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Chief Deputy Treasurer

MARYLAND STATE TREASURER'S OFFICE

REQUEST FOR PROPOSALS

FOR

**GENERAL BANKING SERVICES FOR
THE BOARD OF TRUSTEES OF THE MARYLAND TEACHERS
AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS
RFP #MSRP-03272020**

DUE DATE: APRIL 28, 2020

BY 2:00 PM LOCAL TIME

Issued: March 27, 2020

KEY INFORMATION SUMMARY SHEET

**Maryland State Treasurer's Office
Request for Proposals for
General Banking Services for
The Board of Trustees of the Maryland Teachers
and State Employees Supplemental Retirement Plans**

RFP #MSRP-03272020

Procurement Officer: Anne Jewell
Tel.: (410)260-7903
Fax: (410)974-3530
Email: procurement@treasurer.state.md.us

Submit Proposals to: Maryland State Treasurer's Office
Attn: Anne Jewell, Procurement Officer
Louis L. Goldstein Treasury Building
80 Calvert Street, Room 109
Annapolis, Maryland 21401

Solicitation Issue Date: March 27, 2020

Deadline for Receipt of Questions: April 10, 2020 by 2:00 PM Local Time

Proposal Due Date and Time: April 28, 2020 by 2:00 PM Local Time

Tentative Contract Award: June 5, 2020

Notice: A prospective Offeror who received this document from a source other than the Issuing Office or eMaryland Marketplace Advantage ("eMMA"), should immediately contact the Issuing Office and provide their name and email address in order that amendments to the RFP or other communications can be sent to them. A prospective Offeror should also register on eMMA at: (<https://procurement.maryland.gov>). Any prospective Offeror who fails to register on eMMA assumes complete responsibility in the event that they do not receive amendments to the solicitation prior to the closing date.

TABLE OF CONTENTS

| | Page |
|---|------|
| I. Procurement Information | |
| 1.1 Summary Statement..... | 1 |
| 1.2 Procurement Method | 1 |
| 1.3 Issuing Office and Procurement Officer | 1 |
| 1.4 Contract Officer | 1 |
| 1.5 Use of eMaryland Marketplace Advantage..... | 1 |
| 1.6 Schedule of Events | 2 |
| 1.7 Pre-Proposal Conference..... | 2 |
| 1.8 Questions and Inquiries..... | 2 |
| 1.9 Submission Requirements and Deadline | 2 |
| 1.10 False Statements..... | 3 |
| 1.11 Duration of Offer..... | 3 |
| II. General Information | |
| 2.1 Electronic Distribution..... | 4 |
| 2.2 Revisions to the RFP..... | 4 |
| 2.3 Cancellation of the RFP; Rejection of All Proposals | 4 |
| 2.4 Proposal Acceptance; Discussions..... | 4 |
| 2.5 Oral Presentation..... | 4 |
| 2.6 Incurred Expenses | 5 |
| 2.7 Proposal Form | 5 |
| 2.8 Multiple Proposals | 5 |
| 2.9 Access to Public Records Act Notice | 5 |
| 2.10 Protests..... | 5 |
| 2.11 Proposal Opening | 6 |
| 2.12 Bid/Proposal Affidavit..... | 6 |
| 2.13 Contract Affidavit | 6 |
| 2.14 Representations | 6 |
| 2.15 Service Organization Control (SOC) Audit Report..... | 6 |
| 2.16 Minority Business Enterprises..... | 7 |
| 2.17 Veteran-Owned Small Business Enterprise | 7 |
| 2.18 No Guarantee of Work..... | 7 |
| 2.19 Order of Precedence..... | 7 |
| III. Scope of Services and Requirements | |
| 3.1 Background..... | 8 |
| 3.2 Summary of Account Operation and Flow of Funds | 9 |
| 3.3 Minimum Qualifications..... | 10 |
| 3.4 Service Capabilities..... | 12 |
| 3.5 Transition | 17 |
| 3.6 Other Services for Consideration | 17 |
| 3.7 Term | 17 |
| 3.8 Compensation | 17 |

IV. Proposal Format

| | | |
|-----|------------------------------------|----|
| 4.1 | Transmittal Letter | 19 |
| 4.2 | Two-Volume Submission..... | 19 |
| 4.3 | Volume I - Technical Proposal..... | 19 |
| 4.4 | Disclosures..... | 23 |
| 4.5 | Volume II – Price Proposal..... | 23 |

V. Evaluation and Selection Procedure

| | | |
|-----|---|----|
| 5.1 | Qualifying Proposals | 24 |
| 5.2 | Evaluation Committee and Evaluation Criteria | 24 |
| 5.3 | Technical Evaluation..... | 24 |
| 5.4 | Evaluation of Costs/Fees | 24 |
| 5.5 | Best and Final Offer | 25 |
| 5.6 | Final Evaluation and Recommendation for Award | 25 |
| 5.7 | Debriefing of Unsuccessful Offerors..... | 25 |
| 5.8 | Responsibility | 25 |

Appendices

| | | |
|----|--|----|
| A. | Price Proposal Instructions | 27 |
| | Price Proposal..... | 28 |
| B. | Bid/Proposal Affidavit (complete and submit with Technical) | 31 |
| C. | Form of Standard Contract | 38 |
| D. | Contract Affidavit (complete and submit with Contract) | 51 |
| E. | Collateral Security Agreement | 55 |
| F. | Federal Home Loan Bank Letters of Credit Depository Agreement..... | 60 |
| | Federal Home Loan Bank Member Resolution | |
| G. | Designation of Depository | 63 |

Exhibits

| | | |
|----|---|----|
| 1. | State Personnel and Pensions Title 35..... | 65 |
| 2. | Form of Maryland 403(b) Custody Agreement | 72 |
| 3. | State Finance and Procurement Article, §6-201 | 79 |
| 4. | State Finance and Procurement Article, §6-202 | 80 |
| 5. | State Finance and Procurement Article, §6-209 | 82 |
| 6. | State Finance and Procurement Article, §6-222 | 83 |

SECTION I. PROCUREMENT INFORMATION

1.1 **Summary Statement**

The Maryland State Treasurer's Office (the "Office") is the issuer of this RFP for General Banking Services for The Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans ("MSRP").

1.2 **Procurement Method**

The Office will conduct this solicitation in accordance with the competitive sealed proposals process under COMAR 21.05.03 and will award one contract arising out of this RFP (the "Contract").

1.3 **Issuing Office and Procurement Officer**

Maryland State Treasurer's Office
Louis L. Goldstein Treasury Building
80 Calvert Street, Room 109
Annapolis, Maryland 21401

Procurement Officer: Anne Jewell
Phone: (410) 260-7903 E-mail: procurement@treasurer.state.md.us

The sole point of contact for purposes of this procurement is the Procurement Officer. The Procurement Officer may designate others to act on her behalf. The Office may change the Procurement Officer or the limits of her authority at its discretion.

1.4 **Contract Officer**

The Contract Officer monitors the daily activities of the Contract and provides technical guidance to the Contractor. The State Contract Officer is:

Richard A. Arthur
Technology and Operations Office
Maryland Supplemental Retirement Plans
6 Saint Paul Street, Suite 200
Baltimore, Maryland 21202

1.5 **Use of eMaryland Marketplace Advantage (eMMA)**

eMMA is a free electronic commerce system administered by the Maryland Department of General Services. The RFP, associated materials, and all other solicitation-related material will be provided via eMMA. Because of the instant access afforded by eMMA, it is recommended that all Offerors interested in doing business with Maryland State agencies subscribe to eMMA. Go to: <https://procurement.maryland.gov>, click on "Login and Register for eMMA" under Quick Links to

begin the process and then follow the prompts. In order to receive a contract award, a vendor must be registered on eMMA.

1.6 Schedule of Events

| <u>Event</u> | <u>Date</u> |
|-----------------------------------|----------------------------------|
| Solicitation Issue Date | 03/27/2020 |
| Deadline for Receipt of Questions | 04/10/2020 by 2:00 PM Local Time |
| Proposal Due Date | 04/28/2020 by 2:00 PM Local Time |
| Tentative Date of Contract Award | 06/05/2020 |

1.7 Pre-proposal Conference

A pre-proposal conference will not be held.

1.8 Questions and Inquiries

All Offerors should direct their questions and inquiries to the Procurement Officer identified in Section 1.3 above. **Questions must be submitted in writing by mail or via email and received by the Issuing Office no later than 2:00 PM local time on Friday, April 10, 2020.** Oral questions will not be permitted. If the questions or inquiries pertain to a specific section of the RFP, Offerors must reference the relevant page and section number(s).

1.9 Submission Requirements and Deadline

To be considered for award, Offerors must submit to the Procurement Officer a package containing one (1) written original, and five (5) copies (total of 6) of the Technical Proposal and the Price Proposal, each in separate sealed envelopes. All submissions shall indicate the RFP Title and number and the Offeror's name and address. **Proposals must be received by the Procurement Officer at the Issuing Office no later than 2:00 PM local time on Tuesday, April 28, 2020.** Additionally, each Offeror must provide to the Procurement Officer on compact disks one electronic copy of the Technical and Price Proposals submitted. As with the written submission, the electronic copy submission of the Technical Proposal and the Price Proposal must be provided in separate sealed envelopes. Refer to Section IV. Proposal Format for Two-Volume Submission requirements.

The Office will not grant requests for extension of the submission date or time. Offerors mailing proposals should allow sufficient mail and internal delivery time to ensure timely receipt of the proposals by the Procurement Officer at the Issuing Office. Except as permitted under COMAR 21.05.02.10, the Office will not consider proposals or unsolicited amendments to proposals arriving in the Issuing Office or received by the Procurement Officer after the closing date and time, regardless of the method of their transmission. The Office will not consider proposals submitted by electronic means only (facsimile or e-mail).

1.10 False Statements

Offerors are advised that State Finance and Procurement Article, §11-205.1, Annotated Code of Maryland provides as follows:

- (a) *In general.* - In connection with a procurement contract a person may not willfully:
 - (1) falsify, conceal, or suppress a material fact by any scheme or device;
 - (2) make a false or fraudulent statement or representation of a material fact; or
 - (3) use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (b) *Aiding or conspiring with others.* – A person may not aid or conspire with another person to commit an act under subsection (a) of this section.
- (c) *Penalty.* – A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 5 years or both.

1.11 Duration of Offer

Proposals submitted in response to this solicitation are irrevocable for 120 days following the later of the proposal due date or the date the Procurement Officer receives final best and final offers, if any. At the request of the Procurement Officer, the Offeror may agree in writing to extend this period.

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SECTION II. GENERAL INFORMATION

2.1 **Electronic Distribution**

This RFP is published on *eMaryland Marketplace Advantage* and posted on the websites for the National Association of State Treasurer's and the Office, and emailed to financial institutions known to be interested in receiving RFPs. Potential Offerors wishing to receive copies of the written document should contact the Procurement Officer identified in Section 1.3, above.

2.2 **Revisions to the RFP**

The Office reserves the right to amend this RFP at any time prior to the proposal due date and time. If it becomes necessary to revise this RFP at any time prior to the proposal due date and time, the Office will provide amendments to all prospective Offerors that were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. Acknowledgement of the receipt of all amendments to this RFP issued before the proposal due date shall be included in the Transmittal letter accompanying the Offeror's Technical Proposal. In addition, the Office will post amendments to the RFP on the Office's Web Page at www.treasurer.state.md.us, (select "Procurement" and then "RFP for General Banking Services for The Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans"), and through eMaryland Marketplace Advantage at: <https://procurement.maryland.gov>. The Office will send amendments made after the due date for proposals only to those Offerors who submitted a timely proposal.

Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

2.3 **Cancellation of the RFP; Rejection of All Proposals**

The Office may cancel this RFP, in whole or in part, or may reject all proposals submitted in response whenever this action is determined to be fiscally advantageous to the State or otherwise in its best interests.

2.4 **Proposal Acceptance; Discussions**

The Office reserves the right to accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified Offerors in any manner necessary to serve the best interests of the State of Maryland. The Office also reserves the right, in its sole discretion, to award the Contract based upon the written proposals received without prior discussions or negotiations.

2.5 **Oral Presentation**

In support of their proposals, Offerors may be required to make an oral presentation, or conduct a demonstration, or both, not more than two calendar weeks after the Office has requested an Offeror to do so. Failure to be prepared to make an oral presentation or conduct a demonstration

within this time period may prevent the Offeror's proposal from receiving further consideration. All written representations will become part of the Offeror's proposal and are binding if the Contract is awarded to the Offeror.

2.6 Incurred Expenses

The State will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal in response to this RFP, including costs incurred in making an oral presentation, if required.

2.7 Proposal Form

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's proposal for meeting the requirements of this procurement. The Office will not accept oral, telegraphic, facsimile, mailgram, or electronically transmitted proposals.

2.8 Multiple Proposals

The Office will not accept multiple or alternative proposals.

2.9 Access to Public Records Act Notice

An Offeror should give specific attention to the identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Access to Public Records Act, General Provisions Article, Title 4, Annotated Code of Maryland. The Office may charge a fee for copies and search and preparation time, in accordance with COMAR 25.01.04.09. The Office may require payment of such fees before releasing the requested information.

2.10 Protests

Any protest or dispute related respectively to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies). Offerors must file in writing any protest regarding this solicitation with the Procurement Officer. If the reason for the protest is apparent before the proposal opening, the Offeror must file the protest before the proposal opening. In all other cases, the Offeror must file the protest within 7 calendar days after the reason for the protest is known or should have been known.

The term "filed" means receipt by the Procurement Officer who has issued this solicitation.

The protest must be in writing and must contain (1) the name and address of the protester; (2) the appropriate identification of the solicitation and, if a Contract has been awarded, the Contract number if it is known; (3) a statement of the reasons for the protest; and (4) any supporting exhibits, evidence, or documents to substantiate any claims unless the documents are not available

within the filing time, in which case the date by which the supporting documents are expected to be available is to be noted.

2.11 Proposal Opening

Proposals will not be opened publicly.

2.12 Bid/Proposal Affidavit

All proposals submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as Appendix B to this RFP.

2.13 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Appendix D to this RFP. This Affidavit need not be submitted with an Offeror's proposal. For purposes of completing Section "B" of this Affidavit, (Certification of Registration or Qualification with the State Department of Assessments and Taxation), a business entity that is organized outside the State of Maryland is considered a "foreign" business.

2.14 Representations

By submitting a proposal in response to this RFP, the Offeror represents that (a) it is not in arrears in the payment of any obligation due and owing the State or any department or unit thereof, including but not limited to the payment of taxes and employee benefits (the "State Obligations"), and (b) it is in compliance with all federal, State and local laws applicable to its activities and obligations under the Contract. Further, if selected for award, the Offeror agrees that these representations will continue in effect during the term of the Contract.

2.15 Service Organization Control (SOC) Audit Report

This section applies to the Contractor and any relevant subcontractor who provides services for the Office's identified critical functions, handles Sensitive Data, and/or hosts any related implemented system for the State under the Contract. For purposes of this section, "relevant subcontractor" includes any subcontractor that assists the Contractor in the critical functions of the Contract, handles Sensitive Data, and/or assists with any related implemented system, excluding subcontractors that provide secondary services that are not pertinent to assisting the Contractor in the critical functions of the Contract, handling Sensitive Data, and/or assisting with any related implemented system.

2.15.1 The Contractor shall provide annually at no cost to Office's Contract Officer, evidence of compliant and ongoing internal control of sensitive data and processes through a standard methodology, such as but without limitation the American Institute of Certified Public Accountant (AICPA) Service Organization Control (SOC) Reports. The evidence of

compliance shall be contained in a report describing the effectiveness of the Contractor's internal controls.

2.15.2 If deficiencies in the Contractor's internal control processes and procedures are described in the most recent version of the report, the Contractor shall automatically submit the report to the Contract Officer within a timely manner and shall describe the corrective actions to be put into place by the Contractor to remedy the deficiencies. Failure to report and/or repair deficiencies in a timely manner shall be cause for the STO to make a determination of breach of contract.

2.16 Minority Business Enterprises

The Office has not established a minority business enterprise subcontractor participation goal for this solicitation.

2.17 Veteran-Owned Small Business Enterprise

The Office has not established a veteran-owned small business enterprise ("VSBE") subcontractor participation goal for this solicitation.

2.18 No Guarantee of Work

No Contractor is guaranteed any minimum amount of work or compensation.

2.19 Order of Precedence

The Contract between the parties will be embodied in the Contract documents which will consist of the following, listed in their order of precedence:

1. the executed Contract;
2. the RFP; and
3. the Offeror's proposal.

The Office will not accept any modifications to the order of precedence provision of this solicitation.

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SECTION III. SCOPE OF SERVICES AND REQUIREMENTS

3.1 Background

The Board of MSRP is an independent State agency operating pursuant to Title 35 of the State Personnel and Pensions Article (Exhibit 1), having oversight authority and control for three voluntary participation employee benefit Plans: the 457 Deferred Compensation Plan (the “457 Plan”); the 403(b) Tax Deferred Annuity Plan (the “403(b) Plan”); and the 401(k) Savings and Investment Plan (the “401(k) Plan”), plus a related 401(a) Match Plan (the “401(a) Plan”) and together with the 457 Plan, the 403(b) Plan and the 401(k) Plan, the “Plans”). Until July 1, 1999, all Plans were entirely funded by employee contributions made through salary reduction agreements. Effective July 1, 1999, Plan participants who were also members of the State Employees “Modified” Pension System (most employees), began receiving a dollar-for-dollar match from the State into the 401(a) Plan, up to a maximum of \$600 per year. The State match contributions have been suspended or reduced from time to time through legislative action. Whether or not contributions occur, the 401(a) Plan has ongoing activity because of investment changes and account disbursements.

The 457 Plan is generally available to all State employees. As of December 31, 2018, there were approximately 34,857 participants and net assets of \$1.64 billion.

The 403(b) Plan is available to employees of State institutions of higher education. As of December 31, 2018, there were approximately 782 participants and net assets of \$91.0 million.

The 401(k) Plan is generally available to all State employees. On December 31, 2018 net assets totaled \$1.8 billion for over 32,611 participants.

The Board exercises its authority and control over the Plans primarily through contractual delegation of administrative responsibility to the Plan administrator, currently Nationwide Retirement Solutions (“NRS”). NRS is a subsidiary of Nationwide Life Insurance Company. NRS operates Plan wide and participant accounting, statement issuance, participant relations and investment activity on behalf of the Board. The Board also maintains an executive director and associated staff of MSRP to fulfill its oversight function and responsibility to educate Plan participants and State employees. The Plan administrator is compensated directly by the Board on a percentage of assets basis and has no economic interest in (and receives no commissions on) Plan investments. Plan administrator employees operate the Plan bank accounts on a day-to-day basis pursuant to delegation of authority from MSRP.

Each of the Plans described above contains investment options which employees/participants may use to allocate and re-allocate investments on a daily basis. For reasons of timeliness, reallocations of investments are conducted via Federal Wire Transfer (same day settlement). The current investment options available to participants are available at: www.msrp.maryland.gov/pubs.htm.

3.2 Summary of Account Operation and Flow of Funds

The current banking operations for the Plans is supported by a total of six bank accounts as follows:

- Controlled disbursement account for the 457, 401(k), and 401(a) Plans;
- Controlled disbursement account for the 403(b) Plan;
- Depository account for the 457, 401(k), and 401(a) Plans;
- Depository account for the 403(b) Plan; and
- Custodial account accommodation for 403(b) Plan mutual fund assets.

All accounts are State accounts under the control of the Board. Plan accounts are for the benefit of Plan participants. The Board delegates disbursement authority to the Plan administrator as agent of the Board for the controlled disbursement and depository Plan accounts (the first four accounts listed above).

Funds are deposited into the depository accounts via wire, Automated Clearing House (ACH) and occasionally by check. The controlled disbursement account is funded daily from the depository accounts. In addition, the mutual fund trades are funded from the depository accounts. The Plan administrator has the authority to transfer funds from the depository accounts to our National Securities Clearing Corp. (NSCC) clearing account at another banking institution for mutual fund settlement. Any residual balance is swept into an overnight investment vehicle

457, 401(k), 401(a) Plans

Most transactions occur with respect to the depository accounts for the 457, 401(k) and 401(a) Plans. Transactions include all electronic receipt and disbursement transactions. The controlled disbursement accounts are used for paying Plan participants who have requested a distribution from their account.

403(b) Plan

The depository account for the 403(b) Plan handles most transactions, including all electronic receipts and disbursements. The controlled disbursement account is used for paying 403(b) Plan participants who have requested a distribution from their accounts.

IRC §403(b)(7) requires that the shares of regulated investment companies (i.e., mutual funds) for a 403(b) Plan be held in a custodial account maintained at a bank (or non-bank trustee approved by the Internal Revenue Service). Therefore, MSRP must maintain a custodial account for these mutual fund securities. Pursuant to the terms of the Board's agreement with NRS (the "Plan Administrator Agreement"), NRS maintains all custodial and participant records, conducts all participant and Plan record keeping and statement activity, and performs all share transactions with respect to the Plans, including the 403(b) Plan, as part of its Plan administrative and record-keeping function. As with the 457, 401(k) and 401(a) Plans, this includes the authority to move money from the depository accounts to MSRP's NSCC clearing account for mutual fund settlement. As a result of this administrative and record-keeping structure, it is not anticipated that the

successful Offeror would assume active custodial functions with respect to the 403(b)(7) custodial accounts and share transactions. The custodial relationship between the Board, the Plan administrator and the successful Offeror will be governed by a separate Custody Agreement. The successful Offeror will be expected to execute a 403(b) Plan Custody Agreement with the Board and NRS (the current Plan administrator), the form of which is attached to this RFP as Exhibit 2.

This Contract is not contingent on NRS serving as Plan administrator. During the term of this Contract, the Board has the right to terminate NRS' authority over the bank and custodial accounts described in this RFP and appoint a new entity to serve as Plan administrator. If this were to occur, the selected Offeror would be required to enter into a similar relationship with the new Plan administrator pursuant to a new 403(b) Plan Custody Agreement by and among the Board, the new Plan administrator and the successful Offeror in substantially the same form as that set forth on Exhibit 2. The Board anticipates that the current structure would remain intact such that any such new Plan administrator would perform all share transactions with respect to the 403(b)(7) custodial accounts in the 403(b) Plan and that such transactions would continue to be processed through such new Plan administrator's record-keeping system.

3.3 Minimum Qualifications

As part of its proposal, each Offeror must acknowledge that it meets and will comply with the requirements described in this section during the term of the contract awarded as a result of this procurement. Failure to do so may result in the rejection of the proposal.

| REQUIREMENT | ACKNOWLEDGE COMPLIANCE - YES/NO |
|---|---------------------------------|
| 1. The Offeror is a financial institution, as defined in State Finance and Procurement Article, §6-201, Annotated Code of Maryland (Exhibit 3). | |
| 2. The Offeror must have a Kroll Bond Rating Agency ("KBRA") rating or similar financial strength rating from a nationally recognized statistical rating organization, such as Kroll Bond Rating Agency, Inc., of at least a "C" for the term of the Contract. Should the Offeror's rating drop below "C", the Maryland State Treasurer (the "Treasurer"), at their discretion, may dismiss the Offeror, require additional collateral of the Offeror, or take other actions as deemed necessary under the circumstances to protect the interests of the State of Maryland. | |

| REQUIREMENT | ACKNOWLEDGE COMPLIANCE - YES/NO |
|---|--|
| 3. The Offeror’s deposits must be insured by the Federal Deposit Insurance Corporation (“FDIC”) up to the maximum amount required by law. | |
| 4. The Offeror must have a plan for business continuity and recovery as a result of disaster. | |
| 5. The Offeror must provide for the collateralization of all State funds deposited to any bank account that meets the requirements of §§ 6-202 and 6-209 of the State Finance and Procurement Article, (See Exhibits 4 and 5). Except as required or permitted under § 6-202 with respect to surety bonds or letters of credit provided as collateral, all collateral must be held in the name of the State of Maryland either, (a) with the Federal Reserve Bank of Richmond, (b) with the Federal Reserve Bank of Boston, or (c) at the sole discretion of the Treasurer, on deposit with an independent financial institution acceptable to the Treasurer. The Offeror must agree to conform to all FDIC guidelines on collateral to insure clear title to all collateral held will rest with the Treasurer in the event of default. If an overnight investment program is proposed (above), that requires collateralization, the collateral pledged to secure account deposits may also be used to secure the overnight repurchase agreement. | |
| 6. In order to satisfy the legal requirements of IRC §403(b)(7), the Offeror must: (a) have legal authority to serve as a custodian of regulated investment company shares; and (b) have the resources to execute share transactions at the direction of the Board to the extent the Board terminates NRS’ authority over the custodial account(s) in accordance with the termination and transition responsibility provisions of the Plan Administrator Agreement, until the appointment of a substitute Plan administrator. | |
| | |

3.4 Service Capabilities

In its proposal, each Offeror must acknowledge their ability to provide the following services:

| REQUIREMENT | ACKNOWLEDGMENT OF ABILITY TO MEET SERVICE REQUIREMENT |
|---|--|
| <p>1. The Offeror must provide an individual who will be the Board's principal contact for all operational aspects of services under the Contract. This individual must have sufficient authority to solve routine problems and command the resources necessary to address complex problems. The Offeror may be requested to meet with the staff of the Board to review contract issues, to inform the staff of new services/technologies, and to plan improvements in service several time per year. Historically there has been one requested meeting per year.</p> | |
| <p>2. <u>The Accounts</u> -The Offeror must create two depository accounts and two control disbursement accounts to perform the requested services under this RFP. One depository account and one control disbursement account will be used for the 457 Plan, the 401(k) Plan, and the 401(a) Plan; and one depository account and one control disbursement account will be used for the 403(b) Plan.</p> <p>Finally, the 403(b) Plan will require a custodial account for the §403(b)(7) custodial accounts holding mutual fund securities held in the 403(b) Plan pursuant to a 403(b) Plan Custody Agreement substantially in the form of Exhibit 2, which the Offeror will be expected to execute. It is anticipated that this account will not require active custodial services to be provided by the selected Offeror because of the administrative and recordkeeping responsibilities of the Plan administrator under the Plan Administrator Agreement, which include execution of share transactions in the mutual fund shares in the §403(b)(7) custodial accounts.</p> | |

| | |
|---|--|
| | |
| <p>3. <u>Overnight Investments</u> – The Offeror must provide an overnight investment vehicle for all funds remaining in any of the above accounts. Any proposed investment program must be limited to investments authorized by Section 6-222 of the State Finance and Procurement Article (Exhibit 6). Any investment program utilizing repurchase agreements must provide that collateral equal to the daily repurchase agreement amount is held with a third-party trustee acceptable to the Office or at the Federal Reserve Bank in a joint custody account.</p> | |
| <p>4. <u>Overdraft Protection</u> – Offerors must provide for overdraft protection for disbursements issued on any of the accounts created. Offerors must not reject valid items, upon proper customer verification of the presenter, except under instructions from the Board. Offerors shall notify the Board within 24 hours of the presentment of any item which results in an overdraft and the Board will correct the item within 24 hours of such notice.</p> | |
| <p>5. <u>Information Reporting</u> – Offerors must provide on-line data system access to the Plan Administrator. The current Plan administrator, NRS, is located in Columbus, Ohio. These services must, at a minimum, include the ability to monitor account balances, monitor wire receipts, initiate ACH transactions, and place stop payments on checks. The Plan Administrator directs most of the daily transactions affecting the accounts and the Offeror will be expected to provide on-line wire initiation from the Plan Administrator’s Columbus, Ohio facilities. The Plan Administrator needs the ability to transmit an ACH file via FTP to the Offeror.</p> | |

| | |
|---|--|
| <p>6. <u>Reporting</u> – The Offeror must provide the following monthly reports:</p> <p>a. Monthly collateral report identifying collateral required and pledged must be provided to the Board by the 15th day of the following month.</p> <p>b. Monthly report of mutual fund shares held in connection with 403(b) Plan activity must be provided to the Board by the 15th day of the following month. This report must at a minimum include the settlement date, the mutual fund shares received and the reported value of those shares on the purchase date.</p> | |
| <p>7. <u>Forgery Protection</u> – Offerors must provide for the return of funds to any of the accounts created pursuant to this proposal within 30 days of receipt of a properly executed forgery affidavit from the Board. Should the Offeror determine subsequent to the return of funds that the affidavit is in error, or has been fraudulently completed, then upon presentation of reasonable evidence of this fact to the Board, the Board shall return the funds to the Offeror within 7 days.</p> | |
| <p>8. <u>Custodial Services</u> – The purpose of this aspect of the procurement is not to place record-keeping or administrative services for the 403(b) Plan accounts upon the selected Offeror. Those services are performed by NRS under the Plan Administrator Agreement. The sole purpose of this aspect of the procurement is to ensure compliance with IRC §403(b)(7). The responsibilities of the successful Offeror with respect to the §403(b)(7) custodial accounts are set forth in a separate 403(b) Plan Custody Agreement, the form of which is attached as Exhibit 2. As is explained in Section 3.2 above, NRS, as the current Plan administrator, is responsible for maintaining all custodial and participant records, conducting all participant and Plan record keeping and statement activity, and performing all share transactions in the four Plans, as part of its Plan administrator function.</p> | |

| | |
|--|--|
| <p>9. Although it is not anticipated that the successful Offeror will actively provide custodial services with respect to the §403(b)(7) custodial accounts at this time because the execution of share transactions in these accounts has been delegated to NRS, as set forth in Section 3.3, paragraph 7 above, an Offeror must (a) have legal authority to serve as a custodian of regulated investment company shares; and (b) have the resources to execute share transactions at the direction of the MSRP Board in the event that the Board terminates NRS' authority over the custodial account, until the appointment of a substitute Plan administrator. The termination of NRS, including NRS' responsibilities for share transactions during the transition period, is governed by the transition provisions of the Plan Administrator Agreement. As a result, it is also not anticipated that the successful Offeror would be required to transition to an active custodial role with respect to the §403(b)(7) custodial accounts in the event the Board terminated NRS.</p> | |
| <p>10. <u>Payee Positive Pay</u> – The Offeror must provide payee positive pay services whereby the Board will report to the Offeror issued items daily.</p> | |
| <p>11. <u>Check Imaging</u> – The Offeror must provide images of paid checks</p> | |
| <p>12. The Offeror must agree to all terms and conditions set forth in the form of standard contract included as Appendix F to this RFP. Among other things, the Contract provides the following:</p> <p>a. In all cases where there are any inconsistencies between the Contract and the Exhibits (which includes the RFP and the Contractor's technical and price proposals and may include bank product terms and conditions or agreements), the Contract shall control. Further, if there is any conflict among the Exhibits, the RFP shall control.</p> | |

- b. Only the Procurement Officer may, by written order, make changes to the services to be provided under the Contract, which may result in an equitable adjustment to pricing.
- c. The State will not agree to indemnify the Offeror for any claims or losses arising out of the performance of the Contract. The sole method of resolving any disputes under the Contract shall be in accordance with State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland (Dispute Resolution), and COMAR 21.10 (Administrative and Civil Remedies).
- d. The governing law shall be the State of Maryland.
- e. Any modifications to the Contract must be made in writing signed by both parties, not simply by providing written notice. While a bank may change its procedures by providing written notice, the Office must agree in writing to any other changes affecting the Contract.
- f. The Offeror does not have the right to terminate the Contract prior to its expiration.

To the extent an Offeror proposes to incorporate into the Contract certain other bank product terms and conditions or agreements, the Offeror acknowledges that the above provisions are not negotiable. Accordingly, if selected for award, any conflicts in the Offeror's proposed terms and conditions or agreements will be revised by the Office to be consistent with these provisions.

3.5 Transition

Describe how you would transition from the current Contractor, if selected. Provide a transition plan that includes a timeline. Indicate any resources or financial assistance that the Offeror will be required to provide in connection with the transition process.

3.6 Other Services for Consideration

Describe any other services beyond those requested in this RFP that the Offeror believes could offer additional benefits to MSRP. Please include any suggested improvements to the payment process that might reduce the Board's overall costs.

3.7 Term

The initial term of the Contract shall be for a period beginning July 1, 2020 and ending June 30, 2023. In addition, the Contract will also contain an option to renew, upon the same terms and conditions, for two additional one-year renewal options, which may be exercised at the sole discretion of the Treasurer or the Treasurer's designee.

3.8 Compensation

1. Fees - The intent of this procurement is to generate the lowest net out-of-pocket costs for the State of Maryland. Only direct fees for services rendered, as identified in the attached Appendix A, Price Proposal Worksheet or subsequent Contract amendment(s), will be allowed.
2. Payment - MSRP will instruct the Plan administrator to make monthly payments to the Contractor for services performed under the Contract according to the fees identified in Appendix A, Price Proposal Worksheet. Any compensating balance calculations must settle on a monthly basis and result in a rolling cumulative earnings credit up to 12 months and/or a credit on an invoice directed to NRS (with a courtesy electronic copy to MSRP).

Payment will be made in arrears upon delivery of an approved invoice to the Plan administrator with a courtesy electronic copy to MSRP. There will be no adjustment for fees for either inflation or workload for the initial term of the Contract or the option period. The Offeror shall at no time debit any account for service fees.

Payments to the Contractor shall be made no later than 30 days after receipt by the Plan administrator of monthly invoices from the Contractor. Each invoice for services rendered must reflect the Contractor's federal tax identification number. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited.

Fees will not be adjusted during the first three years of the initial five-year term of the Contract. Price adjustments will, however, be permitted to reflect the Consumer Price Index (CPI) based on the end of the third year of the initial Contract period and upon subsequent renewal option periods.

The CPI adjustment is not cumulative. Exercise of the renewal options will be solely at the discretion of the Treasurer or the Treasurer's designee.

By submitting a response to this solicitation, the bidder agrees to accept any payments from the State by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected bidder shall register using form COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form may be downloaded from:

http://comptroller.marylandtaxes.gov/Vendor_Services/Accounting_Information/Static_Files/GADX10Form20150615.pdf

By submitting a response to this solicitation, the Offeror will invoice the office for all fees and services. The Office account(s) shall at no time be debited for service fees.

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SECTION IV. PROPOSAL FORMAT

4.1 Transmittal Letter

The Offeror must include a brief transmittal letter prepared on the Offeror's business stationery to accompany the original and required copies of the two-volume proposal. The transmittal letter must be signed by an individual authorized to bind the selected Offeror to all statements, including services and prices, contained within the proposals. This transmittal letter should acknowledge the receipt of addenda to the RFP and to also indicate that, if selected, the Offeror will execute a contract materially the same as the form of Contract included as Appendix E.

4.2 Two-Volume Submission

The selection procedure for this procurement requires that the initial technical evaluation of each proposal be completed before consideration of an Offeror's pricing proposal. Consequently, each proposal must be submitted in two volumes as indicated below.

4.3 Volume I - Technical Proposal

The volume containing the technical proposal shall be labeled "Volume I – General Banking Services for MSRP- Technical – RFP #MSRP-03272020." The technical proposal shall contain the transmittal letter (Section 4.1) and the completed Bid/Proposal Affidavit (Appendix B) and the Affidavit of Agreement Maryland Living Wage Requirements-Service Contracts (Appendix D).

The Technical Proposal should be prepared in a clear and concise manner and address all requirements and services set forth in this solicitation. The idea response would reiterate each subsection and then list the Offeror's response, item by item so that an evaluator can read the requirement followed by the response.

The technical proposal shall provide all required information in the following subsections:

4.3.1. Request for General Information

- 4.3.1.1. Name of Offeror;
- 4.3.1.2. Mailing address of the office from which the proposal is being submitted;
- 4.3.1.3. Name of individual who will represent the Offeror as the primary contact person on matters relating to the proposal; and
- 4.3.1.4. Email address and telephone number of the individual identified in 4.3.1.3 above.

4.3.2. Offeror's Qualifications

- 4.3.2.1. Each Offeror shall indicate its compliance to each of the minimum qualification in Section 3.2 Minimum Qualifications.
- 4.3.2.2. The Offeror shall provide evidence of certification and/or membership and compliance with Federal Deposit Insurance Corporation ("FDIC").
- 4.3.2.3. The Offeror shall include one and only one copy of the Offeror's most recent audited financial statements with all attachments, including the unqualified audit opinion, in the original volume of its Technical Proposal.
- 4.3.2.4. The Offeror shall include a brief description of its plan for business continuity and recovery as a result of disaster.
- 4.3.2.5. Each Offeror shall acknowledge to comply with the requirements described in Section 3.4 General Requirements.

4.3.3. Offeror's Capabilities

- 4.3.3.1. Each Offeror shall acknowledge its ability to provide the services described in Section 3.4 Service Capabilities.
- 4.3.3.2. If applicable, each Offeror shall include a brief discussion in its proposal of how it proposes to provide any of the additional services indicated in Section 3.5 Desirable Features.
- 4.3.3.3. Each Offeror shall provide a transition plan from the current Contractor if selected for award, as stated in Section 3.6 Transition.
- 4.3.3.4. Include a brief discussion of other services the Offeror believes could offer additional benefits as indicated in Section 3.7 Other Services for Consideration, if any.

4.3.4. Prior Experience

In a chart form Offerors should summarize similar engagements within the last three (3) years to the requirements listed in the RFP by noting the services performed and the Offeror's employee who supervised the project. For each engagement, identify the name of the organization and their address, and provide a contact name and telephone number.

4.3.5. Proposed Personnel

List the personnel who are to be assigned to the project if the Offeror is selected for award of the Contract. Indicate the proposed project role or assignment of key personnel and provide their resumes.

4.3.6. References

Identify a minimum of three current references that you have provided similar services to what is expected for the contract to be awarded as a result of the RFP. Include the name of each organization, the point of contact, their email address and telephone number.

The Procurement Officer and/or the Evaluation Committee Chair may contact other references of their choosing.

4.3.7. Community Benefits

Offerors are to include its most recent CRA rating under the Federal Community Reinvestment Act of 1977, P.L. Number 95-128 upon submission of its technical proposal and as updated throughout the term of the Contract.

- 4.3.7.1. The Offeror shall provide its rating on its most recent examination under the Federal Community Reinvestment Act of 1977, P. L. Number 95-128, as required under Section 6-203(b) of the State Finance and Procurement Article of the Maryland Annotated Code. If the Offeror operates in a state other than Maryland, the Offeror shall provide Maryland-specific information within the assessment area section of its Community Reinvestment Act report.
- 4.3.7.2. The Offeror shall state whether, during the previous 5 years, a court in the State of Maryland or in another state has found, in a final adjudication, that the Offeror, its affiliate or an entity acquired by the Offeror has violated any antidiscrimination statute or regulation.
- 4.3.7.3. Pursuant to Section 6-203(d) of the State Finance and Procurement Article of the Annotated Code of Maryland, the Offeror shall provide information to demonstrate whether during the past 5 years, the financial institution has:
 1. successfully made loans in Maryland through State or federal lending programs designed to assist small and minority-owned businesses;
 2. had an active outreach program to assist small and minority-owned businesses through which the Offeror has made efforts in Maryland; and
 3. established strategic partnerships in Maryland with entities whose mission is to provide technical assistance to small and minority-owned businesses.

4.3.8. Economic Benefits to the State of Maryland

Each proposal submitted in response to this solicitation must describe the benefits that will accrue to the Maryland economy as a direct result of the Offeror's performance of the contract resulting from the solicitation. Economic benefits include:

- 4.3.8.1. The Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers, and partners. Offerors should be as specific as possible and provide a breakdown of expenditures in this category. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 4.3.8.2. The numbers and types of jobs for Maryland residents resulting from the Contract. Indicate job classifications, number of employees in each classification, and the aggregate payroll to which the contractor has committed at both prime, and if applicable, subcontract levels. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 4.3.8.3. Tax revenues to be generated for Maryland and its political subdivisions as a result of this Contract. Indicate the tax category (sales tax, payroll taxes, inventory taxes, and estimated personal income taxes for new employee). Provide a forecast of the total tax revenues resulting from the Contract. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 4.3.8.4. Subcontract dollars committed to Maryland Small Business and Minority Business Enterprises. Do not provide actual dollars for each category. Include percent of the total budget requested.
- 4.3.8.5. In addition to the factors listed above, the Offeror should explain any other economic benefits to the State of Maryland that would result from the Offeror's proposal.

4.3.9. Standard Operating Agreements (if applicable)

If you intend to incorporate your own operating documents/agreements into the Contract, submit copies of your standard operating agreements associated with the services proposed to be provided. Include all documents that are required to open an account. Be sure to include documents that are referenced within other documents. The State reserves the right to refuse to incorporate any document not included in an Offeror's proposal.

4.3.10. Additional Information (Optional)

Include any additional information the Offeror deems relevant to this procurement and the satisfaction of the State's objectives.

If you provide company literature or other material in response to any RFP requirement, describe such literature or other material under this heading and include a reference to the

applicable sections of the RFP by name and page citation. If you do not provide the requested section and page citations, the remainder of your response for that section may be considered complete without reference to the additional documents.

4.4 Disclosures

Disclose any relationships with persons or entities that may create a conflict of interest, or the appearance of a conflict of interest. Disclose specific details of any pending legal proceedings (criminal or civil), or regulatory or disciplinary actions by any state or federal regulatory agency, involving the firm or members of the firm; or any convictions, judgments or settlements resulting from such proceedings or actions with the past five years.

4.5 Volume II - Price Proposal

This volume shall be labeled “Volume II Price Proposal – General Banking Services for the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans, RFP #MSRP-03272020.” It must contain the completed Price Proposal Worksheet as shown in Appendix A. For any additional line items fees not included on Appendix A, include a Supplemental separate worksheet with the line item description, anticipated monthly volume and unit cost. Appendix A and any Worksheet Supplement must be signed by an individual authorized to bind the Offeror to all fees contained in the Price Proposal. The Price Proposal and any Worksheet Supplement are to be sealed in a separate envelope.

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SECTION V. EVALUATION AND SELECTION PROCEDURES

5.1 Qualifying Proposals

The Procurement Officer first will review each proposal for completeness of response to requirements contained in Section IV, Proposal Format. Failure to respond to the appropriate questions or in the manner required may disqualify an Offeror's proposal from consideration by the Evaluation Committee.

5.2 Evaluation Committee and Evaluation Criteria

An Evaluation Committee appointed by the Treasurer or the Treasurer's designee will evaluate all qualifying proposals (those proposals that are reasonably susceptible to selection for Contract award) received by the submission deadline. The Evaluation Committee will rank the proposals and make a recommendation for award based on (1) technical merit (see Section 5.3 below), as demonstrated in the technical proposal and oral presentations, if any, and (2) price proposal, both as presented in the best and final offer, if any. Technical merit will be given more weight than price in determining the Evaluation Committee's final ranking.

5.3 Technical Evaluation

After the Procurement Officer identifies the qualifying proposals, the Evaluation Committee will conduct an initial evaluation of the technical merit of each qualifying proposal based on the information provided in the proposal in response to Section 4.3 Volume I – MSRP - Technical Proposal above. The Evaluation Committee's final technical evaluation may include information obtained during oral presentations, if any.

For the technical evaluation, the Evaluation Committee will take into consideration the following factors listed in the order of relative importance (greatest first):

1. Offeror's Qualifications and Capabilities;
2. Personnel;
3. Prior Experience;
3. Community Benefits; and
4. Economic Benefits to Maryland.

5.4 Evaluation of Costs/Fees

Following completion of the initial technical evaluation, the Evaluation Committee will conduct an initial evaluation of the pricing of each proposal and will establish a financial ranking of all proposals.

5.5 Best and Final Offer

When deemed in the best interest of the State, the Procurement Officer may permit qualified Offerors to revise their initial proposals by submitting best and final offers. The Procurement Officer shall notify each qualified Offeror of the scope of the requested best and final offer and shall establish a date and time for the submission. The Procurement Officer may require more than one series of best and final offers and discussions, if determined that it is in the State's best interest to do so. If more than one best and final offer is requested, an Offeror's immediate previous offer shall be construed as its best and final offer unless the Offeror submits a timely notice of withdrawal or another best and final offer. The Procurement Officer may consult with and seek the recommendation of the Evaluation Committee during the best and final offer process.

5.6 Final Evaluation and Recommendation for Award

Following oral presentations, reference checks, and submissions of best and final offers, if any, the Evaluation Committee will perform its final evaluations and will make a recommendation to the Procurement Officer for award of the Contract to the responsible Offeror or Offerors whose proposal is determined to be the most advantageous to the State based on the results of the final technical and financial evaluations. Contract award, if any, is subject to the approval of the Treasurer or the Treasurer's designee upon the recommendation of the Procurement Officer.

5.7 Debriefing of Unsuccessful Offerors

The Office will conduct a debriefing for an unsuccessful Offeror provided the Procurement Officer receives a written request within a reasonable period of time after sending notice of award. The Office shall honor the requests for debriefings at the earliest feasible time after the request has been received. The Office shall hold debriefings shall be held in accordance with COMAR 21.05.03.06.

5.8 Responsibility

1. General

- (a) The procurement regulations in COMAR Title 21 define a "responsible" Offeror as one "...who has the capability in all respects to perform fully the Contract requirements, and the integrity and reliability that shall assure good faith performance."
- (b) COMAR Title 21 also requires that the Procurement Officer determine before awarding a contract to an Offeror whether the Offeror is responsible. The determination of responsibility is based on the subjective judgment of the Procurement Officer about whether the Offeror meets the definition of a "responsible" Offeror.

- (c) In addition, the unreasonable failure of an Offeror to supply information promptly in connection with the determination of responsibility shall be grounds for a determination that the Offeror is not responsible.

2. Discussions

The Office reserves the right to discuss and negotiate with qualified Offerors or potentially qualified Offerors, (i.e., which are reasonably susceptible of being selected for award). Discussions or negotiations will be conducted with all qualified Offerors. The Office, however, is not obligated to conduct any discussions or negotiations. Each Offeror should be aware that the Office can select a proposal without first discussing the matter with the selected Offeror.

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APPENDIX A

PRICE PROPOSAL FORM INSTRUCTIONS

1. Offerors must submit their price proposals on the Price Proposal Form, as Appendix A in accordance with these instructions and as specified on the form. Appendix A must be separately sealed as directed in Section 1.9 Submission Requirements and Deadline and Section 4.5. Volume II - Price Proposal.
2. Additional fees not included on the Worksheet as Appendix A may be submitted on a Worksheet Supplement as a separate sheet. Describe the line item, anticipated monthly volume and unit cost.
2. The price proposal submitted needs to be completed and signed by an individual who is authorized to bind the financial institution to all statements and fees contained in the price proposal.
3. The selected Offeror may not charge any fees not included in its proposal.
4. On Appendix A, nothing shall be entered on any Price Proposal Worksheet that alters or proposes conditions or contingencies on the proposed prices.
6. It is imperative that the Price Proposal Worksheet, Appendix A, is completed accurately, as well as any attached separate Worksheet Supplement containing additional fees. Any incorrect entries or inaccurate price by the Offeror will be treated as provided in COMAR 21.05.03.03E and 21.05.02.12.

**APPENDIX A - PRICE PROPOSAL FOR
BANKING SERVICES FOR THE
MARYLAND TEACHERS AND STATE EMPLOYEES RETIREMENT PLANS
RFP #MSRP-03272020**

PROPOSAL:

_____ (Firm Name)

_____ (Address)

_____ (City, State, Zip)

| <u>SERVICE</u> | MONTHLY VOLUME | UNIT FEE | MONTHLY COST |
|-----------------------------------|-----------------------|-----------------|---------------------|
| | | | |
| GENERAL ACCOUNT SERVICES | | | |
| CONT DISB CREDITS POSTED | 10 | | |
| ZERO BALANCE MASTER ACCOUNT MAINT | 1 | | |
| ACCT MAINTENANCE | 1 | | |
| DEBITS POSTED | 40 | | |
| DEPOSITORY SERVICES | | | |
| MISCELLANEOUS CREDITS POSTED | 01 | | |
| DEPOSITED CHECK | 0 1 | | |
| DESKTOP DEPOSIT-DEPOSITED ITEM | 1 | | |
| DISBURSEMENT SERVICES | | | |
| PYMT AUTH MAX CHECK MTHLY BASE | 1 | | |
| CHECK CASHING THRESHOLD MO BASE | 1 | | |
| OTC DEBIT BLOCK MONTHLY BASE | 1 | | |

| <u>SERVICE</u> | MONTHLY VOLUME | UNIT FEE | MONTHLY COST |
|-------------------------------------|-----------------------|-----------------|---------------------|
| CHECKS PAY TO INDIV BLOCK MO BASE | 1 | | |
| CONT DISB ACCT MAINT | 1 | | |
| CONT DISB CHECKS PAID | 16 | | |
| POSITIVE PAY EXCEPTION - IMAGE | 1 | | |
| PAYEE VALIDATION STANDARD-ITEM | 16 | | |
| DISBURSEMENT RECON SERVICES | | | |
| ARP MONTHLY BASE - PARTIAL | 1 | | |
| ARP PART POSITIVE PAY ISSUE - ITEM | 17 | | |
| ARP AGED ISSUE RECORDS ON FILE-ITEM | 14 | | |
| OUTGOING TRANSMISSION - PER ITEM | 16 | | |
| ARP PARTIAL RECONCILIATION - ITEM | 16 | | |
| GENERAL ACH SERVICES | | | |
| ELECTRONIC CREDITS POSTED | 47 | | |
| ACH RECEIVED ITEM | 51 | | |
| ACH TRANSMISSION CHARGE | 17 | | |
| ACH REVERSAL - ITEM | 0 | | |
| ACH FRAUD FILTER REVIEW MO BASE | 1 | | |
| ACH FRAUD FILTER STOP MTHLYBASE | 1 | | |
| WIRE FUND TRANSFER SERVICES | | | |
| WIRE IN - DOMESTIC | 12 | | |
| WIRE OUT DOMESTIC | 7 | | |

| <u>SERVICE</u> | MONTHLY VOLUME | UNIT FEE | MONTHLY COST |
|--|-----------------------|-----------------|---------------------|
| INFORMATION SERVICES | | | |
| PREV DAY REPORTING MAINTENANCE | 2 | | |
| SEARCH | 2 | | |
| PREV DAY REPORTING ITEMS | 114 | | |
| INTRADAY REPORTING MAINTENANCE | 2 | | |
| INTRADAY REPORTING ITEMS RPTD | 116 | | |
| EVENT MESSAGING SERVICE - EMAIL | 126 | | |
| INFO REPORTING HISTORY STORAGE 60 Days | 574 | | |
| BAI MONTHLY BASE | 4 | | |
| BAI TRANSACTIONS REPORTED | 216 | | |
| TOTAL | | | |

In compliance with the RFP and with all terms and conditions set forth therein, the undersigned represents that he/she has full authority to submit the above Price Proposal as Appendix A.

Firm Name: _____

Authorized Official: _____
(Signature)

Typed Name: _____

Title: _____

Date: _____

APPENDIX B
(To be submitted with Technical Proposal)
BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I hereby affirm that I, _____ (name of affiant) am the _____ (title) and duly authorized representative of _____ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/proposal on this project, the Bidder/Offeror has considered all Bid/proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in “discrimination” as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. “Discrimination” means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual’s refusal to submit to a genetic test or make available the results of a genetic test, disability, or any otherwise unlawful use of characteristics regarding the vendor’s, supplier’s, or commercial customer’s employees or owners. “Discrimination” also includes retaliating against any person or other entity for reporting any incident of “discrimination”. Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/proposal. As part of its Bid/proposal, the Bidder/Offeror herewith submits a list of all instances within the past four (4) years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State’s Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority bid/proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract;
or

- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/proposal.

B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.13; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1) -(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

- (1) Been convicted under state or federal statute of:
 - (a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or
 - (b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;
- (2) Been convicted of any criminal violation of a state or federal antitrust statute;
- (3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;
- (4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;
- (6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)— (5) above;
- (7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;
- (8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract;
- (9) Been convicted of a violation of one or more of the following provisions of the Internal Revenue Code:
 - (a) §7201, Attempt to Evade or Defeat Tax;
 - (b) §7203, Willful Failure to File Return, Supply Information, or Pay Tax,
 - (c) §7205, Fraudulent Withholding Exemption Certificate or Failure to Supply Information;
 - (d) §7206, Fraud and False Statements, or
 - (e) §7207 Fraudulent Returns, Statements, or Other Documents;
- (10) Been convicted of a violation of 18 U.S.C. §286 Conspiracy to Defraud the Government with Respect to Claims, 18 U.S.C. §287, False, Fictitious, or Fraudulent Claims, or 18 U.S.C. §371, Conspiracy to Defraud the United States;

- (11) Been convicted of a violation of the Tax-General Article, Title 13, Subtitle 7 or Subtitle 10, Annotated Code of Maryland;
- (12) Been found to have willfully or knowingly violated State Prevailing Wage Laws as provided in the State Finance and Procurement Article, Title 17, Subtitle 2, Annotated Code of Maryland, if:
 - (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure act; and
 - (ii) Not overturned on judicial review;
- (13) Been found to have willfully or knowingly violated State Living Wage Laws as provided in the State Finance and Procurement Article, Title 18, Annotated Code of Maryland, if:
 - (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure act; and
 - (ii) Not overturned on judicial review;
- (14) Been found to have willfully or knowingly violated the Labor and Employment Article, Title 3, Subtitles 3, 4, or 5, or Title 5, Annotated Code of Maryland, if:
 - (a) A court:
 - (i) Made the finding; and
 - (ii) Decision became final; or
 - (b) The finding was:
 - (i) Made in a contested case under the Maryland Administrative Procedure act; and
 - (ii) Not overturned on judicial review; or
- (15) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(14) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/proposal that is being submitted; or
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, State Department of Assessments and Taxation, and Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. CERTIFICATION REGARDING INVESTMENTS IN IRAN

- (1) The undersigned certifies that, in accordance with State Finance and Procurement Article, §17-705, Annotated Code of Maryland:
 - (a) It is not identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland; and
 - (b) It is not engaging in investment activities in Iran as described in State Finance and Procurement Article, §17-702, Annotated Code of Maryland.
- (2) The undersigned is unable to make the above certification regarding its investment activities in Iran due to the following activities:

L. CONFLICT MINERALS ORIGINATED IN THE DEMOCRATIC REPUBLIC OF CONGO (FOR SUPPLIES AND SERVICES CONTRACTS)

I FURTHER AFFIRM THAT:

The business has complied with the provisions of State Finance and Procurement Article, §14-413, Annotated Code of Maryland governing proper disclosure of certain information regarding conflict minerals originating in the Democratic Republic of Congo or its neighboring countries as required by federal law.

M. PROHIBITING DISCRIMINATORY BOYCOTTS OF ISRAEL

I FURTHER AFFIRM THAT:

In preparing its bid/proposal on this project, the Bidder/Offeror has considered all bid/proposals submitted from qualified, potential subcontractors and suppliers, and has not, in the solicitation, selection, or commercial treatment of any subcontractor, vendor, or supplier, refused to transact or terminated business activities, or taken other actions intended to limit

commercial relations, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel and its territories. The Bidder/Offeror also has not retaliated against any person or other entity for reporting such refusal, termination, or commercially limiting actions. Without limiting any other provision of the solicitation for bid/proposals for this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid/proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the bid/proposal.

N. I FURTHER AFFIRM THAT:

Any claims of environmental attributes made relating to a product or service included in the bid or bid/proposal are consistent with the Federal Trade Commission's Guides for the Use of Environmental Marketing Claims as provided in 16 C.F.R. §260, that apply to claims about the environmental attributes of a product, package or service in connection with the marketing, offering for sale, or sale of such item or service.

O. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

By: _____
Signature of Authorized Representative and Affiant

Printed Name: _____
Printed Name of Authorized Representative and Affiant

Title: _____

Date: _____

APPENDIX C

**CONTRACT
FOR
BANKING SERVICES FOR THE
MARYLAND TEACHERS AND STATE EMPLOYEES RETIREMENT PLANS
RFP #MSRP-03272020**

BETWEEN

MARYLAND STATE TREASURER'S OFFICE

AND

CONTRACT

THIS CONTRACT (the “Contract”) is made as of the ___ day of _____, 2020, by and between [NAME AND ADDRESS] (the “Contractor”), and the **MARYLAND STATE TREASURER’S OFFICE**, 80 Calvert Street, Annapolis, Maryland 21401 (the “Office”), on behalf of **THE BOARD OF TRUSTEES** (the “Board”) **OF THE MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS** (the “MSRP”), offices of the **STATE OF MARYLAND** (the “State”).

IN CONSIDERATION OF the premises and the covenants herein contained, the parties agree as follows:

ARTICLE I - SCOPE OF SERVICES

The Office hereby engages the Contractor to perform the services set forth below:

1.1. General Services. The Contractor shall provide general banking services as described in this Contract, which includes the following exhibits:

- Exhibit Office’s Request for Proposals for General Banking Services for The Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans, RFP #MSRP-03272020 dated ___;
- Exhibit Office’s Questions and Answers dated ___;
- Exhibit Contractor’s Technical Proposal dated ___;
- Exhibit Contractor’s Price Proposal dated ___;
- Exhibit Bid/Proposal Affidavit, Living Wage Affidavit dated_____;
- Exhibit Contract Affidavit dated _____; and
- Exhibit Contractor’s “Bank Operating Documents,” dated _____.

1.2. If there are any inconsistencies between this Contract and the Exhibits, the terms of this Contract shall control. If there is any conflict among the Exhibits, Exhibit A, shall control.

1.3 The Procurement Officer unilaterally may, at any time, make changes in the work within the general scope of the Contract by written order designated or indicated to be a change order. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment

under this section shall be a dispute under Section 4.5. Disputes. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

ARTICLE II - TERM

- 2.1. The initial term of this Contract shall be for the period beginning July 1, 2020 and ending June 30, 2023.
- 2.2. There shall be two additional one-year renewal options, which may be exercised at the sole discretion of the Treasurer or the Treasurer's designee.
- 2.3. After the end of the Contract term, should a new contract be awarded to a contractor other than the incumbent, the Contract shall be deemed to be extended, Contractor shall continue to perform Contract services, and Contractor shall continue to receive the compensation specified in the Contract for such services, until such time as the transition to the new contractor is complete. Contractor shall cooperate and the Office during any transition period to a new contractor and provide all necessary information and data to any subsequent contractor.
- 2.4. The provisions of Sections 4.1 (Liability), 4.5 (Disputes), 4.6 (Maryland Law Prevails), 4.21 (Retention of Records/Audit), 4.25 (Ownership of Documents and Materials), and 4.26 (Patents, Copyrights and Trade Secrets) of this Contract shall survive termination of this Contract for any reason.

ARTICLE III - CONSIDERATION, PAYMENT AND PERFORMANCE

- 3.1. Contractor shall charge only the fees as set forth in Contractor's Price Proposal [BAFO] as attached hereto as Exhibit ___. These fees shall not be adjusted during the first three years of the initial five-year term of this Contract. Price adjustments will be permitted to reflect the Consumer Price Index based on the end of the third year of the initial contract period and upon subsequent renewal option periods. The CPI adjustment is not cumulative.
- 3.2. Payments to the Contractor may be withheld, without interest or penalty, when in the sole discretion of the State Treasurer, the Contractor's performance of any of the services under this Contract is unsatisfactory or does not meet generally accepted industry standards. Notice of such withholding of payment and the reasons therefore shall be promptly provided to the Contractor, who shall be afforded an opportunity to cure any performance deficiencies.

3.3. All invoices for goods and services shall be submitted to:

Nationwide Retirement Solutions
One Nationwide Plaza
Columbus, Ohio 43215-2226

With a copy to: Maryland Supplemental Retirement Plans
Attn: Richard A. Arthur
6 Saint Paul Street, Suite 200
Baltimore, Maryland 21202

3.4 Invoices must be submitted either:

- (a) For ongoing services, on a monthly basis for goods or services rendered in the preceding month; or
- (b) For one-time or periodic services, with 30 days of delivery or completion of the goods or services.

3.5 Except as provided in Section 3.2 above, payments to the Contractor pursuant to this Contract will be made no later than 30 days after receipt by Nationwide Retirement Solutions of a proper invoice from the Contractor. Each invoice for services rendered must reflect the Contractor's federal tax identification number, which is _____ and shall clearly indicate the specific type of service provided. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1 of the State Finance and Procurement Article, Annotated Code of Maryland, as from time to time amended, are prohibited.

ARTICLE IV – GENERAL CONDITIONS

4.1. Liability

The Contractor shall be liable for and hereby agrees to indemnify and hold harmless the State (and its agencies, units or instrumentalities) from and against any and all losses, claims, damages, suits, actions, liabilities and/or expenses, including without limitation, attorneys' fees and disbursements of any character (collectively, "Losses") that arise from, are in connection with or are attributable to the Contractor's and/or its subcontractor's performance or nonperformance under this Contract.

The Contractor agrees to assume full responsibility for any and all damage to the property of the Office, both real and personal, which results from or arises in connection with, the performance of this Contract. The Contractor shall be liable for and hereby agrees to indemnify and save harmless the State against all claims, damages, costs, losses and

liabilities whatsoever, for any and all injury to persons and property that may arise out of the performance of this Contract.

The Contractor agrees to maintain adequate insurance coverage in order to fulfill its responsibilities under this section.

4.2. Tax Exemption

The State is generally exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, District of Columbia Sales Tax and Transportation Taxes. Exemption certificates shall be completed upon request.

4.3. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State, nor may the Contractor sell, transfer, or otherwise assign its obligations under this Contract, or any portion thereof, or any of its rights or obligations hereunder, without the prior written approval of the State; provided, however, that the Contractor may subcontract services under or make an assignment of this Contract to an affiliate of the Contractor that is fully capable of performing such services if the Contractor retains full responsibility for the Contract. Any such subcontract or assignment shall be subject to any terms and conditions that the Office deems necessary to protect the interest of the State. The Office shall not be responsible for the fulfillment of the Contractor's obligations to subcontractors.

4.4. Non-Hiring of Officials and Employees

No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall during the pendency and term of this Contract and while serving as an official or employee of the State become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

4.5. Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2 of the State Finance and Procurement Article of the Annotated Code of Maryland (Dispute Resolution), and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision.

4.6. Maryland Law Prevails

The provisions of this Contract shall be governed by the Laws of Maryland.

4.7. Amendments

This Contract, including the exhibits hereto, constitutes the entire agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Contract are superseded by this Contract. Any amendment to this Contract must first be approved in writing by the Procurement Officer, subject to any additional approvals required by State law. No amendment to this Contract shall be binding unless so approved and unless it is in writing and signed by the party to be charged.

4.8. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

4.9. Commercial Nondiscrimination Clause

4.9.1. As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

4.9.2. As a condition of entering into this Contract, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that is requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in Contract termination, disqualification by the State from participating in State contracts, and other sanctions.

4.10. Contingent Fee Prohibition

The Contractor, architect, or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, architect, or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Contract.

4.11. Multi-Year Contracts Contingent upon Appropriations

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

4.12. Termination for Default

If the Contractor fails to fulfill its obligation under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall,

at the State's option, become the State's property. The State shall pay the Contractors fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

4.13. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

4.14. Delays and Extensions of Time

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a Contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

4.15. Variations in Estimated Quantities

No equitable adjustment shall be permitted in favor of either the State or the Contractor in the event that the quantity of any pay item in this Contract is an estimated quantity and the actual quantity of such pay item varies from the estimated quantity stated in the Contract.

4.17. Suspension of Work

The Procurement Officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

4.16. Pre-Existing Regulations

In accordance with the provisions of §11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract.

4.17. Financial Disclosure

The Contractor shall comply with the provisions of State Finance and Procurement Article §13-221, Annotated Code of Maryland. That section requires a business to file with the Secretary of State of Maryland certain specified information, including disclosure of beneficial ownership of the business, within 30 days of the date the aggregate value of any contracts, leases, or other agreements that the business enters into with the State of Maryland or its agencies during a calendar year reaches \$200,000.

4.18. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contribution in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Election website: http://www.elections.state.md.us/campaign_finance/index.html.

4.19. Retention of Records/Audit

The Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or his designee, at all reasonable times.

4.20. Compliance with Laws

The Contractor hereby represents and warrants that:

- 4.20.1. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time, hereafter may be necessary to remain so qualified;
- 4.20.2. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 4.20.3. It shall comply with all federal, State and local laws, regulations and ordinances applicable to its activities and obligations under this Contract; and
- 4.20.4. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

4.21. Liability for Loss of Data

In the event of loss of any data or records necessary for the performance of this Contract where such loss is due to the error or negligence of the Contractor, the Contractor shall be responsible, irrespective of cost to the Contractor, for recreating such lost data or records.

4.22. Cost and Price Certification

4.22.1. The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

- (1) A negotiated contract, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the procurement officer; or
- (2) A change order or contract modification, expected to exceed \$100,000, or a smaller amount set by the procurement officer.

4.22.2. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

4.23. Ownership of Documents and Materials

The Contractor agrees that all documents and materials including, but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, designs, graphics, mechanical, artwork, and computations prepared by or for it under the terms of this Contract

shall at any time during the performance of the services be made available to the State upon request by the State and shall become and remain the exclusive property of the State upon termination or completion of the services. The State shall have the right to use same without restriction or limitation and without compensation to the Contractor other than that provided by this Contract. The State shall be the owner for purposes of copyright, patent or trademark registration.

4.24. Patents, Copyrights and Trade Secrets

4.24.1. If the Contractor furnishes any design, device, material, process or other item, which is covered by a patent, or copyright or which is proprietary to or a trade secret of another, Contractor shall obtain the necessary permission or license to use such item.

4.24.2. Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by Contractor infringes any patent, trademark, copyright, or trade secret. Contractor also will pay all damages and costs that by final judgment may be assessed against the State due to such infringement and all attorney fees and litigation expenses reasonably incurred by the State to defend against such a claim or suit. The obligations of this paragraph are in addition to those stated in paragraph 4.24.3. below.

4.24.3. If any product(s) furnished by Contractor become, or in Contractor's opinion are likely to become, the subject of a claim of infringement, Contractor will, at its option: (1) procure for the State the right to continue using the applicable item; (2) replace the product with a non-infringing product substantially complying with the item's specifications; or (3) modify the item so it becomes non-infringing and performs in a substantially similar manner to the original item.

4.25. Confidentiality

To the extent permitted by Maryland law, including the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law and the confidentiality provisions of the RFP. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

ARTICLE V - NOTICES

5.1. All notices required to be given by one party to the other hereunder shall be in writing and shall be addressed as follows:

If to the Office: Procurement Officer
Maryland State Treasurer's Office
Louis L. Goldstein Treasury Building
80 Calvert Street
Annapolis, Maryland 21401

If to The Board: [Name and Address]

If to the Contractor: [Name and Address]

5.2. All invoices and all correspondence and inquiries relating to invoices or payments shall be addressed to the Agency identified above in Section 5.1.

ARTICLE VI - ADMINISTRATION

6.1. The work to be accomplished under this Contract shall be performed under the direction of the Contract Officer, _____. All matters relating to the administration of this Contract shall be referred to the Procurement Officer for determination.

Remainder of Page Intentionally Left Blank

ARTICLE VII - REPRESENTATIONS

7.1. Each party to this Contract represents and warrants to the other that it has full right, power, and authority to execute this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date hereinabove set forth.

ATTEST:

[CONTRACTOR'S LEGAL NAME]

By: _____

[Signatory]

[Title]

WITNESS:

MARYLAND STATE TREASURER'S OFFICE

By: _____

Nancy K. Kopp

State Treasurer

WITNESS:

By: _____

Bernadette T. Benik

Chief Deputy Treasurer

ACKNOWLEDGED AND ACCEPTED:

**BOARD OF TRUSTEES OF THE
MARYLAND TEACHERS AND STATE
EMPLOYEES SUPPLEMENTAL
RETIREMENT PLANS**

By: _____

Michael T. Halpin

Executive Director

Approved for form and legal sufficiency
for the Maryland State Treasurer's Office:

David P. Chaisson
Assistant Attorney General

APPENDIX D
CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, (print name) _____ possess the legal authority to make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable items):

- (1) Corporation — domestic or foreign;
- (2) Limited Liability Company — domestic or foreign;
- (3) Partnership — domestic or foreign;
- (4) Statutory Trust — domestic or foreign;
- (5) Sole Proprietorship

and is registered or qualified as required under Maryland Law.

I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require the business to file with the Secretary of State of Maryland certain specified information, including disclosure of beneficial ownership of the business, within 30 days of the date the aggregate value of any contracts, leases, or other agreements that the business enters into with the State of Maryland or its agencies during a calendar year reaches \$200,000.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more shall file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business's policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs;
and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), of this regulation;

(h) Notify its employees in the statement required by §E(2)(b), of this regulation, that as a condition of continued employment on the contract, the employee shall:

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), of this regulation.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), of this regulation, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 2020, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

By: _____
Signature of Authorized Representative and Affiant

Printed Name: _____
Printed Name of Authorized Representative and Affiant

Title: _____

Date: _____

APPENDIX E

COLLATERAL SECURITY AGREEMENT

THIS COLLATERAL SECURITY AGREEMENT (the “Agreement”) is made and entered into as of _____ by and between the Maryland State Treasurer’s Office, on behalf of the _____ (the “_____”) hereinafter called the “Depositor”, and _____ [a national banking association, organized under the laws of the United States] or [organized under the laws of Maryland] and authorized by law to do banking business in the State of Maryland, hereinafter called the “bank.”

Background

The Depositor, in accordance with Maryland State law, has designated the Bank as a depository for public funds of the Depositor under the Banking Services for the _____ Contract dated _____, 2020. During the term of this Agreement, the Depositor will designate the officer, or officers, who singly or jointly will be authorized to represent and act on behalf of the Depositor in any and all matters of every kind arising under this Agreement. This Agreement incorporates the terms of the Contract by reference for all purposes; however, to the extent that any provision in the Contract conflicts with any provision in this Agreement, this Agreement will control. All funds on deposit with the Bank to the credit of the Depositor are required to be secured by collateral of the kind and character permitted by §6-202 of the State Finance and Procurement Article of the Annotated Code of Maryland, as may be amended from time to time (“SFP §6-202”).

Under §6-209 of the State Finance and Procurement Article of the Annotated Code of Maryland, as may be amended from time to time (“SFP §6-209”), only certain collateral pledged by the Bank is required to be held by a custodian. For purposes of this Agreement, permissible collateral under SFP §6-202 shall be referred to as “Collateral” and any Collateral that is required to be held by a custodian under SFP §6-209 shall be referred to as “Securities Collateral.”

To perfect the security interest of the Depositor in Securities Collateral pledged by the Bank, a Federal Reserve Bank or a third party financial institution, acceptable to the Depositor, will hold the Securities Collateral in a custody account for the benefit of the Depositor. For purposes of this Agreement, such Federal Reserve Bank or third party financial institution shall be referred to as the “Trustee.”

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, it is agreed as follows:

1. Under the terms of this Agreement, the Bank pledges to the Depositor, and grants to the Depositor a security interest in, the Securities Collateral owned by the Bank and held by the Trustee for the benefit of the Depositor, to secure the deposits held by the Bank for the Depositor as provided in SFP §6-209.

2. The total market value of the Securities Collateral held by the Trustee (which includes accrued interest or income to the extent it is not included in the market price) will be in an amount at least equal to such amount as is required under SFP §6-209, taking into account any other acceptable Collateral properly delivered to the Depositor. The market value of any security held as Securities Collateral will be obtained from a primary dealer. The Bank will provide a monthly collateral report to the Depositor at no charge. The report includes the market value and description of each item of Collateral pledged as of the last business day of the month.
3. The Bank has previously or will immediately deliver to the Trustee Securities Collateral of the kind and character permitted by SFP §6-202 of sufficient amount and market value to provide adequate collateral under SFP §6-209, taking into consideration any other acceptable Collateral properly delivered to the Depositor, for the funds of the Depositor deposited with the Bank. For so long as the depository relationship between the Depositor and the Bank shall exist hereunder, the Securities Collateral or substitute Securities Collateral, as provided for below, in an amount and market value sufficient to provide adequate Collateral, taking into consideration any other acceptable Collateral properly delivered to the Depositor, shall be kept and retained by the Trustee in trust.
4. The Bank shall cause the Trustee to accept the Securities Collateral and hold the same in trust for the purpose stated in this Agreement.
5. Except in the case where Bank is deemed to be insolvent or in receivership, should the Bank fail at any time to pay and satisfy, when due, any check, draft, voucher or electronic fund transfer lawfully drawn against any deposit, or in any manner breaches its contract with the Depositor, Depositor shall give written notice of such failure or breach to the Bank, and the Bank shall have forty-eight (48) hours to cure such failure or breach. In the event the Bank shall fail to cure such failure or breach within forty-eight (48) hours, it shall be the duty of the Trustee, upon demand of the Depositor (supported by proper evidence of any of the above-listed circumstances), to surrender the Securities Collateral to the Depositor. In the event that bank is deemed insolvent or is in receivership, , it shall be the duty of the Trustee, upon demand of the Depositor to surrender the Securities Collateral to the Depositor. The Depositor may sell all or any part of the Securities Collateral and out of the proceeds of such sale pay the Depositor all damages and losses sustained by it, together with all expenses of any and every kind incurred by it on account of such failure or insolvency, or sale. Following any sale, the Depositor shall provide an accounting to the Bank for the remainder, if any, of the proceeds or Collateral remaining unsold.
6. Any sale of all or part of the Securities Collateral, made by the Depositor under this Agreement may be either at public or private sale.

7. If the Bank shall desire to sell or otherwise dispose of all or part of the Securities Collateral deposited with the Trustee, it may substitute other Securities Collateral of at least the same market value. Alternatively, the Bank may substitute other acceptable Collateral properly delivered to the Depositor in an amount equal to the market value of the Securities Collateral to be sold or otherwise disposed of. Such rights of substitution shall remain in full force and may be exercised by the Bank as often as it may desire; provided, however, that the aggregate market value of all Collateral pledged to the Depositor, shall be at least equal to the amount of Collateral required under SFP §6-209. If at any time, the aggregate market value of Securities Collateral deposited with the Trustee, taken together with any other acceptable Collateral properly delivered to the Depositor, is less than the total amount required under SFP §6-209, the Bank shall, upon request of the Depositor, deposit with the Trustee such additional Securities Collateral as may be necessary to cause the market value of such Securities Collateral, taken together with any other acceptable Collateral properly delivered to the Depositor, to equal the total amount of required Collateral. The Bank shall be entitled to income on securities held by the Trustee, and the Trustee may dispose of such income as directed by the Bank without approval of the Depositor.
8. The Bank shall cause the Trustee promptly to forward to the Depositor copies of safekeeping or trust receipts and/or activity reports covering all of the Collateral, including substitute Collateral as provided for herein.
9. If at any time the Securities Collateral in the hands of the Trustee shall have a market value, taking into account any other acceptable Collateral properly delivered to the Depositor, that exceeds the required amount of Securities Collateral, the Depositor shall authorize the withdrawal of a specified amount of Securities Collateral, and the Trustee may deliver this amount of Securities Collateral (and no more) to the Bank. Once the Bank receives the redelivered Securities Collateral, the Trustee shall have no further liability for such Securities Collateral.
10. The Depositor shall have the right to terminate this Agreement by advance written notice to the Bank of its election to do so. Termination of this Agreement shall be effective sixty days after the receipt of such notice, provided all provisions of this Agreement have been fulfilled, or upon the date of the last act required by this Agreement, whichever is later.
11. When the depositor-bank relationship ceases to exist between the Depositor and the Bank, and when the Bank has properly paid out all deposits of the Depositor, the Depositor shall give the Trustee written notice to that effect and the Trustee shall, with the approval of the Depositor, redeliver to the Bank all Securities Collateral then in its possession belonging to the Bank.

12. A. Any notice required to be given to the Bank in writing shall be sufficient if delivered to the following address:

The Bank may change the above address by notifying the Depositor by facsimile or by such other means as is consistent with the Bank's usual means of notification to the Depositor.

- B. Any notice to be given to the Depositor shall be sufficient if delivered to the following address:

Maryland State Treasurer's Office
Attn: Director of Treasury Management
80 Calvert Street
Annapolis, Maryland 21401
Tel: (410)260-7129 – Fax: (410)974-2076

The Depositor may change the above address by notifying the Bank by facsimile or by such other means as is consistent with the Depositor's usual means of notification to the Bank.

13. This Agreement shall be binding upon, and shall insure to the benefit of, the parties hereto and their respective corporate successors.
14. No amendments or modification of this Agreement or waiver of any right under this Agreement shall be binding on any party unless it is in writing and is signed by all of the parties.

[Signatures Appear on the Following Page]

Executed by the undersigned duly authorized officers of the parties as of the date of this Agreement.

ATTEST

[BANK NAME]

By: _____
[Signatory]
[Title]

WITNESS:

**MARYLAND STATE TREASURER'S
OFFICE**

By: _____
Nancy K. Kopp
State Treasurer

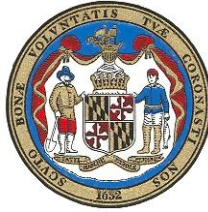
WITNESS:

By: _____
Bernadette T. Benik
Chief Deputy Treasurer

Approved as to form and legal sufficiency
for the Maryland State Treasurer's Office:

David P. Chaisson
Assistant Attorney General

Appendix F



Maryland State Treasurer's Office FEDERAL HOME LOAN BANK LETTERS OF CREDIT DEPOSITARY AGREEMENT

- I. *DATE OF AND PARTIES TO THE AGREEMENT:* This agreement is effective _____
_____. The parties to this agreement are the **Beneficiary** Organization, the state or local government unit identified below, and the **Depository**, the financial institution identified below that is authorized to serve as a depository for public funds under applicable law.
- II. *AGREEMENT:* The Depository agrees to the following provisions necessary to meet the guidelines issued by the State Treasurer (the "Guidelines") for the use of Federal Home Loan Bank Letters of Credit as collateral by the Depository in accordance with Maryland State Finance and Procurement Article ("SFP") § 6-202:
- A. The letters of credit shall meet the definition of eligible collateral as outlined in SFP § 6-202.
 - B. The Depository shall agree that the Beneficiary (identified below), as beneficiary, may, without notice to or consent by the Depository, demand payment under the letters of credit in the event the Beneficiary determines, in his/her sole discretion, that the Depository is insolvent or in default (a "Triggering Event"). For purposes of this Agreement, a "Triggering Event" shall include without limitation the following: (a) the Depository fails or refuses to return any public deposit upon demand or at maturity, (b) an order is issued by a supervisory authority restraining the Depository from making payments of deposit liabilities, or (c) a receiver is appointed for the Depository.
 - C. The Depository shall agree that funds received by the Beneficiary due to the occurrence of a Triggering Event shall be deposited in an account designated by the Beneficiary.
 - D. The Depository shall arrange for the issue of letters of credit which meet the requirements of SFP § 6-209(b) and delivery to the Beneficiary. All transactions involving letters of credit require the Beneficiary's approval as evidenced by this executed Federal Home Loan Bank Letters of Credit Depository Agreement.
 - E. The Depository shall be responsible for all costs necessary in the use or confirmation of letters of credit issued to the Beneficiary and acknowledges that these costs shall not be a charge against the State or any public funds depositor.
 - F. The Depository shall be subject to the jurisdiction of the courts of Maryland, or of courts of the United States which are located within Maryland, for the purpose of any litigation arising out of SFP Title 6 or Article 95, Annotated Code of Maryland, as applicable.
 - G. The Depository shall agree that any information, form, or report electronically

transmitted to the Beneficiary shall have the same enforceability as a signed writing.

- H. The Depository shall submit proof that authorized individuals executed this Agreement on its behalf and the Depository shall further agree by resolution of its Board of Directors that this Agreement has been formally accepted and constitutes an official record of the Depository.
- I. Upon the Beneficiary's request, the Depository must include the value of the letter of credit on reports to the Beneficiary of collateral pledged to secure the public funds deposit.
- J. In the event the letter of credit or the Depository does not meet one or more of the Guidelines, as may be amended from time to time, the Depository shall, upon the Beneficiary's request, provide alternative eligible collateral under SFP § 6-202 in lieu of the letter of credit.
- K. Any reference in this Agreement to a specific statutory provision shall be deemed to refer to any applicable successor provision.

III. *AUTHORIZED SIGNATURES OF PARTIES*

**[DEPOSITARY BANK]
(the "Depository")**

By: _____
Name: _____
Title: _____
Date: _____

**[STATE OF MARYLAND, by and through
the Maryland State Treasurer/LOCAL
GOVERNMENTAL UNIT]
(the "Beneficiary Organization")**

By: _____
Name: _____
Title: _____
Date: _____

**Name of State Treasurer or Local
Government Unit Financial Officer
(the "Beneficiary")**

Approved as to form and legal sufficiency

Counsel to the Beneficiary



FEDERAL HOME LOAN BANK MEMBER RESOLUTION

_____ Printed Legal Name of
the Qualified Public Depository/Federal Home Loan Bank Member

_____ Home Office City and State

I, _____, _____
Name Title

Certify that I am the official Custodian of Corporate Records for the above named Federal Home Loan Bank member, and that the following is a correct copy of a resolution adopted by the Board of Directors at a meeting held on the _____ day of _____, _____. This resolution appears in the minutes of said meeting and has not been modified.

BE IT resolved that:

The Board of Directors of this Federal Home Loan Bank Member affirms that the Federal Home Loan Bank Letters of Credit Depository Agreement effective _____ has been formally accepted and constitutes an official record of this institution.

WITNESS my signature under seal _____
Printed Legal Name of Federal Home Loan Bank Member

this _____ day of _____, _____.

Signature of Official Custodian of Corporate Records*

Signature and Title of Second Officer or Director*

*NOTE: If the official custodian of corporate records is the signing officer on the form, adopted, a second officer or director of the Federal Home Loan Bank Member shall also sign.

APPENDIX G

DESIGNATION OF DEPOSITORY

I, THE UNDERSIGNED, TREASURER OF THE STATE OF MARYLAND, DO HEREBY CERTIFY that, by my action duly taken, the following Designation has been duly made, has not been amended or modified, is not inconsistent with the Constitution and laws of the State of Maryland (the "State"), and is now in full force and effect:

IN ACCORDANCE with Section 6-205 of the State Finance and Procurement Article of the Annotated Code of Maryland, _____, (the "Bank") is hereby designated as a depository for funds of the State for the term of its Contract for General Banking Services for The Board Of Trustees Of The Maryland Teachers And State Employees Supplemental Retirement Plans, dated _____2020, as it may be amended, and that deposit accounts, whether demand, time, savings, disbursement, or like accounts may be opened and/or maintained from time to time in the name of the State with the Bank. The Bank, as a designated depository for funds of the State, is hereby authorized and directed to honor checks, drafts, or other orders for the payment of money drawn in the name of the State or its agencies, when bearing or purporting to bear the facsimile signature of one of the following: the Treasurer or the Chief Deputy Treasurer; and the countersignature of one of the following: the Comptroller or Deputy Comptroller, or the actual signatures of the certified officers or employees of each agency approved by the Treasurer and the Comptroller to establish an account with the Bank, as indicated on the Bank's standard account signature cards; and the Bank shall be entitled to honor and charge the State for all such checks, drafts and other orders, regardless of by whom or what means the facsimile signatures thereon may have been affixed thereto from time to time by the Treasurer or other duly authorized officer of the State, and it is

FURTHER CERTIFIED, that the Treasurer or duly authorized agency representative shall certify to the Bank the names of the officers or employees of the State authorized to act with respect to each and every account, and shall from time to time hereafter as changes in such personnel may be made, immediately certify such changes to the Bank, and the Bank shall be fully protected in relying on such certifications of the Treasurer or duly authorized agency representative, and to the extent permitted by law shall be indemnified and saved harmless from any claims, demands, expenses, losses, or damages resulting from, or growing out of honoring the signature of an officer or employee so certified or refusing to honor any signature not so certified; and it is

FURTHER CERTIFIED, that the foregoing Designation shall remain in full force and effect until written notice of its amendment or rescission shall have been received by the Bank, and that receipt of such notice shall not affect any action taken by the Bank prior thereto.

I HEREBY CERTIFY that the following is the title, name, and official signature of the officer, in addition to myself, authorized herein to act on behalf of the State:

Title

Name

Official Signature

Chief Deputy Treasurer

Bernadette T. Benik

IN WITNESS WHEREOF, I have executed this Designation as of this ____ day of _____, 2020.

STATE OF MARYLAND

By:_____

Nancy K. Kopp
Treasurer

Approved for form and legal sufficiency
For the Maryland State Treasurer's Office

Assistant Attorney General

EXHIBIT 1

Title 35 State Personnel and Pensions Article Annotated Code of Maryland

§ 35-101. Definitions

(a) In this title the following words have the meanings indicated.

(b) “Board” means the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

(c) “Supplemental retirement plans” means the deferred compensation, tax sheltered annuity, salary reduction savings plans, and any other plans authorized by this title.

§35-102.

(a) The supplemental retirement plans are in addition to any other retirement, pension, or benefit system established by the State.

(b) A deferral of compensation under any of the supplemental retirement plans does not reduce the amount of any retirement, pension, or other benefit provided by law.

§35-201.

There is a Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

§35-202.

(a) (1) The Board consists of nine members appointed by the Governor.

(2) Of the nine members:

(i) three shall be from any of the following units:

1. the Department of Budget and Management;
2. the Department of Education;
3. the Office of the State Comptroller;
4. the Office of the State Treasurer;

5. the State Retirement Agency; or
6. the Maryland Higher Education Commission;

(ii) three shall be individuals who are eligible to participate in one of the supplemental retirement plans, at least one of whom shall be an employee described in § 403(b)(1)(A)(ii) of the Internal Revenue Code; and

(iii) three shall be members of the public who are not eligible to participate in any of the supplemental retirement plans, at least one of whom shall have experience with deferred compensation and salary reduction plans.

(b) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1994.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) The Governor may remove a member for incompetence or misconduct.

§35-203.

The Governor shall appoint a chairman from among the members of the Board appointed under § 35-202(a)(2)(i) or (ii) of this subtitle.

§35-204.

(a) The Board shall meet at least quarterly at the times and places it determines.

(b) Each member of the Board is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) (1) The Board may employ a staff in accordance with the State budget.

(2) The Board may hire consultants, administrators, and other professionals as necessary to help implement, maintain, and administer the supplemental retirement plans.

(3) (i) Except as provided in subparagraph (ii) of this paragraph or otherwise by law, employees of the Board are subject to the provisions of Division I of this article that govern nontemporary employees.

(ii) Employees of the Board whose labor is predominately intellectual and who hold positions that the Board designates as professional or technical positions involving specialized skill, education, and knowledge are in the executive service, management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.

(4) (i) Except as provided in paragraph (5) of this subsection, all expenses, including employee costs, incurred to implement, maintain, and administer the supplemental retirement plans shall be paid from the contributions to or the income or assets of the supplemental retirement plans.

(ii) Each supplemental retirement plan shall pay a proportionate share of the expenses specified in subparagraph (i) of this paragraph.

(iii) Administrative expenses to implement, maintain, and administer the supplemental retirement plans shall be as provided in the State budget.

(5) At the request of the Board, and subject to an agreement governing the payment of costs, a unit of State government shall help to implement, maintain, and administer the supplemental retirement plans.

§35-205.

(a) The Board shall:

(1) implement, maintain, and administer the supplemental retirement plans;

(2) submit progress and status reports to participants in the supplemental retirement plans; and

(3) submit an annual report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(b) In case of doubt as to whether an individual is eligible to participate in any of the supplemental retirement plans, the Board shall determine the individual's eligibility.

§35-301.

(a) In this section, "fiduciary" means a person with discretionary authority or control over:

(1) the management or administration of any of the supplemental retirement plans;

or

(2) the management or disposition of the assets of any of the supplemental

retirement plans.

(b) A fiduciary is subject to the duties and responsibilities imposed on fiduciaries by Title 21, Subtitle 2 of this article.

(c) A fiduciary is entitled to indemnification and insurance as provided under § 21-207 of this article.

§35-302.

(a) Assets of the supplemental retirement plans may be deposited and invested in accordance with the investment elections allowed under the supplemental retirement plans as selected and determined by the Board in accordance with the statements of investment policy adopted by the Board from time to time notwithstanding any other law limiting the types of investments that may be made with State funds or imposing conditions on the deposit of State funds.

(b) The Board shall make arrangements for the safe custody, domestic or global, of investments with one or more duly qualified custodian banks or trust companies.

(c) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of the State Finance and Procurement Article, Title 10 and Division II of the State Finance and Procurement Article do not apply to the supplemental retirement plans for:

(1) services of managers to invest the assets deposited and invested in investment options of the supplemental retirement plans in accordance with the statements of investment policy adopted by the Board from time to time;

(2) expenditures to manage, maintain, and enhance the value of assets deposited and invested in investment options of the supplemental retirement plans selected in accordance with the statements of investment policy adopted by the Board from time to time; and

(3) expenditures for the safe custody, domestic or global, of assets deposited and invested in investment options of the supplemental retirement plans selected in accordance with subsection (b) of this section.

(d) (1) (i) The Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Board shall include the use of a wide variety of media, including the Maryland Teachers and State Employees Supplemental Retirement Plans' website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Maryland Teachers and State Employees Supplemental Retirement Plans.

(3) In consultation with the Governor's Office of Small, Minority, and Women Business Affairs, the Board shall develop guidelines to assist the Board in identifying and evaluating qualified minority business enterprises in order to help the Maryland Teachers and State Employees Supplemental Retirement Plans achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Small, Minority, and Women Business Affairs and, subject to § 2-1257 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Board that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

(iii) the measures the Board undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

§35-401.

There is a tax sheltered annuity plan for eligible participants as allowed by § 403(b) of the Internal Revenue Code.

§35-402.

An individual is eligible to participate in the tax sheltered annuity plan if the individual:

(1) is eligible for coverage under § 403(b) of the Internal Revenue Code; and

(2) is an officer or employee of:

(i) this State; or

(ii) any other governmental entity in this State, including a county board of education.

§35-403.

Subject to the conditions that the Board may set and in accordance with a contract between the participant and the employer, a participant may have contributions made to the tax sheltered annuity plan on the participant's behalf by a salary reduction or in place of a salary increase.

§35-404.

This section does not prohibit a county board of education from adopting a plan for its employees that qualifies under § 403(b) of the Internal Revenue Code.

§35-501.

(a) There is a salary reduction savings plan for eligible participants as allowed by § 401(k) of the Internal Revenue Code.

(b) The Board shall obtain approval from the Internal Revenue Service for the salary reduction savings plan.

§35-502.

An individual is eligible to participate in the salary reduction savings plan if the individual is:

- (1) an officer of this State; or
- (2) an employee of this State, including a contractual employee.

§35-601.

There is a deferred compensation plan for eligible participants as allowed by § 457 of the Internal Revenue Code.

§35-602.

An individual is eligible to participate in the deferred compensation plan if the individual is:

- (1) an officer of this State;
- (2) an employee of this State, including a contractual employee;

(3) an employee of the Northeast Maryland Waste Disposal Authority;

(4) an independent contractor who performs service under § 21-304(c) of the Education Article; or

(5) an employee of the Maryland Small Business Retirement Savings Board who has been determined by the Board to be an eligible employee under the federal Internal Revenue Code.

§35-701.

There is a Defined Contribution Plan for eligible participants as allowed by § 401(a) of the Internal Revenue Code.

§35-702.

An individual is eligible to participate in the Defined Contribution Plan if the individual is an eligible employee as defined in § 32-101 of this article.

EXHIBIT 2

MARYLAND 403(b) PLAN CUSTODY AGREEMENT

STATE OF MARYLAND 403(b) TAX SHELTERED ANNUITY PLAN CUSTODY AGREEMENT

This State of Maryland 403(b) Tax Sheltered Annuity Plan Custody Agreement ("**Agreement**") is executed this ___ day of _____, 20___, by and between the State of Maryland ("**State**"); <<Contractor>> (the "**Bank**") and Nationwide Retirement Solutions, Inc. ("**NRS**").

WHEREAS, the State has established a Plan (the "**Plan**") to qualify under §403(b) of the Internal Revenue Code of 1986, as amended (the "**Code**"), under the authority of §35-401 of the State Personnel & Pensions Article of the Annotated Code of Maryland ("**SPP**"), which Plan is administered by the Board of Trustees of Maryland Teachers and State Employees Supplemental Retirement Plans (the "**Board**"), as provided in §35-205 of SPP; and,

WHEREAS, the assets of the Plan are, among other investment options, to be invested in shares (each a "**Share**" and collectively, the "**Shares**") of regulated investment companies (each a "**Company**" and collectively, the "**Companies**") pursuant to the provisions of §403(b) (7) of the Code, for the exclusive benefit of Plan participants, and, as provided in the Plan, such assets may not be forfeited, transferred or withdrawn except as permitted under §§403(b) (1), 403(b) (7), and 403(b) (11) of the Code and such relevant Code provisions as are enacted or amended while this Agreement is in effect; and

WHEREAS, the Board, under the authority of §35-205 of SPP, has enlisted the services of NRS to administer the Plan, with duties to keep individual records of participant benefits and to direct the investment of contributions in Shares of Companies as those Shares are made available by the decision of the Board, allocating contributions according to participants' expressed directions, pursuant to a Contract by and between the Board and NRS, dated August 15, 2019 (collectively, the "**Plan Administrator Agreement**"); and

WHEREAS, the Board has selected Bank to be Custodian for certain assets of the Plan, specifically participant interests in the §403(b) (7) custodial accounts in the Plan, and Bank hereby accepts its appointment, as Custodian of such assets (the "**Account**");

NOW, THEREFORE, in consideration of the promises set forth below, the parties hereto do agree as follows:

1. All Share transactions occurring within the Plan, including payroll deposits, asset transfers to, and receipts from, Companies and other investment providers, if available, and distributions of Shares to participants, shall be processed according to the terms of this Agreement, as well as a separately executed <<"Custodial Depository Agreement">>, which establishes a custodial checking account, which

shall be entitled <<“Maryland Teachers and State Employees Supplemental Retirement PLANS ~ 403(b) Plan Custodial Account.”>> Participant rights to amounts within this Account are nonforfeitable. Participants may not surrender their interest in the Plan and receive distributions of such interest unless such distribution is permitted under §403(b) of the Code; *provided, however*, that the responsibility for authorizing such distribution shall be the obligation of NRS, acting as the Plan administrator under direction from the Board, as provided in Sections 3 and 4 hereof, and pursuant to the Plan Administrator Agreement.

2. NRS, as authorized by the Board, as Plan administrator shall direct all transfers to and from the Account and shall have the sole responsibility for such directions and for maintaining all participant sub-account records for Shares of Companies as shall be made available to participants under the Plan. The Board shall select such Companies to be made available under the Plan and shall publish a current list thereof at <http://www.msrp.maryland.gov/pubs.htm>.
3. The Bank shall have the right to rely on NRS' instructions concerning the disposition of funds in the Account and shall be held harmless for any liability arising thereby, except in such cases where the Bank acts upon NRS instructions which have been countermanded by the Board through written notice to the Bank.
4. Regulated investment company accounts or Share holdings shall be issued in the name of the Bank as custodian for the exclusive benefit of participants in the Plan to the extent of the interest of each of the Shares in a Company; *provided, however*, that NRS may maintain master accounts with certain mutual fund complexes, in which case the regulated investment company accounts or Share holdings shall be issued in the name of the Plan. Participant rights in such investments shall be recognized as provided in the Plan.
5. The Bank shall (a) be the custodian of all regulated investment company stock and associated cash of the Plan that is held within the Account for the benefit of the Plan participants; (b) deliver proxy and other materials for securities held in the Account, including offers to tender or exchange such securities, to NRS or otherwise as the Board may direct in writing; and (c) make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any other instruments that may be necessary or appropriate to carry out the custodianship duties and powers.
6. All amounts within the Account described herein and any earnings thereon shall be devoted exclusively to the Plan participants and shall not be subject to claims of the employer' creditors.
7. This Agreement is not intended to modify the Plan Administrator Agreement, or any successor agreement with respect to the administration of the Plan, if applicable, or to limit the duties and responsibilities of NRS (or a successor Plan administrator, if applicable) as set forth therein. To this end, the Account shall be held for the exclusive benefit of participants and their beneficiaries, and NRS shall have no right

to any Account earnings or liability for Plan expenses. The Account shall be administered by the Board and NRS in full compliance with all applicable Internal Revenue Service regulations for ownership, investment, transfer, withholding, distribution and accounting of §403(b) plan accounts. The Board shall have the unilateral right to suspend or terminate NRS' ability to direct transactions of the Account, with or without cause, provided that thirty (30) days' prior written notice is given to NRS and Bank. This provision does not alter the agreed termination provisions in the Plan Administrator Agreement, which provisions will be applied to determine the rights and responsibilities of NRS and the Board at the time of any such termination. In the event of any such termination of NRS by the Board, and following the selection of a successor Plan administrator by the Board and the completion of a transition period as provided for in the Plan Administrator Agreement, the obligations of NRS with respect to the Account, as set forth in this Agreement, shall be assumed by the successor Plan administrator. At such time, the Bank acknowledges and agrees that it shall be required to execute a new 403(b) Plan custody agreement substantially in the form of this Agreement with the Board and the successor Plan administrator to govern the custody of the Account.

8. The Board, acting in accordance with its contract responsibilities, and in conjunction with and under the authority of the State Treasurer, shall have the right to terminate this Agreement, and the custodial relationship established hereby, and substitute a new or different relationship with a different custodial bank provided that ninety (90) days' prior written notice is given to NRS and Bank.
9. Duplicate monthly statements of the Account operations should be sent to the addresses set forth in Section 14, below.
10. Outgoing wire transfers from the Bank for investment in Shares may only be made to the entities on the list attached as Exhibit A hereto, which list shall be updated by the Board as necessary as provided in this Agreement.
11. NRS shall be responsible for all reconciliations of account statements.
12. The Board and NRS agree to execute and deliver such usual and customary account authorizations as may be required by the Bank from time to time.
13. The Board authorizes NRS to effect all fund transfers under this Agreement, which transfers may be directed by any one of the NRS signatories listed below. Upon countermand of NRS directions by the Board, the Board may assume direction of such transfers, through any one of the Board signatories listed below. The authorized signatories for the account are:

| | |
|--------|--|
| NRS: | <<NRS Authorized Person>>, Assistant Treasurer |
| Board: | Michael T. Halpin, Executive Director Debra L. Roberts, Director of Finance |

14. Addresses to which notices and/or statements may be sent by ordinary first-class mail are:

NRS: Nationwide Retirement Solutions, Inc.
10 W. Nationwide Blvd
Columbus, Ohio 43215

Board: Maryland Teachers and State Employees
Supplemental Retirement Plans
6 St. Paul Street, Suite 200
Baltimore, Maryland 21202

Bank: <<Name>>
<<Contractor>>
<<Address1>>
<<Address2>>
<<City>, <<State>> <<Zip Code>

15. If a provision of this agreement requires that a communication or document be provided to the Bank in writing or written form, that requirement may also be satisfied by a facsimile transmission, electronic mail or other electronic transmission of text (including electronic records attached thereto), if the Bank reasonably believes such communication or document has been signed, sent or presented (as applicable) by any person or entity authorized to act on behalf of the Board or NRS. If this agreement requires that a communication or document be signed, an electronic signature satisfies that requirement.
16. To the extent not preempted by federal law, this Agreement and all transactions hereunder shall be governed by, interpreted, construed and enforced in accordance with the laws of the State of Maryland.

[Signatures Appear on Following Pages]

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the date hereinabove set forth.

ATTEST:

<<CONTRACTOR>>

By: _____

Name: _____

Title: _____

WITNESS:

**MARYLAND STATE TREASURER'S
OFFICE**

By: _____

Nancy K. Kopp
State Treasurer

[Additional Signatures Appear on Following Page]

State of Maryland 403(b) Tax Sheltered Annuity Plan
Custody Agreement
<<Date>>

WITNESS:

**MARYLAND STATE TREASURER'S
OFFICE**

By: _____
Bernadette T. Benik
Chief Deputy Treasurer

WITNESS:

**MARYLAND TEACHERS AND STATE
EMPLOYEES SUPPLEMENTAL
RETIREMENT PLANS**

By: _____
Michael T. Halpin
Executive Director

WITNESS:

**NATIONWIDE RETIREMENT
SOLUTIONS, INC.**

By: _____
<< NRS Authorized Person >>
Assistant Treasurer

Approved for form and legal sufficiency
this __ day of _____ 20__:

Assistant Attorney General

Exhibit A

List of Entities Authorized to Receive Outgoing Wire Transfers from the Account

EXHIBIT 3

State Finance and Procurement Article

§6-201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Banking institution” means an institution that is incorporated under the laws of the State as a State bank, trust company, or savings bank.
- (c) “Collateral” means collateral that is listed under § 6-202 of this subtitle.
- (d) “Deposit insurance” means insurance by:
 - (1) the Federal Deposit Insurance Corporation; or
 - (2) the Resolution Trust Corporation created under § 21A of the Federal Home Loan Bank Act (12 U.S.C. § 1441a.).
- (e) “Financial institution” means:
 - (1) any banking institution;
 - (2) any national banking association;
 - (3) an institution that is incorporated under the laws of any other state as a bank; and
 - (4) an institution that is incorporated under the laws of this State or of the United States as a savings and loan association.
- (f) “National banking association” means an institution that is incorporated under federal law as a bank.
- (g) “State money” for purposes of §§ 6-209 and 6-210 of this subtitle includes money in a bank account maintained under the control of an employee or official of the clerk of the court or register of wills.

EXHIBIT 4

State Finance and Procurement Article

§6-202.

Collateral that may be used under this subtitle shall be:

- (1) an obligation of the United States or any of its agencies;
- (2) an obligation guaranteed by the United States or by any of its agencies;
- (3) an obligation insured by the United States;
- (4) an obligation of the State or any of its units or instrumentalities;
- (5) an obligation of a county of the State or any of its agencies;
- (6) an obligation of a municipal corporation in the State or any of its agencies;
- (7) an obligation of any other governmental authority in the State;
- (8) an obligation of the Inter-America Development Bank;
- (9) an obligation of the World Bank;
- (10) an obligation of the following government-sponsored enterprises:
 - (i) the Federal Home Loan Banks;
 - (ii) the Federal Home Loan Mortgage Corporation;
 - (iii) the Federal National Mortgage Association;
 - (iv) the Farm Credit System;
 - (v) the Federal Agricultural Mortgage Corporation; and
 - (vi) the Student Loan Marketing Association;
- (11) a surety bond if:
 - (i) subject to the terms and conditions of the bond, it is irrevocable and absolute;
 - (ii) the surety bond is issued by an insurance company authorized to do business in this State;
 - (iii) the issuer of the surety bonds does not provide surety bonds for any one financial institution in an amount that exceeds 10% of the surety bond insurer's policyholders' surplus and contingency reserve, net of reinsurance; and

(iv) the claims-paying ability of the authorized insurance company is rated, at all relevant times, in the highest category by at least two nationally recognized rating agencies acceptable to the Treasurer;

(12) an obligation or security of, or other interest in, any open-end or closed-end management type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., if:

(i) the portfolio of the open-end or closed-end management type investment company or investment trust is limited to direct obligations of the United States government and to repurchase agreements fully collateralized by United States government obligations; and

(ii) the open-end or closed-end management type investment company or investment trust takes delivery of that collateral, either directly or through an authorized custodian; or

(13) a letter of credit issued by a Federal Home Loan Bank if the letter of credit meets the conditions under the guidelines issued by the State Treasurer's office.

EXHIBIT 5

State Finance and Procurement Article

§6-209.

(a) State money on deposit with a financial institution shall be secured by:

- (1) deposit insurance; or
- (2) collateral as required by this section.

(b) (1) The collateral for State money on deposit with a financial institution:

(i) must have, at all times, a market value that equals or exceeds the State money that is on deposit with the financial institution and is not covered by deposit insurance; and

(ii) must be approved by the Treasurer.

(2) If the collateral is a surety bond under § 6-202 of this subtitle:

(i) the surety bond shall be in a form and amount acceptable to the Treasurer as determined by the Treasurer from time to time; and

(ii) the financial institution that provides the surety bond as collateral shall immediately notify the Treasurer if the rating assigned to the issuing insurance company by any rating agency, found acceptable to the Treasurer under § 6-202 of this subtitle, is withdrawn or downgraded, in which event the financial institution shall immediately provide the Treasurer with substitute collateral permitted under § 6-202 of this subtitle.

(3) Subject to the requirements of this subsection, a financial institution may change its collateral from time to time.

(c) (1) A custodian shall hold the collateral under this section for the benefit of the State.

(2) A financial institution may use as a custodian:

(i) any banking institution that is approved by the Commissioner of Financial Regulation to conduct commercial banking business in the State;

(ii) a federal reserve bank; or

(iii) any national banking association that is approved by the Comptroller of the Currency to conduct banking business in the State.

(3) A financial institution may not be approved as custodian for the collateral of a depository unless the assets of the financial institution equal or exceed 200% of the value of the collateral to be held for the depository.

EXHIBIT 6

State Finance and Procurement Article

§6-222.

(a) (1) In this section, “supranational issuer” means an international development institution that:

(i) provides financing, advisory services, or other financial services to the institution’s member countries to achieve the overall goal of improving living standards through sustainable economic growth; and

(ii) is rated in the highest credit rating category by a nationally recognized statistical rating organization.

(2) “Supranational issuer” includes:

- (i) the World Bank;
- (ii) the International Finance Corporation;
- (iii) the Inter-American Development Bank;
- (iv) the African Development Bank; and
- (v) the Asian Development Bank.

(b) The Treasurer may invest or reinvest unexpended or surplus money over which the Treasurer has custody in:

(1) an obligation for which the United States has pledged its faith and credit for the payment of the principal and interest;

(2) an obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress;

(3) an obligation issued and unconditionally guaranteed by a supranational issuer denominated in United States dollars and eligible to be sold in the United States;

(4) a repurchase agreement collateralized in an amount not less than 102% of the principal amount by an obligation of the United States, its agencies or instrumentalities, provided the collateral is held by a custodian other than the seller designated by the buyer;

(5) bankers’ acceptances guaranteed by a financial institution with a short-term debt rating in the highest letter and numerical rating by at least one nationally recognized statistical rating organization as designated by either the United States Securities and Exchange Commission or the Treasurer;

(6) with respect to amounts treated by the Internal Revenue Service as bond sale proceeds only, bonds, notes, or other obligations of investment grade in the highest quality letter and numerical rating by at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission issued by or on behalf of this or any other state or any agency, department, county, municipal or public corporation, special district, authority,

or political subdivision thereof, or in any fund or trust that invests only in securities of the type described in this item;

(7) commercial paper that has received the highest letter and numerical rating by at least two nationally recognized statistical rating organizations as designated by the United States Securities and Exchange Commission, provided that such commercial paper may not exceed 10% of the total investments made by the Treasurer under this subsection;

(8) money market mutual funds that:

(i) are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., as amended;

(ii) are operated in accordance with Rule 2A-7 of the Investment Company Act of 1940, 17 C.F.R. § 270.2A-7, as amended; and

(iii) have received the highest possible rating from at least one nationally recognized statistical rating organization as designated by the United States Securities and Exchange Commission; and

(9) any investment portfolio created under the Maryland Local Government Investment Pool defined under §§ 17-301 through 17-309 of the Local Government Article of the Code that is administered by the Office of the State Treasurer.

(c) The Treasurer may sell, redeem, or exchange an investment or reinvestment made under this section in accordance with the limitations of this section.

(d) Subject to § 2-1257 of the State Government Article, the Treasurer shall report by January 3 of each year to the General Assembly on investment activities for unexpended or surplus money over which the Treasurer has custody which have been conducted during the previous fiscal year. At a minimum, the report shall specify for General Fund investments and all other investments:

(1) the inventory of investments with maturity dates and the book and market value as of June 30;

(2) the net income earned;

(3) the percentage share of each category of investment in the portfolio; and

(4) any sale of investments prior to the maturity date.

(e) An investment made pursuant to this section shall be made:

(1) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(2) in a manner designed to reasonably match the anticipated cash flow of the State so that sufficient funds are available to pay obligations upon proper presentation for payment;

(3) so that a reasonable amount of cash or cash equivalents is available for unanticipated cash

needs;

(4) with due regard for minimizing risk while maximizing return;

(5) using competitive purchasing practices except when impractical;

(6) in accordance with a written investment policy;

(7) so that the securities and collateral may continue to be priced on a market to market basis;
and

(8) to avoid the enhancement of the personal financial position of the Treasurer or any employee of the Treasurer who has responsibilities for such investments.

(f) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under this article and consistent with the fiduciary duties of the Treasurer, the Treasurer shall attempt to use to the greatest extent feasible minority business enterprises for brokerage and investment management services under this section.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes as described in subsection (b) of this section.

(2) (i) To assist the Treasurer in achieving the goal described under paragraph (1) of this subsection, the Treasurer shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this section.

(ii) The measures undertaken by the Treasurer shall include the use of a wide variety of media, including the Treasurer's Web site, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Treasurer.

(3) In conjunction with the Governor's Office of Small, Minority, and Women Business Affairs, the Treasurer shall develop guidelines to assist in identifying and evaluating qualified minority business enterprises in order to help the Treasurer achieve the objective for greater use of minority business enterprises for brokerage and investment management services under this section.

(4) On or before September 1 each year, the Treasurer shall submit a report to the Governor's Office of Small, Minority, and Women Business Affairs and, subject to § 2-1257 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Treasurer in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets under the custody of the Treasurer that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

(iii) the measures the Treasurer undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.