

# REQUEST FOR PROPOSAL

**TECHNICAL ASSISTANCE  
TO PREPARE AND ANALYZE  
A REQUEST FOR PROPOSAL  
FOR RECORDKEEPING AND  
INVESTMENT SERVICES  
FOR NDPERS 457 PLAN AND 401(A)  
DEFINED CONTRIBUTION PLAN**

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**Prepared by:**

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P.O. Box 1657  
Bismarck, ND 58502-1657**

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## **SECTION 1- PROCEDURES FOR SUBMITTAL**

### **1.1 Overview**

This Request for Proposal is to provide technical assistance to prepare and analyze a request for proposal for recordkeeping and investment services for its 457 plan and 401(a) defined contribution plan.

This Request for Proposal (RFP) is divided into three sections. Section 1 gives general information and requirements. Section 2 specifically describes the services requested. Section 3 details the specific information that bidders are required to submit in response to this RFP.

### **1.2 Governing Authority**

PERS is managed by a Board comprised of seven members:

- (1) Chairman – appointed by the Governor
- (1) Member – appointed by the Attorney General
- (1) Member – elected by the retirees
- (3) Members – elected by active employees
- (1) State Health Officer designee

PERS is a separate agency created under North Dakota state statute and, while subject to state budgetary controls and procedures as are all state agencies, is not a state agency subject to direct executive control.

### **1.3 Defined Contribution Programs Administered by PERS**

#### **PERS IRC Section 457 Deferred Compensation Plan:**

The administration of the deferred compensation plan for public employees was given to the Retirement Board on July 1, 1987. All state employees are eligible to participate, as well as political subdivision employees, if the governing authority of the political subdivision elects to offer the state plan.

Presently 7,200 employees have accounts with fifteen investment providers. Presently there are eleven active providers. Assets are over \$115 million. The PERS Board has developed a plan and contracts with investment providers (mainly insurance companies) to invest the contributions of employees.

The deferred compensation plan is found in Chapter 54-52.2 of the North Dakota Century Code (NDCC).

State administrative code allows any provider company to participate in the program that has 50 or more eligible members willing to sign up for their product. PERS does not select or monitor the investment products offered by these vendors, and does not act as a trustee for their products.

In 1998 the PERS Board decided that an additional product should be added that would be: 1) selected by the Board based upon a competitive RFP process, 2) that the Board would act as the trustee for, 3) that the Board would select and monitor the investment products, and 4) the investment products would be mutual funds. This product is called the PERS Companion Plan. The Board developed a Statement of Investment Policies for this plan. This policy may be viewed at our website [www.nd.gov/ndpers](http://www.nd.gov/ndpers) . Just click on “Active Members” then click on “Deferred Compensation Plan” and then on “PERS Companion Plan”. The Board also has been monitoring the investment products for this plan. This report can also be found on our website at [www.nd.gov/ndpers](http://www.nd.gov/ndpers) . Again click on “Active Members” then click on “Deferred Compensation Plan” and then on “PERS Companion Plan”.

The Companion Plan has over \$18.0 million in assets with approximately \$280,000 in monthly contributions. Fidelity is the present provider for these services.

#### **PERS 401(a) Defined Contribution Plan:**

The state of North Dakota approved the establishment of a defined contribution plan for certain state employees, effective January 1, 2000. This program is offered as an option to the state’s defined benefit plan. Eligible employees are not classified by Human Resource Management Services; however, this does not include employees of the University System and the Supreme Court. Approximately 258 employees selected the DC plan. The estimated value of contributions to this plan is approximately \$12,000,000. Monthly contributions in the amount of 8.12% of salary (\$100,000) are added to the plan for each month for each participant. Similar to the Deferred Comp plan the “Statement of Investment Policy” and “Quarterly Report” are available on the PERS Web site under Defined Contribution Retirement Plan. Fidelity is the present provider for these services.

#### **1.4 Proposal Schedule**

RFP Issued:	August 3, 2009
Vendor Questions Due:	5:00 p.m., CST, August 19, 2009
Responses to Questions Issued:	August 24, 2009
Proposals Due:	5:00 p.m., CST, September 4, 2009
PERS Board Review:	September 2009
Vendor Interviews:	October 2009 (if necessary)
Vendor Selection:	No later then October 26, 2009

#### **1.5 Vendor Questions About The RFP**

A pre-bid meeting is not scheduled. Questions concerning the specifications contained herein are to be submitted, in writing, no later than 5:00 p.m., CST, on August 19, 2009 to:

Sparb Collins  
Executive Director  
North Dakota Public Employees Retirement System  
P O Box 1657  
Bismarck, ND 58502-1657  
FAX: (701) 328-3920

All questions are to be put in writing and PERS, or its representative, will respond in writing to all interested parties who have been notified of this RFP. Questions may be submitted via facsimile or emailed to [scollins@nd.gov](mailto:scollins@nd.gov). All responses will be mailed back to the person you identify in your proposal. Please clearly state who that should be in your cover letter. If you would also like the information emailed, please so indicate and provide us the address.

## **1.6 Proposals**

To be considered, each bidder must submit a COMPLETE response to this RFP in writing. The respondent must include a statement as to the period during which the proposal remains valid. This period must be at least 120 days from the due date for responses to this RFP. However, the rates quoted in the PRICE PROPOSAL remain firm for the duration of the prospective contract.

## **1.7 Oral Presentation**

Bidders who submit proposals may be required to make oral presentations of their proposals to PERS if a decision is not clear based upon the written material submitted. The date for oral presentations is expected to be in October 2009. However, since PERS will likely award this work effort based solely upon the written material, we encourage all respondents to prepare a clear, comprehensive and responsive proposal and not anticipate or plan on the opportunity to clarify/elaborate on their offering during an oral presentation.

## **1.8 Acceptance Of Proposal Interpretations**

The contents of this RFP and the proposal will become contractual obligations. Please note PERS has provided a proposed contract. Please sign and include a copy with your cost proposal. If your proposal is accepted, we will sign it and send it back to you as the award. If you desire to propose any changes to the contract, please clearly identify those changes in the cost proposal as well. Failure of the successful bidder to accept these obligations may result in cancellation of the award.

PERS further reserves the right to interview the key personnel assigned by the successful bidder to this project and to recommend reassignment of personnel deemed unsatisfactory by PERS.

## **1.9 Proposal Interpretations And Addenda**

Any change or substantive interpretation of this RFP will be sent by PERS to each firm to whom an RFP has been sent or to those who responded, and any such changes or interpretations shall become a part of the RFP for incorporation into any contract awarded pursuant to this RFP. If you desire that such information should be directed to someone's attention other than to whom the proposal was sent, please advise Cheryl Stockert at 701-328-3903.

### **1.10 Economy Of Preparation**

Each proposal should be prepared simply and economically, providing a straightforward concise description of the bidder's ability to meet the requirements of the RFP. Fancy bindings, colored displays, promotional material, etc., will receive no evaluation credit. Emphasis should be on completeness and clarity of content.

### **1.11 Cost Liability**

PERS assumes no responsibility or liability for costs incurred by the contractor prior to the signing of any contract resulting from this Request. Total liability of PERS is limited to the terms and conditions of this RFP and any resulting contract.

### **1.12 Minimum Qualifications**

Offeror of services sought will have substantial experience in performing said services in the public and private environment for large pension plans, preferably contributory plans. Substantial experience will be defined and evaluated with regards to the type of plan [457, 401(k), 401(a) and 403(b)], size of the plan [assets and number of participants in the plan] and public or private plan experience. Offerors are required to provide a listing of such engagements over the past five years which includes data on plan type, size, number of participants covered and other pertinent data such as number of investment options, number of participants on payout, and frequency of asset transfers permitted. The offeror shall also offer a multi-disciplinary team with experience in development of RFP's, analysis of offers and review investment products. Offerors shall not have any conflicts of interests.

The minimum mandatory experience required of offerors shall consist of comparable assignments with at least two plans of the types indicated above.

### **1.13 Selection Criteria (also see section 4)**

Responses to this RFP will be evaluated based upon the following factors as presented in the bidder's response to this RFP:

- < The ability of the organization to meet the terms of the RFP and the technical approach.
- < Qualifications of the staff assigned to the PERS account. PERS may require that the appropriate individuals be interviewed.
- < Ability to meet the minimum qualifications.
- < Fees and other compensation.

Fees and compensation will be an important factor in the evaluation process. PERS, however, is not required to select the lowest cost bidder.

#### **1.14 Bid Receipt**

Proposals must be received on or before:

**5:00 p.m., Central Time  
Friday, September 4, 2009**

**Fifteen** copies of your proposal must be sent to:

Sparb Collins  
Executive Director  
North Dakota Public Employees Retirement System  
P O Box 1657  
400 East Broadway Avenue, Suite 505  
Bismarck, ND 58502-1657

Bidders are responsible for timely receipt of their proposal. PROPOSALS RECEIVED AFTER THE SPECIFIED DUE DATE AND TIME WILL NOT BE CONSIDERED, unless otherwise determined by the PERS Board.

#### **1.15 Right Of Rejection Or Acceptance**

Notwithstanding any other provisions of this RFP, PERS reserves the right to reject any or all proposals, to waive any irregularity or informality in a proposal, and to accept or reject any item or a combination of items. It is further within the right of PERS to reject proposals that do not contain all elements and information requested in this document. The failure to meet all procurement policy requirements shall not automatically invalidate a proposal or procurement. The final decision rests with the PERS Board.

#### **1.16 Additional Information**

PERS reserves the right to request additional information from any or all proposers to assist it in its evaluation process.

#### **1.17 Conflict Of Interest**

The vendor and its agents are prohibited from directly soliciting employees of the state, or using any information obtained under its contract for services, to directly solicit employees with respect to any product or service of the company that is not part of the services contracted for. The offeror shall also disclose any potential conflicts of interest they may have in reviewing proposals from any vendor. In addition, the offeror shall disclose if it has any agreements, contracts or any other arrangements with any vendor/investment products that could be solicited or be a part of the consideration relating to this process. Such arrangements could be viewed as a conflict of interest.

**1.18 Contract Term**

The services sought in Section 2 will be provided beginning October, 2009 through July 30, 2010.

**1.19 Accounting Records**

The vendor will be required to maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting. Financial and accounting records, including individual account balance records and information concerning the State's plan, shall be made available, upon request, to PERS, its designees, or the State Auditor at any time during the contract period and any extension thereof, and for three (3) years from expiration date and final payment on the contract or extension thereof.

**1.20 Confidentiality**

The contractor shall instruct its employees, and the employees of any subcontractor, to keep as confidential information concerning the State's employees as well as any other information which may be specifically classified as confidential by the State. Please refer to PERS statutes under chapter 54-52 and please note that violations of this statute are a felony under North Dakota law.

All copies of information developed by the contractor in connection with the contract are the property of the State. The contractor will not reveal or disclose either information or findings concerning this contract with anyone who does not have a substantial need-to-know and who has not been expressly authorized in writing by the State to receive the information/findings. Contractors must ensure that all safeguards and proper procedures are implemented to protect confidential information.

**1.21 Cancellation**

Cancellation of the contract by PERS may be for any reason upon written notice to the contractor. The contract may also be canceled due to default by the contractor. Default is defined as the failure of the contractor to fulfill the obligations of this contract. In case of cancellation due to default by the contractor, the State may procure the articles or services from other sources and hold the contractor responsible for any excess costs occasioned thereby.

**1.22 Delegation And/Or Assignment**

The contractor shall not delegate any duties under this contract to a subcontractor other than a subcontractor named in the bid unless PERS has given written consent to the delegation. The primary contractor may not assign the right to receive money due under the contract without the prior written consent of PERS.

## **SECTION 2 - BACKGROUND AND SCOPE OF SERVICES**

### **2.1 Background**

The North Dakota Public Employees Retirement System is seeking technical assistance relating to its two defined contribution plans discussed in Section 1 of the proposal. The Board is seeking technical assistance in three areas:

1. Development of an RFP to solicit interest of vendors in providing recordkeeping and investment management services. PERS is interested in having a bundled provider.
2. Review of the proposals submitted.
3. Assistance with implementation.

### **2.2 Develop Request for Proposal**

PERS is seeking technical assistance to prepare a request for proposal for investment services for its 457 plan and 401(a) defined contribution plan. PERS may award both plans to a single vendor or based upon the result, it may award one plan to one vendor and the other to another vendor. Therefore, the proposal should be prepared accordingly. It is the Board's intent that the award will be for a six-year period subject to renewals that will occur every two years. If, during the renewal period, acceptable terms are not agreed to, the six-year period will be cut short and the plan will go back out to bid. The consultant is expected:

- To draft the RFP for the staffs review in late October/November and for the Board's review at the November/December PERS Board meeting.
- To develop and suggest a proposed list of vendors to solicit directly and to place advertisements in North Dakota papers giving notice of the solicitation. The goal would be to issue the RFP in early December/January with responses due by mid January or February.
- All requests for proposals will be distributed by the consultant.
- The consultant will be listed as the point of contact for questions.
- The consultant will prepare a list of all questions asked and the answers and distribute it to all firms getting a copy of the RFP.

The consultant is asked to bid this portion of the work effort on a fixed fee basis. No on-site meetings with staff or Board are anticipated during this phase.

### **2.3 Analysis of Proposals**

PERS is seeking a consultant to analyze the proposals received in response to the RFP. This analysis will be in two phases. The first phase will be to do a general assessment of all proposals received and recommend to the Board three responses that would be reviewed in detail. The consultant should be prepared to make this recommendation at the February or March 2010 PERS Board meeting. The second phase would be to conduct a detailed review of the three proposals selected by the Board and to provide a recommendation to the Board on which proposal to accept. The detailed evaluation should be presented to the Board at the March or April 2010 meeting. If necessary, the Board may elect to interview one or more of the three. Such an interview would be conducted at a special meeting in April. The consultant is asked to bid this portion of the work effort on a

fixed fee basis. The consultant should include in the fixed fee one on-site meeting with the PERS Board to review the results. If the Board elects to do vendor interviews or conduct any on-site meetings, the consultant will be reimbursed for that time on a fee for service basis. Please note that travel costs will not be a part of the fixed fee and will be paid based upon expenses incurred and will be subject to prior approval by the PERS Executive Director.

#### **2.4 Implementation Assistance**

The PERS Board is seeking assistance with implementation of the vendor contracts. This will include assistance with reviewing the proposed contract(s) help with changing vendors if that is what is decided by the Board, and any other implementation issues. Since efforts relating to implementation will be defined later, the consultant will be reimbursed for efforts relating to this phase on a fee for service basis.

## **SECTION 3 – PROPOSAL**

### **3.1 Technical Proposal – This Shall be Labeled “Technical Proposal”**

The proposal shall be formatted as identified in this section and contain specific responses to the information requested.

1. **Management Summary.** This section should include a brief synopsis of the offeror’s understanding of the Board’s needs and services. It should also describe the resources that will be used to fulfill the requirements of this RFP and how it is projected that those resources will be consistently available to the Board.
  
2. **Technical Approach - Proposed Services.** This Section should present a detailed description of the offeror’s services. The sequence should follow the order described in Section 2. This Section must clearly indicate whether the offeror’s proposal satisfies each specification of the RFP. The offeror’s refusal or inability to accept all the terms and conditions of this RFP and meet each requirement must be clearly noted and explained. Offerors are advised, however, that any such exception may result in its proposal being deemed unacceptable.

The offeror shall identify in this Section each task that will be performed in response to this RFP and a timeline for each. The detailing of the scope of work by the offeror is critical in demonstrating an understanding of the effort.

3. **Prior Experience/References.** This Section should describe up to five selected engagements involving services similar to those required that were successfully performed for other clients. These clients must be identified by name, address, telephone number, and contract reference. Each engagement should be described with the rationale presented indicating its relevance to the services required in this RFP. PERS may contact any one or more of these references and, in addition, may contact any other reference of their choosing.
  
4. **Copy of previous similar work.** In this Section the offeror shall provide a copy of a similar project that NDPERS can view to determine the type of report it will receive pursuant to the RFP.
  
5. **Personnel.** This Section should include individual resumes for the personnel who are to be assigned to the project if the offeror is awarded the contract, and should indicate the proposed project role or assignment of each individual. The offeror shall provide a table at the beginning of this Section that shows the number of hours they are assigned to the project. The project team should include staff with experience in developing RFP’s of the type requested herein, evaluating responses and assisting with implementation. The team should also include investment professionals that can evaluate the proposed products being offered.

6. **Organization.** This Section must document the overall structure of the offeror's organization, including any parent companies, affiliates and subsidiaries. Description and reported resolution of any potential/apparent conflict of interest must be presented here.
  
7. **Additional Information.** This Section, which is optional, should include any additional information the offeror deems relevant to this procurement and the satisfaction of the Board's objectives.
  
8. **Conflicts of interest.** In this Section the offeror shall discuss any potential conflicts of interest as discussed in the RFP or that the contractor believes may exist. The contractor cannot receive any other compensation relating to this work effort except that in the cost proposal. Any other arrangements/relationships/contracts the offeror may have with vendors that could be a part of this solicitation must be identified herein and may disqualify the offeror.
  
9. **Company Literature.** (If applicable) If company literature or other material is intended to respond to any RFP requirement, it must be included in this section. The offeror's responses in previous sections of the proposal must include reference to the document by name and page citation. Proposals submitted without these citations will be considered complete without need to refer to documents in this section for the offeror's responses to the RFP requirements.

### **3.2 Financial Proposal – This Shall Be Labeled “Price Proposal” and bound separately from the Technical Proposal.**

It must contain the Pricing Proposal of the work efforts identified under Section 2.

#### **3.2.1 Pricing**

This Section shall contain information on the pricing for the work efforts in Section 2. The bid shall be on a not to exceed basis with actual hours charged to the project as incurred, up to the maximum of the fixed fee. The consultant shall use the following format for presenting pricing information

**Development of RFP (2.2)**

Fixed Fee: \$ \_\_\_\_\_

Staff Assigned	Estimated Hours	Rate

**Evaluation of Responses (2.3)**

Fixed Fee \$ \_\_\_\_\_

Staff Assigned	Estimated Hours	Rate

**Implementation** (the consultant shall identify the fee for service rates that will be used for services pursuant to this Section and any supplemental work needed associated with this contract)

Staff Assigned	Rate

**NOTE:** Travel expenses will be paid on an incurred basis and are not to be a part of the above fixed fee. However, the PERS Executive Director shall give prior approval for all travel and fee for service costs for each person pursuant to this contract. PERS is under no obligation to reimburse the consultant if no prior approval was given.

### **3.2.2 Agreement**

The consultant must sign the attached agreement and send it as part of the proposal. If PERS accepts your offer, we will sign the agreement and return a copy to you. If the consultant wishes to propose amendments, they must be offered in the response so that PERS can determine if they can be accepted. It is our intent not to consider any other amendments to the proposed contract once the proposal has been submitted.

## **SECTION 4 - PROPOSAL REVIEW**

Proposals will be evaluated in a three-step approach. The first step will be done by a review team composed of PERS staff and will be an initial screening of each proposal to determine if it is sufficiently responsive to the RFP to permit a valid comparison and meets the minimum qualifications of having completed past projects similar to the efforts requested herein. The qualifying factor will be on a Yes/No basis. The proposal will be dropped from consideration if a majority of viewers respond "No".

The proposals that pass the initial screening will then be reviewed by the same review team. Each individual will review the proposal for all areas but price. Every proposal will be awarded points for specified areas by the reviewers. Points for price are awarded automatically. Following is the weighting factor for each area:

- |                      |           |
|----------------------|-----------|
| • Technical Approach | 25 Point  |
| • Prior Experience   | 10 points |
| • Staffing           | 15 Points |
| • Sample product     | 15 points |
| • Organization       | 5 points  |
| • Pricing            | 30 points |

The final step will be a review by the PERS Board. The PERS Board will use any and all information in making its determination and will use the staff's review as a guide but is not bound by that review.

## **SECTION 5 - AGREEMENT FOR SERVICES**

Contractor's proposal constitutes a formal offer to provide services to the North Dakota Public Employees Retirement System (NDPERS). The terms of this Contract, the RFP and the proposal shall constitute the consulting services agreement ("Agreement").

Contractor and NDPERS agree to the following:

- 1) **SCOPE OF SERVICES:** Contractor agrees to provide the above-accepted service(s) as specified in the RFP and proposal. The terms and conditions of the RFP and the proposal are hereby incorporated as part of the Contract.
- 2) **TERM:** The term of this contract shall commence in October 2009 and continue through July 30, 2010.
- 3) **FEES:** NDPERS shall only pay pursuant to the terms in the proposal and RFP.
- 4) **BILLINGS:** The Contractor shall receive payment from NDPERS upon the completion of the services identified under this Agreement.
- 5) **TERMINATION:** Either party may terminate this agreement with respect to tasks yet to be performed with thirty (30) days written notice mailed to the other party.
- 6) **EMPLOYMENT STATUS:** The Contractor acknowledges that any services performed in connection with the Contractor's duties and obligations, as created and provided for in this agreement, are performed in the capacity of an independent contractor. At no time during the performing of services as required by this contract will the Contractor be considered an employee of the State of North Dakota.
- 7) **SUBCONTRACTS:** Subcontractors to the Contractor shall be considered agents of the Contractor and agree to provide services as specified in the proposal and RFP.
- 8) **ACCESS TO RECORDS:** PERS agrees that all participation by its members and their dependents in programs hereunder is confidential. The Contractor shall not disclose any individual employee or dependent information to the covered agency or its' representatives without the prior written consent of the employee or family member. The Contractor will have exclusive control over the direction and guidance of the persons rendering services under this agreement. The Contractor agrees to keep confidential all PERS information obtained in the course of delivering services.
- 9) **OWNERSHIP OF WORK PRODUCT:** All work products of the Contractor, including but not limited to, data, documents, drawings, estimates and actuarial calculations which are provided to NDPERS under this agreement are the exclusive property of NDPERS.
- 10) **APPLICABLE LAW AND VENUE:** This agreement shall be governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this contract must be brought in the District Court of Burleigh County, North Dakota.

- 11) **MERGER AND MODIFICATION:** This contract, the RFP and the proposal shall constitute the entire agreement between the parties. In the event of any inconsistency or conflict among the documents making up this agreement, the documents must control in this order of precedence: First – the terms of this Contract, as may be amended and Second - the state’s Request for Proposal and Third – Contractor’s Proposal. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
- 12) **INDEMNITY:** Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State’s contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. This obligation to defend, indemnify, and hold harmless does not extend to professional liability claims arising from professional errors and omissions. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against Contractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.
- 13) **INSURANCE:** Contractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in North Dakota, the following insurance coverages:
- 1) Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.
  - 2) Professional errors and omissions, including a three year “tail coverage endorsement,” with minimum liability limits of \$1,000,000 per occurrence and in the aggregate.
  - 3) Automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$500,000 per occurrence.
  - 4) Workers compensation coverage meeting all statutory requirements.

The insurance coverages listed above must meet the following additional requirements:

- 1) Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.
- 2) This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated “A-” or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. Less than an “A-” rating must be approved by the State. The policies shall be in form and terms approved by the State.

- 3) The insurance required in this agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State representative.
- 4) The Contractor shall furnish a certificate of insurance to the undersigned State representative prior to commencement of this agreement.
- 5) Failure to provide insurance as required in this agreement is a material breach of contract entitling State to terminate this agreement immediately.

14) **SEVERABILITY:** If any term in this contract is declared by a court having jurisdiction to be illegal or unenforceable, the validity of the remaining terms must not be affected, and, if possible, the rights and obligations of the parties are to be construed and enforced as if the contract did not contain that term.

IN WITNESS WHEREOF, Contractor and NDPERS have executed this Agreement as of the date first written above.

**NORTH DAKOTA PUBLIC  
EMPLOYEES RETIREMENT SYSTEM**

**CONTRACTOR**

By: \_\_\_\_\_

By: \_\_\_\_\_

**WITNESS:**

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_