Proposer should provide, for each individual who will or who it anticipates will perform work against the resulting contract, a detailed resume or biography, along with copies of all applicable licenses or professional certifications, that demonstrates his or her respective background, experience and capabilities providing the requisite services for properties of similar size and complexity.

A valid New Jersey Real Estate Brokerage Services License is required for the lead broker who will be performing services on this contract, and must be submitted with the proposal.

Resumes and licenses of the Lead Broker and/or key personnel should also be provided.

At a minimum, any resumes/biographies should include:

- demonstrated experience specific to providing the types of services required in this RFP;
- employment history;
- educational history
- degrees / professional certifications and/or licenses; and
- any additional information that would allow EDA to assess the individual’s abilities to perform the services required under this RFP.

VI. References

Each key team member’s resume should include at least three (3) client references applicable to the scope of services, including contact names, telephone numbers and e-mail addresses.

VII. Description and Documentation of Proposer’s Prior Experience and Qualifications

- A. The Proposer shall clearly state its skills and experience in a manner that demonstrates its capability to complete the Scope of Services, Section 3.0. If applicable, highlight projects in which members of your proposed project team have worked together. Please indicate for each project that you list, the scope, the location of the project(s), and the beginning and end dates of the project(s).

The proposer must possess a minimum of ten (10) years demonstrated experience as an active Real Estate Broker for commercial properties and at least ten (10) years of experience in the New Jersey real estate market in general. The proposer must demonstrate that its staff possesses the necessary skills and experience to perform all areas of service covered by this RFP.

- B. Provide a narrative description or resume (if a sole proprietor), detailing {your}{your organization's} experience as a Real Estate Broker. Information in the narrative description or resume should be supported by evidence or information that can be independently verified by the Authority;

One (1) narrative for at least five (5) client engagements covering the most recent five (5) year period. Each narrative must include a brief description of the services provided to each client for each individual year of the five (5) year period. Narratives should include the following information: client name, property description, location, description of assignment, description of sales executed, and client contact information.

These narratives will be used as references, and clients may be contacted at EDA's discretion. These references will allow EDA to address specific questions/issues with the reference source regarding the proposer's performance, quality of work, responsiveness, and transactions completed. EDA, in its sole discretion, shall determine whether or when it is appropriate and/or necessary to contact the references provided.

- C. Provide a listing of three (3) references, which includes contact names, titles and telephone numbers for which you or your firm has provided services. The beginning and ending dates of the provided services must be included;
- D. Provide information from projects you or your organization {have}{has} previously worked on, and in what role/capacity; and
- E. If applicable, submit any information/examples of services provided, similar in size or scope, or demonstrated experience working as a Real Estate Broker in New Jersey or other states.

If the Proposer is submitting a Proposal that includes a Subcontractor(s), detail the Subcontractor's specific role for this project, how they will interface with the Proposer's staff and complete a Subcontractor/Subconsultant Utilization Form. See Proposer's Checklist.

VIII. Financial Capability of the Proposer

- A. In order to provide the Authority with the ability to judge the Proposer's financial capacity and capabilities to undertake and successfully complete the contract, the Proposer should submit certified financial statements which include a balance sheet, income statement, and statement of cash flow, and all applicable notes for the most recent calendar year or the Proposer's most recent fiscal year. If financial statements are not available, the Proposer is to provide either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statements, together with a certification from the Chief Executive Officer and the Chief Financial Officer, that the financial statements and other information included in the statements fairly present in all material respects the financial condition, results of operations and cash flows of the

Proposer as of, and for, the periods presented in the statements. In addition, the Proposer should submit a bank reference;

- B. If the information is not supplied with the Proposal, the Authority may still require the Proposer to submit it. If the Proposer fails to comply with the request within three (3) business days, the Authority may deem the Proposal non-responsive;
- C. A Proposer may designate specific financial information as not subject to disclosure if the Proposer provides a good faith legal/factual basis for such assertion. The Proposer may submit the specific financial documents in a separate file clearly marked "Confidential-Financial Information"; and
- D. The Authority reserves the right to make the determination to accept the assertion.

4.2.1.1 POTENTIAL PROBLEMS

The Proposer must set forth a summary of any and all problems that the Proposer anticipates during the term of the contract. For each problem identified, the Proposer should provide its proposed approach.

4.2.2 FEE SCHEDULE (MANDATORY SUBMISSION WITH BID PROPOSAL)

The Commission Rate in the Fee Schedule are all inclusive and must include all direct and indirect cost including but not limited to: general administrative overhead, fee or profit, subconsultant costs, marketing materials, advertising costs, signage costs, bonuses, clerical support, travel expenses, licenses, fees, computers, laptops, cell phones, equipment, materials, supplies, managerial support, database equipment/fees, and all documents, forms and reproductions thereof.

No additional compensation will be provided to the successful firm for attendance at and participation in meetings preparations for or presentations given.

The Proposer must submit its pricing using the format set forth on the Fee Schedule accompanying this RFP. Proposers are NOT permitted to alter or change the provided Fee Schedule format/category designations, except to add additional lines in a category heading, if applicable. Any additional or supplemental versions of the Authority-supplied Fee Schedule will not be accepted and may result in the Proposer's Proposal deemed non-responsive.

If the Proposer will supply an item on a price line free of charge, the Proposer must indicate "No Charge" on the Authority-supplied Fee Schedule accompanying this RFP Solicitation. The use of any other identifier may result in the Proposer's Proposal being deemed non-responsive.

4.2.2.1 DELIVERY TIME AND COSTS

- A. Unless otherwise noted elsewhere in the RFP, all prices for items in Proposals shall be submitted Freight on Board (F.O.B.) Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the Contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the Authority; and
- B. F.O.B. Destination does not cover "spotting" but does include delivery inside the Authority unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the Contractor's convenience when a single shipment is ordered.

4.2.2.2 COLLECT ON DELIVERY (C.O.D.) TERMS

C.O.D. terms are not acceptable as part of a Proposal and will be cause for rejection of a Proposal.

4.2.2.3 PRICE ADJUSTMENT

Pricing shall remain firm throughout the term of the contract and any extensions, thereto.

4.2.3 REQUIRED COMPLIANCE DOCUMENTATION

Unless otherwise specified, forms must contain an original, physical signature, or an electronic signature pursuant to Section 1.3.6.2 of this RFP Solicitation.

SEE BELOW and PROPOSER's CHECKLIST for Compliance Documentation required to be submitted WITH the Bid Proposal **(MANDATORY FORM WITH BID PROPOSAL)**. ALL other Compliance Documentation, not deemed "Mandatory Form With Bid Proposal", are required prior to contract award; however, it is preferred and encouraged that Proposers submit ALL Compliance Documentation with the Bid Proposal, if possible. A Proposer who fails to submit requested information within seven (7) business days of a written request by the Authority will be deemed non-responsive and will preclude the award of a contract to said Proposer.

4.2.3.1 SIGNATORY PAGE (MANDATORY FORM WITH BID PROPOSAL-SIGNED)

The Proposer shall complete and submit the Signatory Page accompanying this RFP. The Signatory Page **must include the signature** of an authorized representative of the Proposer. If the Proposer is a limited partnership, a Signatory Page must be signed by each general partner. Failure to comply will result in rejection of the Proposal as non-responsive and preclude the award of a contract to said Proposer.

Note: A Proposer's written signature on the Signatory Page will NOT serve as a certifying signature on any other Mandatory Compliance forms required. Each mandatory compliance document must be individually signed.

4.2.3.2 OWNERSHIP DISCLOSURE FORM (MANDATORY FORM WITH BID PROPOSAL)

Pursuant to N.J.S.A. 52:25-24.2, in the event the Proposer is a corporation, partnership or sole proprietorship, the Proposer must complete an Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Proposal. A Proposer's failure to submit the completed form with its Proposal will result in the rejection of the Proposal as non-responsive and preclude the award of a contract to said Proposer. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed and submitted with the Proposal.

NOTE: If the Proposer is a partnership or a limited liability corporation, an Ownership Disclosure form must be completed by each general partner. Failure to comply may result in rejection of the Proposal.

4.2.3.3 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

Pursuant to N.J.S.A. 52:32-58, the Proposer must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Proposer, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the Proposer, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the Proposer is unable to so certify, the Proposer shall provide a detailed and precise description of such activities as directed on the form. A Proposer's failure to

submit the completed and signed form before contract award will be deemed non-responsive and preclude the award of a contract to said Proposer.

NOTE: If the Proposer is a partnership or a limited liability corporation partnership, each Disclosure of Investment Activities in Iran form must be signed by a general partner. Failure to comply may preclude the award of a contract.

4.2.3.4 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING BIDDER FORM

The Proposer must submit the Disclosure of Investigations and Other Actions Involving Bidder Form, prior to the award of a contract, to provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. The Proposer's inclusion of the Disclosure of Investigations and Other Actions Involving Bidder form with the Proposal is requested and advised. If a Bidder does not submit the form with the Proposal, the Bidder must comply within seven (7) business days of a request by the Authority or the Authority may deem the Proposal non-responsive.

4.2.3.5 BUSINESS REGISTRATION CERTIFICATION (BRC)

In accordance with N.J.S.A. 52:32-44(b), a Proposer and its named Subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of Treasury, Division of Revenue and Enterprise Services, prior to the award of a contract. To facilitate the Proposal evaluation and contract award process, it is requested and advised the Proposer should submit a copy of its valid BRC and those of any named Subcontractors with its Proposal.

A Proposer otherwise identified by the Authority as a responsive and responsible Bidder, inclusive of any named Subcontractors, but that was not business registered at the time of submission of its Proposal must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Authority. A Bidder who fails to comply with this requirement by the deadline specified by the Authority will be deemed ineligible for contract award. Under any circumstance, the Authority will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration. <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

A Proposer receiving a contract award as a result of this procurement and any Subcontractors named by that Proposer will be required to maintain a valid business registration with the Division of Revenue and Enterprise Services for the duration of the executed contract, inclusive of any contract extensions.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L. 2001, c.134 (N.J.S.A. 52:32-44 et al.) or subsection e. or f. of section 92 of P.L. 1977, c. 110 (N.J.S.A. 5:12-92), or that provides false information of business registration under the requirements of either those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency or under a casino service industry enterprise contract.

4.2.3.6 SOURCE DISCLOSURE CERTIFICATION

Pursuant to N.J.S.A. 52:34-13.2, all of the Authority's contracts shall be performed within the United States. Pursuant to the statutory requirements, prior to an award of a contract primarily for services, the intended Contractor of an Authority contract must disclose the location by country where services, including subcontracted services, will be performed. The Proposer must complete and

submit the Source Disclosure Form accompanying this RFP. The Proposer's inclusion of the completed Source Disclosure form with the Proposal is requested and advised. If a Proposer does not submit the form with the Proposal, the Proposer must comply within seven (7) business days of a request by the Authority or the Authority may deem the Proposal non-responsive.

If any of the services cannot be performed within the United States, the Proposer shall state with specificity the reasons why the services cannot be so performed. The Authority shall determine whether sufficient justification has been provided by the Proposer to form the basis of his or her certification that the services cannot be performed in the United States.

The Source Disclosure Form is located on the Authority's website at <https://www.njeda.com/bidding/>.

4.2.3.6.1 BREACH OF CONTRACT

A SHIFT TO PROVISION OF SERVICES OUTSIDE THE UNITED STATES DURING THE TERM OF THE CONTRACT SHALL BE DEEMED A BREACH OF CONTRACT. If, during the term of the contract, the Contractor or Subcontractor, who had on contract award declared that services would be performed in the United States, proceeds to shift the performance of any of the services outside the United States, the Contractor shall be deemed to be in breach of its contract. Such contract shall be subject to termination for cause, unless such shift in performance was previously approved by the Authority.

4.2.3.7 AFFIRMATIVE ACTION EMPLOYEE INFORMATION/EMPLOYEE INFORMATION REPORT

Prior to the award of a contract, the intended awardee must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302), by following its corresponding instructions for submission and payment by check, which are located at the Public Contracts website for Equal Employment Opportunity (EEO)/Affirmative Action (AA):

https://www.nj.gov/treasury/contract_compliance/index.shtml;

or alternatively, Vendors have an option for online submission and payment, following the electronic filing instructions at:

https://www.nj.gov/treasury/contract_compliance/index.shtml.

4.2.3.8 SMALL BUSINESS SET ASIDE

In accordance with the requirements of N.J.A.C. 17:13 and N.J.A.C. 17:14, as amended, the Authority is required to develop a Set-Aside business plan for Small Business Enterprises (SBEs). The Authority encourages the participation of SBE firms as registered with the New Jersey Department of Treasury, Division of Revenue and Enterprise Services – Business Services Bureau for the services subject to this RFP. Information regarding SBE registration and/or a Minority/Women Business Enterprise (MWBE), a Veteran-Owned Business (VOB) and/or a Disabled Veteran-Owned Business Enterprise (DVOB) certification can be obtained by contacting the Office of Business Services at (609) 292-2146 or at their offices at 33 West State Street, PO Box 820, Trenton, NJ 08625-0820 or on-line, via the State's Business website at:

<https://www.njportal.com/DOR/SBERegistry/>

There are two (2) related forms listed in the RFP Proposer Checklist to be completed and submitted, prior to contract award. These forms include: Set Aside Information Form-Goods & Services and

the Set-Aside Compliance Certificate-Goods & Services Contracts. The Proposer may submit the Proposer's Small Business Enterprise (SBE) Certificate, if applicable.

4.2.3.9 DISABLED VETERANS' BUSINESS SET-ASIDE

Pursuant to the Set-Aside provisions of N.J.S.A. 52:32-31 Disabled Veterans' Businesses are encouraged to submit a response. The Business must be registered as a qualifying Disabled Veterans' Business with the Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit by the date the Proposal is received and opened. Evidence that the Business has registered as a Disabled Veterans' Business should be submitted with the Proposal. Proposers should verify its Small, Minority, Veteran, Women and Disabled Veterans' Business Certification status. The Business should provide, as part of its response, proof of its current registration as a qualifying Disabled Veterans' Business with the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit. Information, registration requirements and application are available by contacting the agency at:

New Jersey Department of the Treasury
Division of Revenue and Enterprise Services
PO Box 455
Trenton, NJ 08646
Telephone: 609-292-2146

A downloadable paper application is available at:

<https://www.nj.gov/njbusiness/documents/contracting/DVOB%20Web%20Application.pdf>

**** IF THE BUSINESS HAS PREVIOUSLY REGISTERED OR BEEN CERTIFIED AS A DISABLED VETERANS' BUSINESS, THE VENDOR {BIDDER} SHOULD ENSURE IT IS REGISTERED AND THAT ITS REGISTRATION IS ACTIVE WITH THE DIVISION OF REVENUE AND ENTERPRISE SERVICES, SMALL BUSINESS REGISTRATION AND M/WBE CERTIFICATION SERVICES UNIT, PRIOR TO THE PROPOSAL OPENING DATE, TO BE ELIGIBLE FOR AWARD.**

4.2.3.10 REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13 - N.J.S.A. 19:44A-20.25 (FORMERLY EXECUTIVE ORDER NO. 134) AND EXECUTIVE ORDER NO. 117 (2008).

a) The Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods.

b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all qualifying contributions the Business Entity or any person or entity whose contributions are attributable to the Business Entity.

The required form and instructions shall be provided to the intended awardee for completion and submission. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Authority, in care of the Procurement department, the Certification and Disclosure(s) within five (5) business days of the Authority's request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities. The form is also available at: <https://www.njeda.com/Bidding/>.

c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made.

4.2.3.11 POLITICAL CONTRIBUTION DISCLOSURE

The Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, 3 as amended) if in a calendar year the Contractor receives one (1) or more contracts valued at \$50,000.00 or more. It is the Contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888) 313-3532 or on the internet at <https://www.elec.state.nj.us/>.

4.2.3.12 PUBLIC LAW 2018, CHAPTER 9 – DIANE B. ALLEN EQUAL PAY ACT

Effective July 1, 2018, Bidders and Contractors are advised that pursuant to the Diane B. Allen Equal Pay Act, (P.L. 2018, ch. 9), any employer entering into a contract with the State of New Jersey or an instrumentality of the State (such as the Authority) providing "qualifying services" or "public works" within the meaning of that Act is required to file the report required therein, with the New Jersey Department of Labor and Workforce Development upon commencement of the contract. Information about the Act and the reporting requirement is available at: <https://nj.gov/labor/equalpay/equalpay.html>. Construction projects that are subject to the Prevailing Wage Act are affected by this statute (falling within the definition of "public work"). Additionally, any contract that the Authority enters into for "services" imposes reporting requirements by awarded Bidders and contractors (falling within the definition of "qualifying services"). Information on the reporting requirement for such "qualifying services" is also available at: <https://nj.gov/labor/equalpay/equalpay.html>. **Goods/Products contracts are not impacted by the statute.**

4.2.3.13 NEW JERSEY STATE W-9

Prior to an award of a contract, the Contractor shall provide the Authority with a properly completed New Jersey State W-9 form available at <https://www.njeda.com/bidding/>.

4.2.3.14 INSURANCE CERTIFICATE(S)

Prior to the award of a contract, the Contractor shall provide the Authority with current certificate(s) of insurance for all coverages required by the terms of this contract, naming the Authority (NJEDA) as an Additional Insured and specify the insurance certificate is identified with the unique contract awarded as a result of this RFP. Refer to Section 7 of the Authority's Standard Contract, Exhibit A, accompanying this RFP.

4.2.3.15 SUBCONTRACTOR UTILIZATION PLAN

All Proposers intending to use a Subcontractor(s) must complete a Subcontractor Utilization Form, submitted with the Proposal, available at: <https://www.njeda.com/bidding/>.

If the Contract is a small business subcontracting set-aside, the Proposer certifies that in engaging Subcontractors and/or Subconsultants, it shall make a good faith effort to achieve the subcontracting set-aside goals, and shall attach to the Subcontractor Utilization Plan documentation of such efforts.

For a Proposal that does NOT include the use of Subcontractors and/or Subconsultants, by signing the Signatory Page, the Contractor is automatically certifying that in the event the award is granted to the Contractor's firm and the Contractor later determines at any time during the term of the Contract to engage Subcontractors and/or Subconsultants to provide certain goods and/or services, the Contractor shall submit a Subcontractor Utilization Form for approval by the Authority in advance of any such engagement of Subcontractors and/or Subconsultants.

Please see the Proposer Checklist for additional information, which includes the Subcontractor Utilization Form.

4.2.3.16 BID SECURITY

NOT APPLICABLE.

4.2.3.17 CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN RUSSIA OR BELARUS PURSUANT TO P.L. 2022, C. 3

The attached certification of non-involvement is required to comply with P.L. 2022, c.3, which was signed by Governor Murphy on March 9, 2022, and prohibits government dealings with businesses associated with Belarus or Russia. Please reference Proposer's Checklist for the form.

Under the new law, "engaged in prohibited activities in Russia or Belarus" means (1) companies in which the Government of Russia or Belarus has any direct equity share; (2) having any business operations commencing after March 9, 2022 that involve contracts with or the provision of goods or services to the Government of Russia or Belarus; (3) being headquartered in Russia or having its principal place of business in Russia or Belarus, or (4) supporting, assisting, or facilitating the Government of Russia or Belarus in their campaigns to invade the sovereign country of Ukraine, either through in-kind support or for profit. The full text of the new law is available on the Legislature's webpage at: https://www.njleg.state.nj.us/Bills/2022/A3500/3090_11.HTM
A Proposer's failure to submit the completed and signed form before contract award will be deemed non-responsive and preclude the award of a contract to said Proposer.

NOTE: If the Proposer is a partnership or a limited liability corporation partnership, each Disclosure of Investment Activities in Russia and Belarus form must be signed by a general partner. Failure to comply may preclude the award of a contract.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addenda to this RFP, the Proposer's Proposal, any best and final offer and the Authority's Contract for Professional Services-Exhibit A.

Unless specifically stated within this RFP, any Special Contractual Terms and Conditions of the RFP take precedence over the Authority's Standard Contract – Exhibit A, accompanying this RFP.

In the event of a conflict between the provisions of this RFP, including the Authority's Standard Contract – Exhibit A, and any addendum to this RFP, the addendum shall govern.

In the event of a conflict between the provisions of this RFP, including any addendum to this RFP, or the Authority's Contract for Professional Services – Exhibit A and the Proposer's Proposal, the RFP and/or the addendum and the Authority's Contract for Professional Services – Exhibit A shall govern.

5.2 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for three (3) years with the possibility of two (2), one (1) year extension options, which is at the sole discretion of the Authority and dependent upon funding, at the same terms, conditions, and pricing in effect during the contract term or rates more favorable to the Authority. An annual percentage price escalator may be in effect for the extension options if indicated by the Proposer in their Fee Schedule submitted for this solicitation.

5.3 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, the Authority reserves the right, in its sole discretion, to extend the Agreement on a month-to-month basis beyond the expiration or termination, until a replacement Contractor is engaged to provide the requisite services. It shall be incumbent upon the Contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than 180 days beyond the expiration date of this Agreement, including any extensions exercised.

5.4 CONTRACT AMENDMENT

Any changes or modifications to the terms of the contract shall be valid only when they have been reduced to writing with the Designated Contract Manager's recommendation and written approval from the Procurement Department.

5.5 CONTRACTOR RESPONSIBILITIES

The Contractor shall have sole responsibility for the complete effort specified in the contract. If the RFP permits subcontracting, payment will be made only to the Contractor. The Contractor shall have sole responsibility for all payments due any Subcontractor.

The Contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under the contract. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its deliverables and other services. The approval of deliverables

furnished under this contract shall not in any way relieve the Contractor of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services shall not be construed as a waiver of any rights that the Authority may have arising out of the Contractor's performance of this contract.

5.6 SUBSTITUTION OF STAFF

The Contractor shall forward all requests to substitute staff to the Authority for consideration and approval. The request may be as simple as naming an alternate/back-up individual for each position / individual identified in the Proposer's organization chart which is designated to perform work against the resulting contract. No substitute personnel are authorized to begin work until the Contractor has received written approval to proceed from the Authority's Designated Contract Manager.

If it becomes necessary for the Contractor to substitute any management, supervisory or key personnel, the Contractor shall identify the substitute personnel and the work to be performed. The Contractor must provide detailed justification documenting the necessity for the substitution. Resumes must be submitted evidencing that the individual(s) proposed as substitute(s) have qualifications and experience equal to or better than the individual(s) originally proposed or currently assigned. No substitute personnel are authorized to begin work until the Contractor has received verbal/written approval to proceed from the Authority's Designated Contract Manager.

The Authority reserves the right, in its sole discretion, to recommend and make changes to the Contractor's overall approach to address these advisory needs, if deemed necessary. For instance, the Authority's Designated Contract Manager may determine that the Contractor's staff employee assigned to perform the requisite services may not be meeting the acceptable levels of performance and a replacement staff employee is needed to better meet the needs of the Authority.

5.7 SUBSTITUTION OR ADDITION OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)

The Contractor shall forward a written request to substitute or add a Subcontractor/Subconsultant or to substitute its own staff for a Subcontractor/Subconsultant to the Authority's Designated Contract Manager for consideration. If the Designated Contract Manager approves the request, the Designated Contract Manager will forward the request to the Procurement Department for final approval. No substituted or additional Subcontractor(s)/Subconsultant(s) are authorized to begin work until the Contractor has received written approval from the Procurement Department.

If it becomes necessary for the Contractor to substitute a Subcontractor/Subconsultant, add a Subcontractor/Subconsultant, or substitute its own staff for a Subcontractor/Subconsultant, the Contractor will identify the proposed new Subcontractor/Subconsultant or staff member(s) and the work to be performed. The Contractor must provide detailed justification documenting the necessity for the substitution or addition.

The Contractor must provide detailed resumes of its proposed replacement staff or of the proposed Subcontractor's/Subconsultant's management, supervisory, and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work which the Subcontractor/Subconsultant is to undertake.

The qualifications and experience of the replacement(s) must equal or exceed those of similar personnel proposed by the Contractor in its Proposal.

5.8 OWNERSHIP OF MATERIAL

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans,

charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of the Authority and shall be delivered to the Authority upon thirty (30) Days' notice by the Authority. With respect to software computer programs and/or source codes developed for the Authority, except those modifications or adaptations made to the Proposer's or Contractor's Background IP as defined below, the work shall be considered "work for hire", i.e., the Authority, not the Contractor or Subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed. To the extent that any of such materials may not, by operation of the law, be a work made for hire in accordance with the terms of this Contract, Contractor or Subcontractor hereby assigns to the Authority all right, title and interest in and to any such material, and the Authority shall have the right to obtain and hold in its own name and copyrights, registrations and any other proprietary rights that may be available.

Should the Proposer anticipate bringing pre-existing intellectual property into a work-for-hire, the intellectual property must be identified in the Proposal. Otherwise, the language in the first paragraph of this section prevails. If the Proposer identifies such intellectual property ("Background IP") in its Proposal, then the Background IP owned by the Proposer on the date of the contract, as well as any modifications or adaptations thereto, remain the property of the Proposer. Upon contract award, the Proposer or Contractor shall grant the Authority a nonexclusive, perpetual royalty free license to use any of the Proposer's/Contractor's Background IP delivered to the Authority for the purposes contemplated by the contract.

5.9 SECURITY AND CONFIDENTIALITY

5.9.1 DATA CONFIDENTIALITY

All financial, statistical, personnel, customer and/or technical data supplied by the Authority to the Contractor are confidential (Authority Confidential Information). The Contractor must secure all data from manipulation, sabotage, theft or breach of confidentiality. The Contractor is prohibited from releasing any financial, statistical, personnel, customer and/or technical data supplied by the Authority that is deemed confidential. Any use, sale, or offering of this data in any form by the Contractor, or any individual or entity in the Contractor's charge or employ, will be considered a violation of this Contract and may result in Contract termination and the Contractor's suspension or debarment from Authority contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

The Contractor shall assume total financial liability incurred by the Contractor associated with any breach of confidentiality.

When requested, the Contractor and all project staff including its Subcontractor(s) must complete and sign confidentiality and non-disclosure agreements provided by the Authority. The Contractor may be required to view yearly security awareness and confidentiality training modules, or other training methods provided by the Authority. Where required, it shall be the Contractor's responsibility to ensure that any new staff sign the confidentiality agreement and complete the security awareness and confidentiality training modules within one month of the employees' start date.

The Authority reserves the right to obtain, or require the Contractor to obtain, at the Contractor's expense, criminal history background checks from the New Jersey State Police for all Contractor and project staff (to protect the Authority from losses resulting from Contractor employee theft, fraud or dishonesty). If the Authority exercises this right, the results of the background check(s) must be made available to the Authority for consideration before the employee is assigned to work on the Authority's project. Prospective employees with positive criminal backgrounds for cyber-crimes will not be approved to work on Authority Projects. Refer to the National Institute of Standards and

5.9.1.1 CONTRACTOR'S CONFIDENTIAL INFORMATION

- A. The obligations of the Authority under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;
- B. By virtue of this contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this contract. Contractor's Confidential Information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure and anything identified in Contractor's Proposal as Background IP ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this contract are subject to disclosure under OPRA, the common law right to know, and any other lawful document request or subpoena;
- C. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party;
- D. The Authority agrees to hold Contractor's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;
- E. In the event that the Authority receives a request for Contractor Confidential Information related to this contract pursuant to a court order, subpoena, or other operation of law, the Authority agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the Authority's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;
- F. In addition, in the event Contractor receives a request for Authority Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the Authority with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The Authority shall take any action it deems appropriate to protect its documents and/or information; and
- G. Notwithstanding the requirements of nondisclosure described in these Sections 5.9.1 and 5.9.1.1, either party may release the other party's Confidential Information (i) if directed to do so by a court or arbitrator of competent jurisdiction, (ii) pursuant to a lawfully issued subpoena or other lawful document request, (iii) in the case of the Authority, if the Authority determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in Section 5.9.1.1(E), or if Contractor is unsuccessful in defending its rights as described in Section 5.9.1.1(E), or (iv) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the Authority does not exercise its rights described in Section 5.9.1.1(F), or if the Authority is unsuccessful in defending its rights as described in Section 5.9.1.1(F).

5.9.2 DATA SECURITY STANDARDS

Data Security: The Contractor at a minimum must protect and maintain the security of data traveling its network in accordance with generally accepted industry practices.

- A. Any Personally Identifiable Information must be protected. All data must be classified in accordance with the State's Asset Classification and Control policy, 08-04-NJOIT at <https://www.state.nj.us/it/whatwedo/policylibrary/>. Additionally, data must be disposed of in accordance with the State's Information Disposal and Media Sanitation policy, 09-10-NJOIT at <https://www.state.nj.us/it/whatwedo/policylibrary/>; and
- B. Data usage, storage, and protection is subject to all applicable federal and state statutory and regulatory requirements, as amended from time to time, including, without limitation, those for Health Insurance Portability and Accountability Act of 1996 (HIPAA), Personally Identifiable Information (PII), Tax Information Security Guidelines for Federal, State, and Local Agencies (IRS Publication 1075), New Jersey State tax confidentiality statute, N.J.S.A. 54:50-8, New Jersey Identity Theft Prevention Act, N.J.S.A. 56:11-44 et seq., the federal Drivers' Privacy Protection Act of 1994, Pub.L.103-322, and the confidentiality requirements of N.J.S.A. 39:2-3.4. Contractor must also conform to Payment Card Industry (PCI) Data Security Standard;

Data Transmission: The Contractor must only transmit or exchange State of New Jersey data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the State of New Jersey. The Contractor must only transmit or exchange data with the State of New Jersey or other parties through secure means supported by current technologies. The Contractor must encrypt all data defined as personally identifiable or confidential by the State of New Jersey or applicable law, regulation or standard during any transmission or exchange of that data.

Data Storage: All data provided by the State of New Jersey or State data obtained by the Contractor in the performance of the contract must be stored, processed, and maintained solely in accordance with a project plan and system topology approved by the Designated Contract Manager. No State data shall be processed on or transferred to any device or storage medium including portable media, smart devices and/or USB devices, unless that device or storage medium has been approved in advance in writing by the Designated Contract Manager. The Contractor must encrypt all data at rest defined as personally identifiable information by the State of New Jersey or applicable law, regulation or standard. The Contractor must not store or transfer State of New Jersey data outside of the United States.

Data Scope: All provisions applicable to State data include data in any form of transmission or storage, including but not limited to: database files, text files, backup files, log files, XML files, and printed copies of the data.

Data Re-Use: All State data must be used expressly and solely for the purposes enumerated in the Contract. Data must not be distributed, repurposed or shared across other applications, environments, or business units of the Contractor. No State data of any kind must be transmitted, exchanged or otherwise passed to other Contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by the Designated Contract Manager.

Data Breach: Unauthorized Release Notification: The Contractor must comply with all applicable State and Federal laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law ("Notification Event"), the Contractor must assume responsibility for informing the Designated Contract Manager within 24 hours and all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State of New Jersey, its officials, and employees from and against any claims, damages, or other harm related to such Notification Event. All communications must be coordinated with the State of New Jersey.

End of Contract Handling: Upon termination/expiration of this contract the Contractor must first return all State data to the State in a usable format as defined in the RFP, or in an open standards machine-readable format if not. The Contractor must then erase, destroy, and render unreadable all Contractor copies of State data according to the standards enumerated in accordance with the State's most recent Information Disposal and Media Sanitation policy, currently the 09-10-NJOIT form at <https://www.state.nj.us/it/whatwedo/policylibrary/> and certify in writing that these actions have been completed within 30 days after the termination/expiration of the Contractor within seven (7) days of the request of an agent of the State whichever shall come first.

5.10 NEWS RELEASES

The Contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this contract without the prior written consent of the Authority.

5.11 ADVERTISING

The Contractor shall not use the Authority's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the Authority.

5.12 LICENSES AND PERMITS

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this contract. The Contractor shall supply the Authority with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to the contract award. All costs associated with any such licenses, permits and authorizations must be considered by the Proposer in its Proposal.

5.13 CLAIMS AND REMEDIES

5.13.1 CLAIMS

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

5.13.2 REMEDIES

Nothing in the contract shall be construed to be a waiver by the Authority of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Chief Executive Officer (CEO).

5.13.3 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS

In the event that the Contractor fails to comply with any material contract requirements, the Authority may take steps to terminate the contract in accordance with the Authority's Contract For Professional Services, Exhibit A, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting Contractor's price either being deducted from any monies due the defaulting Contractor or being an obligation owed the Authority by the defaulting Contractor, or take any other action or seek any other remedies available at law or in equity.

5.13.4 LIQUIDATED DAMAGES

Not applicable.

5.14 ADDITIONAL WORK AND/OR SPECIAL PROJECTS

The Contractor shall not begin performing any additional work or special projects without first obtaining the Designated Contract Manager's recommendation and written approval from the Procurement Department.

In the event of additional work and/or special projects, the Contractor must present a written Proposal to perform the additional work to the Designated Contract Manager. The Proposal should provide justification for the necessity of the additional work. The relationship between the additional work and the base contract work must be clearly established by the Contractor in its Proposal.

The Contractor's written Proposal must provide a detailed description of the work to be performed broken down by task and subtask. The Proposal should also contain details on the level of effort, including hours, labor categories, etc., necessary to complete the additional work.

The written Proposal must detail the cost necessary to complete the additional work in a manner consistent with the contract. The written price schedule must be based upon the hourly rates, unit costs or other cost elements submitted by the Contractor in the Contractor's original Proposal submitted in response to this RFP. Whenever possible, the price schedule should be a firm, fixed price to perform the required work. The firm fixed price should specifically reference and be tied directly to costs submitted by the Contractor in its original Proposal. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

Upon receipt and approval of the Contractor's written Proposal, the Designated Contract Manager shall forward same to the Procurement Department for written approval. Complete documentation, confirming the need for the additional work, must be submitted. Documentation forwarded by the Designated Contract Manager to the Procurement Department must include all other required Authority approvals.

No additional work and/or special project may commence without the Procurement Department's written approval. In the event the Contractor proceeds with additional work and/or special projects without the Authority's written approval, it shall be at the Contractor's sole risk. The Authority shall be under no obligation to pay for work performed without the Procurement Department's written approval.

5.15 INDEMNIFICATION

The indemnification provisions set forth in the Authority's Contract for Professional Services, Exhibit A, shall prevail.

5.16 MAINTENANCE OF RECORDS

The Contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless a longer period is required by law. Such records shall be made available to the State, including the Comptroller, for audit and review.

5.17 FORM OF COMPENSATION - INVOICING/PAYMENT

The Contractor will submit electronic invoices to the Authority (unless a request is made by the Contractor to an alternate billing structure/timeframe at the Initial Meeting), per the Scope of Work/Fee Schedule, once the authorized, completed work is approved by the Authority's Designated Contract Manager. Invoices must be submitted to REDInvoices@njeda.com.

Invoices submitted for payment will be paid by check and must include / consider all the following:

- A. Invoices should be submitted for services rendered no later than ninety (90) days from the date the service was provided / performed. The Contractor is strongly encouraged to inform its Subcontractor(s) of this policy, as they will be required to comply similarly;
- B. Payments will only be made to the Contractor. In the event “Specialized Services” are required and approved by the Authority in advance; the Contractor shall be responsible for assuring the compliance of any Subcontractor(s) with all terms and conditions of this RFP and assumes the sole and absolute responsibility for any payments due to any Subcontractor(s) under the subcontract(s), should the Authority approve in advance such services;
- C. An invoice number, the amount due, date/dates of service, the Authority’s purchase order number, if applicable, and a remittance address. The payment to the Contractor will usually be in check form.
- D. A description of the project task or subtask services for the invoice timeframe;
- E. A Set-Aside Contract Report (SACR) form found at <https://www.njeda.com/bidding/#forms>;
- F. If applicable, each itemized position / title assigned to perform the work for the project, including number of hours billed for each position; and
- G. If applicable, copies of timesheets for employees assigned to do the work referenced in the invoice.

The Authority, in its sole discretion, reserves the right to require additional information, documentation and / or justification upon receipt of an invoice for payment and prior to approving such invoice for payment.

The Authority considers the Contractor to be the sole point of contact regarding contractual matters and the Contractor will be required to assume sole responsibility for the complete “Scope of Services / Deliverables” and any additional services, as indicated in the RFP.

6.0 PROPOSAL EVALUATION

6.1 RIGHT TO WAIVE

The Authority reserves the right to waive minor irregularities or omissions in a Proposal. The Authority also reserves the right to waive a requirement provided that:

- A. the requirement is not mandated by law;
- B. all of the otherwise responsive Proposals failed to meet the requirement; and
- C. in the sole discretion of the Authority, the failure to comply with the requirement does not materially affect the procurement or the Authority's interests associated with the procurement.

6.2 RIGHT OF FINAL PROPOSAL ACCEPTANCE

The Authority reserves the right to reject any or all Proposals, or to award in whole or in part if deemed to be in the best interest of the Authority to do so. The Authority shall have the power to award orders or contracts to the Proposer best meeting specifications and conditions.

6.3 RIGHT TO INSPECT PROPOSER'S FACILITIES

The Authority reserves the right to inspect the Proposer establishment before making an award, for the purposes of ascertaining whether the Proposer has the necessary facilities for performing the contract.

The Authority may also consult with clients of the Proposer during the evaluation of bids. Such consultation is intended to assist the Authority in making a contract award which is most advantageous to the Authority.

6.4 RIGHT TO REQUEST FURTHER INFORMATION

The Authority reserves the right to request all information which may assist it in making a contract award, including factors necessary to evaluate the Proposer financial capabilities to perform the contract. Further, the Authority reserves the right to request a Proposer to explain, in detail, how the Proposal price was determined.

6.5 PROPOSAL EVALUATION COMMITTEE

Proposals may be evaluated by a cross-functional Evaluation Committee composed of the Authority's staff, management, and possibly other state agencies and/or industry Subject Matter Experts (SMEs), but will not be voting members. Only Authority staff will evaluate, score and rank Proposals received in response to this RFP, and the criteria established herein.

6.6 ORAL PRESENTATION AND/OR CLARIFICATION OF PROPOSAL

After the submission of Proposals, unless requested by the Authority as noted below, vendor contact with the Authority is still not permitted.

After the Proposals are reviewed, one, some or all of the Proposers may be asked to clarify certain aspects of their Proposals. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any

deficiencies or material omissions or revise or modify a Proposal, except to the extent that correction of apparent clerical mistakes results in a modification.

The Proposer may be required to give an oral presentation to the Authority concerning its Proposal.

Proposer may not attend the oral presentations of their competitors.

It is within the Authority's discretion whether to require the Proposer(s) to give an oral presentation or require the Proposer(s) to submit written responses to questions regarding its Proposal. Action by the Authority in this regard should not be construed to imply acceptance or rejection of a Proposal. The Procurement department will be the sole point of contact regarding any request for an oral presentation or clarification.

6.7 EVALUATION CRITERIA

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate Proposals received in response to this RFP. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process.

6.7.1 QUALIFICATIONS/EXPERIENCE EVALUATION CRITERIA

- A. Personnel: The qualifications and experience of the Proposer's management, supervisory, and key personnel assigned to the contract, including the candidates recommended for each of the positions/roles required.
 - 1. If key personnel are identified and required in Section 3.0 of this RFP, the Proposer **must** submit a resume for each key position and the Proposer's resumes **must** include: Name of Proposed Person, Current Position/Description of Role, Previous Relevant Position(s)/Description(s) of Role(s), and three (3) business references associated with any of the named relevant positions. Business references **must** include a Contact Name, Job Title, Daytime Telephone Number and an E-mail Address. Failure to submit mandatory resumes and full references' details **will result in rejection** of the Proposer's Proposal for further consideration.
- B. Experience of entity: The Proposers documented experience in successfully completing contracts of a similar size and scope in relation to the work required by this RFP, based, in part, on the Proposer's submitted narratives and references.
 - 1. If references for contracts of similar size and scope are required in Section 3.0 of this RFP, the Proposer **must** submit business references for each relevant contract. Business references **must** include a Contract Name/Description of Contract, Contact Name, Job Title, Daytime Telephone Number and an E-mail Address. Failure to submit mandatory contract details and full references' details **will result in rejection** of the Proposer's Proposal for further consideration.
- C. Ability of the entity to complete the Scope of Work based on its Technical Proposal: The Proposers demonstration that the Proposer understands the requirements of the Scope of Work and presents an approach that would permit successful performance of the technical requirements of the contract. Proposer's turnaround timeframes are critical and will be closely evaluated for both content and completion timeframes.

6.7.2 PROPOSER'S FEE SCHEDULE

For evaluation purposes, Proposers will be ranked and weighted according to the lowest total price for all services and products, per the Fee Schedule accompanying this RFP.

Hourly rates, per the Fee Schedule, will be used for any additional work that might be required during the contract time frame, not specified in the original Scope of Work.

1. Proposers shall not alter this Fee Schedule and must provide pricing for all sections. Failure to submit pricing for all sections or altering the form will result in the Proposal being rejected as nonresponsive.
2. Proposers shall not indicate fees/charges other than those included on this Fee Schedule. If the Proposer intends to assess additional fees it should address this by submitting an inquiry during the Question and Answer period for this RFP.

6.7.3 PROPOSAL DISCREPANCIES

In evaluating Proposals, discrepancies between words and figures will be resolved in favor of words. Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum of the column of figures.

6.7.4 EVALUATION OF THE PROPOSALS

After the Evaluation Committee completes its evaluation, it recommends to the Authority an award to the responsible Proposer whose Proposal, conforming to this RFP, is most advantageous to the Authority. The process considers and assesses price, technical criteria, and other factors during the evaluation process before a recommendation is made. The Authority may accept, reject or modify the recommendation of the Evaluation Committee. Whether or not there has been a negotiation process as outlined in Section 6.8 below, the Authority reserves the right to negotiate price reductions with the selected Proposer(s).

6.8 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

After evaluating Proposals, the Authority may enter into negotiations with one Proposer or multiple Proposers. The primary purpose of negotiations is to maximize the Authority's ability to obtain the best value based on the mandatory requirements, evaluation criteria, and cost. Multiple rounds of negotiations may be conducted with one Proposer or multiple Proposers. Negotiations will be structured by the Procurement department to safeguard information and ensure that all Proposers are treated fairly.

Similarly, the Procurement department may invite one Proposer or multiple Proposers to submit a best and final offer (BAFO). Said invitation will establish the time and place for submission of the BAFO. Any BAFO that is not equal to or lower in price than the pricing offered in the Proposer's original Proposal will be rejected as non-responsive and the Authority will revert to consideration and evaluation of the Proposer's original pricing.

If required, after review of the BAFO(s), clarification may be sought from the Proposer. The Procurement department may conduct more than one round of negotiation and/or BAFO in order to attain the best value for the Authority.

After evaluation of Proposals and as applicable, negotiation(s) and/or BAFO(s), the Procurement department will recommend the responsible Proposer whose Proposal(s), conforming to the RFP, is/are most advantageous to the Authority, price and other factors considered. The Authority may

accept, reject or modify the recommendation of the Procurement department. The Procurement department may initiate additional negotiation or BAFO procedures with the selected Proposer(s).

Negotiations will be conducted only in those circumstances where they are deemed to be in the Authority's best interests and to maximize the Authority's ability to get the best value. Therefore, the Proposer is advised to submit its best technical and price Proposal in response to this RFP since the Authority may, after evaluation, make a contract award based on the content of the initial submission, without further negotiation and/or BAFO with any Proposer.

All contacts, records of initial evaluations, any correspondence with Proposer related to any request for clarification, negotiation or BAFO, any revised technical and/or price Proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until approved and a Conditional Notice of Intent to Award a contract is issued.

NOTE: If the Authority contemplates negotiation, Proposal prices will not be publicly read at the Proposal submission opening. Only the name and address of each Proposer will be publicly announced at the Proposal submission opening.

6.9 PROTEST OF RECOMMENDED AWARD

Any Proposer may protest a vendor selection (an award) by the New Jersey Economic Development Authority. In order for a protest to be timely, it must be submitted to the Senior Vice President – Business Support within ten (10) business days of receipt of the notification that the Proposer was not selected. In order to be considered complete, a protest must: (i) identify the Proposer that is submitting the protest, (ii) identify the contract award that is being protested, (iii) specify all grounds for the protest (including all arguments, materials and/or documents that support the protest); and, (iv) indicate whether an oral presentation is requested, and if so, the reason for the oral presentation. A Hearing Officer will be designated by the Authority's Senior Vice President – Business Support. The designated Hearing Officer will review all timely and complete Vendor protests and will have sole discretion to determine if an oral presentation by the protester is necessary to reach an informed decision on the matter(s) of the protest.

After completing his or her review of the protest, the Hearing Officer will prepare a preliminary report, which shall be advisory in nature and not binding, and send to the Protestor. Should the Protestor dispute the findings of the preliminary "*Hearing Officer Report*", it will be afforded an "*Exceptions Period*" equal to ten (10) business days from the Authority's issuance of the preliminary "*Hearing Officer Report*" to refute the findings of the Hearing Officer. At the expiration of the exceptions period, the Hearing Officer will review any "*Exceptions to the Hearing Officer's Report*" and finalize his or her report.

The Hearing Officer will make a recommendation in his or her final "*Hearing Officer Report*" which will be sent with any "*Exceptions to the Hearing Officer's Report*" to either the Authority's Board or the Authority's Chief Executive Officer, as determined by the dollar amount of the potential award as it relates to the Authority's internal Operating Authority Approval Levels, for a final decision to award the contract. The Authority's Board of Directors or Chief Executive Officer will review the final "*Hearing Officer Report*" and the protestor's "*Exceptions to the Hearing Officer's Report*" and shall render a final decision regarding the appropriateness of the award. The action of the Authority's Board or Chief Executive Officer, to make a final decision for the award of the contract will be a final Authority action that is appealable to the Appellate Division of the Superior Court of New Jersey.

It is the Authority's intent not to award the contract until it has completed all of the review procedures described above. If, however, in the Authority's sole discretion, it is determined that such an award is necessary to support the uninterrupted and efficient business operations of the Authority; the contract may be awarded.

7.0 CONTRACT AWARD

Contract award(s) shall be made in whole or in part, with reasonable promptness by written notice to the highest ranked responsible Proposer, whose proposal, conforming to this RFP, is most advantageous to the Authority, price, and other factors considered, as determined by the Authority, in its sole discretion. Any or all proposals may be rejected when the Authority determines that it is in the public interest to do so.

It is the policy of the New Jersey Economic Development Authority that to be considered for award, a Proposer must achieve or exceed an overall score of three (“3”) indicating a rating of “Good”, on a scale of 1-5 with 5 being the highest rating. The Authority shall be under no obligation to make an award to an entity which does not achieve this minimum scoring threshold.

Award of a contract for the services outlined in this RFP will be subject to the selected entity entering into the “Contract for Professional Service”, attached to this RFP as Exhibit A. Proposers are encouraged to carefully review the specimen Contract and should indicate any exceptions taken to the form of Contract during the “Questions and Answers Period.”

The Proposer is cautioned that it shall not impose conditions under which it will conduct business with the New Jersey Economic Development Authority by submitting its own separate and distinct company “Standard Terms and Conditions”, engagement letters, agreement(s) or forms in response to this section requirement. The Proposer shall not submit its “Standard Terms and Conditions” or submit material revisions and/or exceptions to the “Contract for Professional Services” with the proposal as it will result in the proposal being deemed non-responsive.

IMPORTANT: In the event the Proposer takes exception to one (1) or more points within the Contract; it shall submit its “exceptions” in the form of a question to be submitted for consideration during the “Questions and Answers Period” established for this solicitation. The Authority shall not consider any questions, exceptions or requests for changes to be made to the specimen contract at any time during the RFP process, unless submitted during the “Questions and Answers Period”.

The Authority shall be under no obligation to grant or accept any requested changes (i.e. exceptions taken) to the specimen form of the Contract (Exhibit A) during the “Questions and Answers Period.”

Any proposal submitted in response to this RFP will be considered a firm Offer by the responding vendor to perform the Scope of Services, as outlined in the RFP and specimen contract. By submitting an Offer in response to this RFP, the responding vendor agrees to hold its Offer open for at least one hundred twenty (120) days after the response due date. Any provision in a submitted Offer that attempts to limit or condition the time that an Offer is open for consideration by the Authority will not be binding on the Authority.

Accordingly, any proposals submitted will indicate an acceptance by proposers of the form of Specimen Contract.

Acceptance of a proposal and award of a contract is subject to the approval of the Authority’s Board.

8.0 CONTRACT ADMINISTRATION

8.1 AUTHORITY'S DESIGNATED CONTRACT MANAGER

The Authority's Designated Contract Manager is the employee responsible for the overall management and administration of the contract.

The Authority's Designated Contract Manager for this project will be identified at the time of execution of contract. At that time, the Contractor will be provided with the Authority's Designated Contract Manager's name, department, address, telephone number, fax phone number, and e-mail address.

8.1.1 AUTHORITY'S DESIGNATED CONTRACT MANAGER'S RESPONSIBILITIES

The Authority's Designated Contract Manager will be responsible for organizing the Initial Meeting, if applicable, engaging the Contractor, assuring that a Purchase Order(s) are issued to the Contractor, directing the Contractor to perform the work of the contract, approving the deliverables and approving payment vouchers. The Authority's Designated Contract Manager is the person that the Contractor will contact after the contract is executed for answers to any questions and concerns about any aspect of the contract. The Authority's Designated Contract Manager is responsible for coordinating the use of the Contract and resolving minor disputes between the Contractor and any component part of the Authority's Designated Contract Manager's Department.

If the contract has multiple users, then the Authority's Designated Contract Manager shall be the central coordinator of the use of the contract for all departments, while other employees engage and pay the Contractor. All persons that use the contract must notify and coordinate the use of the contract with the Authority's Designated Contract Manager.