

NEW JERSEY TURNPIKE AUTHORITY

Procurement and Materials Management Department

P.O. Box 5042

Woodbridge, NJ 07095-5042

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Contact: Angela McNally
Requisition # RM-159079

Date: August 10, 2020

REQUEST FOR QUOTATION
THIS IS NOT AN ORDER

SUBJECT: ACTURAL ATTESTATION SERVICES

PLEASE RETURN BY: AUGUST 24, 2020 VIA FAX OR E-MAIL

TO: ALL BIDDERS:

THIS SOLICITATION IS BEING CONDUCTED PURSUANT TO NJSA 27:23-6.1, NJAC 19:9-2.1 et seq., AND THE AUTHORITY'S INSTRUCTIONS TO BIDDERS WHICH PROVIDE THE APPLICABLE TERMS AND CONDITIONS FOR THE RESULTING CONTRACT.

(SEE ATTACHED INSTRUCTIONS TO BIDDERS AVAILABLE ONLINE AT:
<https://www.njta.com/doing-business/goods-and-services>)

Please print your information requested below with submission of price quote.

Company Name: _____

Address: _____

Telephone No.: _____ Fax No.: _____

E-Mail Address: _____

FEDERAL TAX I.D NO: or TAXPAYER I.D. NO:

BUSINESS CORPORATION

PARTNERSHIP

INDIVIDUAL

DIVISION OF REVENUE REGISTRATION:

DIVISION OF REVENUE REGISTRATION-Pursuant to the terms of N.J.S.A. 52:32-44, bidders are required to submit to the Authority proof of valid business registration with the New Jersey Division of Revenue in the Department of Treasury, prior to entering into a contract with the Authority. No contract shall be entered into by the Authority unless the bidder first provides proof of valid business registration. In addition, bidders are required to provide to the Authority proof of valid business registration with the Division of Revenue for any and all subcontractors that will be used to provide goods or services under the contract. A copy of the bidder's and any subcontractor's valid Certificate of Registration should be included with the bid submission and must be in effect prior to the contract award.

All questions regarding this requirement should be referred to the Division of Revenue hotline at (609)-292-9292 or/online: <http://www.nj.gov/treasury/revenue/forms/njreg.pdf>

SMALL BUSINESS ENTERPRISE / MINORITY BUSINESS / WOMAN OWNED BUSINESS:

If your firm is registered with the State of New Jersey as a Small Business Enterprise (SBE), Certified as a Woman Business Enterprise (WBE) or Minority Business Enterprise (MBE) you must send a copy of the Registration / Certification Form with your quotation. Please check off the gross receipt category of your business if registered as an SBE

SBE CATAGORY 1	\$0- \$500,000	_____
SBE CATAGORY 2	\$500,001 thru \$5,000,000	_____
SBE CATAGORY 3	\$5,000,001 thru \$33,500,000	_____
NOT APPLICABLE	_____	

SBE Registration # _____

Please check below if applicable:

Woman Business Enterprise _____ Minority Business Enterprise _____

Code of Ethical Standards:

The Proposers are advised that the Authority has adopted the New Jersey Uniform Code of Ethics, a copy of which can be viewed by going to the following web site: <http://nj.gov/ethics/docs/ethics/uniformcode.pdf> By submitting a Bid, the Proposer agrees to be subject to the intent and purpose of said Code and to the requirements of the Division on Ethical Standards of the State of New Jersey.

Intention:

It is the intention of the Authority to issue a two-year Notice of Award and Agreement for the procurement of Actuarial Attestation Services. Services under this Agreement will be delivered as directed by the Authority. The term of the contract shall be for two years with the option to extend for three (3) additional one-year terms at the Authority's discretion and Consultant's concurrence. Please contact Angela McNally with any questions regarding this procurement contract at 732-750-5300 extension 8628 or mcnally@njta.com.

ANY INQUIRIES CONCERNING THIS SOLICITATION MUST BE SENT VIA FAX OR EMAIL NO LATER THAN THREE (3) BUSINESS DAYS BEFORE RECEIPT OF QUOTATIONS.

BID SUMMARY SHEET

SUBJECT: ACTUARIAL ATTESTATION SERVICES

Item	Quantity*	Description	Unit Price	Total Price
1	15 Plans	Actuarial Attestation Services for all Pharmacy Benefit Plans AS PER SCOPE OF WORK	\$	\$

*If an additional plan is later included, the Authority will pay the unit price for the additional UBOI.

Award will be made to the lowest, responsible bidder for the total price.

The Fee shall include all professional, administrative and clerical services and all out-of-pocket expenses incurred in connection with the completion of the Services required herein. Travel time or costs are not reimbursable.

CONTRACT PERIOD: The contract shall be for a term of two (2) years. At the expiration of this contract, providing the consultant services have been satisfactorily performed in the sole opinion of the Authority and the consultant is willing to continue under the same terms and conditions, the Authority reserves the right to make three (3) extensions of this contract for not more than one year each. Quotation should not include Federal Excise Tax or N.J. State Sales & Use Tax as the Authority is exempt from payment of same.

BIDS WILL BE CONSIDERED FIRM FOR A PERIOD OF SIXTY (60) BUSINESS DAYS FOLLOWING THE RETURN DATE

PLEASE FAX OR EMAIL YOUR QUOTATION, DO NOT MAIL.

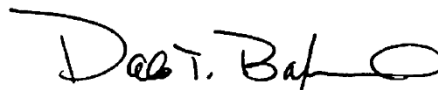
Electronic Payment: The successful proposer will be required to receive their payment(s) electronically via automatic deposit from the Authority, see Exhibit M in the Instructions to Bidders on the Authority's website: <https://www.njta.com/doing-business/goods-and-services>.

DATE: _____

AUTHORIZED SIGNATURE

(PRINT NAME)

Very truly yours,



Dale Barnfield, Director
Procurement and Materials Management

New Jersey Turnpike Authority Scope of Work for Actuarial Attestation Services

The New Jersey Turnpike Authority (“Authority”) is seeking quotations to enter into a two-year contract with a firm (“Consultant”) to conduct actuarial attestation services for all of the Authority’s Pharmacy Benefit Plans in conjunction with its application for the Retiree Drug Subsidy (“RDS”). The first benefit year is January 1, 2021 through December 31, 2021, and the second benefit year is from January 1, 2022 through December 31, 2022. The deadline for the completion of the actuarial attestation services for the first benefit year is October 1, 2020. All proposers must be currently registered and certified as approved actuaries by the Center for Medicare Services (“CMS”), Retiree Drug Subsidy Program.

Information for Proposers:

- Proposer will determine whether the Authority’s retiree pharmacy plans provide creditable coverage and are actuarially equivalent to the standard Medicare Part D plan as defined by CMS.
- Proposer will determine whether the Authority’s plans provide “creditable coverage” as defined by CMS.
- For all plans offering creditable coverage, proposer will determine whether the plans pass the actuarial equivalence test as defined by CMS.
- If the Authority’s plans pass the actuarial equivalence test; proposer will complete the “Actuarial Attestation” section of the online RDS application for the respective application plan year.
- If the Authority’s plan(s) fail the actuarial equivalence test; proposer will recommend actions that the Authority may take to pass the test and work with the Authority and CMS to complete Actuarial Attestation of the online RDS application.
- Proposer will issue a final report with description of analysis and data documenting the work performed.
- Actuarial attestation services must be provided in strict conformance with all applicable CMS/RDS rules and must be completed before October 1, 2020 for the first benefit year.
- Actuarial attestation is required for the fifteen (15) pharmacy benefit plan designs, or Unique Benefit Option Identifiers (“UBOI”) as defined by CMS/RDS.
- All fifteen (15) of the UBOI’s have been deemed creditable in conjunction with the Authority’s latest 2020 RDS Application. The Authority is in the process of considering additional prescription drug offerings which will require additional actuarial attestation services in future benefit years. Below is the grid listing the Benefit Option Name, Unique Benefit Option Identifier, and Benefit Option Type as filed with Retiree Drug Subsidy program with CMS for the 2020 Application.

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Benefit Option Name	Unique Benefit Option Identifier (UBOI)	Benefit Option Type
RXC51	5/5/10 MO 5/5/10	Self Funded
RXC2	5/5/5 MO 0/0/0	Self Funded
RXC5	0/0/10% MO 0/0/10%	Self Funded
RXC15	1/1/5 MO 1/1/5	Self Funded
RXC4	10/10/20 MO 10/10/20	Self Funded
RXC3	5/5/10 MO 0/0/0	Self Funded
RXC1A	3/10/25 MO 5/15/40	Self Funded
RXC1B	3/50/50 MO 3/100/100	Self Funded
RXVF1	3/10/NA MO 5/15/NA	Self Funded
RXC1AR	3/10/25 MO 5/15/40 C	Self Funded
RXC1BR	3/50/50 MO 3/100 C	Self Funded
RXC6	10/10/20 MO 0/0/0	Self Funded
RXCD1	1/1/1 MO 0/0/0	Self Funded
RXC1	5/5/15 MO 5/5/15	Self Funded
RXVF1R	3/0/NA MO 5/15/NA C	Self Funded

- Refer to page 6 for the High Level Design/Copay Exhibit with detail, for all fifteen (15) pharmacy plan designs. (If the additional option(s) is included, the Exhibit will be amended.)

References and Other Solicitation Requirements

Proposers are required to submit the following with the Request for Quotation. Failure to submit these documents may result in rejection of the bid.

1. Provide three (3) references detailing the proposers experience in performing tasks similar to those listed in the Scope of Work. Provide client name, address, industry (if not obvious), contact name, title, phone number and/or email.
2. Provide proof of registration/certification issued by CMS.

HIGH LEVEL DESIGN/COPAY EXHIBIT

100 PILLS OR 30 DAYS SUPPLY (Whichever is Greater) AT RETAIL / 100 PILLS OR 90 DAYS SUPPLY (Whichever is greater) AT HOME DELIVERY											
RXC1A/R RX PLAN DESIGN			RXC1B/R RX PLAN DESIGN			RXC1C/R RX PLAN DESIGN			RXC1 RX PLAN DESIGN		
	Retail	Home Delivery		Retail	Home Delivery		Retail	Home Delivery		Retail	Home Delivery
Generic	\$3	\$5	Generic	\$3	\$3	Generic	\$3	\$5	Generic	\$5	\$5
Single Source Brand	\$10	\$15	Single Source Brand	\$50	\$100	Single Source Brand	\$10	\$15	Single Source Brand	\$5	\$5
Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$10	\$15	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$50	\$100	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	N/A	N/A	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$5	\$5
Multi-Source Brand	\$25	\$40	Multi-Source Brand	\$50	\$100	Multi-Source Brand	N/A	N/A	Multi-Source Brand	\$15	\$15
Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$25	\$40	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$50	\$100	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	N/A	N/A	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$15	\$15
OOP Max (Single/Family)	\$1,000 / \$2,000		OOP Max (Single/Family)	\$1,000 / \$2,000		OOP Max (Single/Family)	\$1,000 / \$2,000		OOP Max (Single/Family)	N/A	
"DAW1" => Physician does not want Generic Substituted for Brand Name;											
"DAW2" => Physician is OK with Generic Substitution, but Member insists on Brand Name											

100 PILLS OR 30 DAYS SUPPLY (Whichever is Greater) AT RETAIL / 100 PILLS OR 90 DAYS SUPPLY (Whichever is greater) AT HOME DELIVERY											
RXC2 RX PLAN DESIGN			RXC3 RX PLAN DESIGN			RXC4 RX PLAN DESIGN			RXC5 RX PLAN DESIGN		
	Retail	Home Delivery		Retail	Home Delivery		Retail	Home Delivery		Retail	Home Delivery
Generic	\$5	\$0	Generic	\$5	\$0	Generic	\$10	\$10	Generic	0%	0%
Single Source Brand	\$5	\$0	Single Source Brand	\$5	\$0	Single Source Brand	\$10	\$10	Single Source Brand	0%	0%
Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$5	\$0	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$5	\$0	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$10	\$10	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	0%	0%
Multi-Source Brand	\$5	\$0	Multi-Source Brand	\$10	\$0	Multi-Source Brand	\$20	\$20	Multi-Source Brand	10%	10%
Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$5	\$0	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$10	\$0	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$20	\$20	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	10%	10%
OOP Max (Single/Family)	N/A		OOP Max (Single/Family)	N/A		OOP Max (Single/Family)	N/A		OOP Max (Single/Family)	N/A	
"DAW1" => Physician does not want Generic Substituted for Brand Name;											
"DAW2" => Physician is OK with Generic Substitution, but Member insists on Brand Name											

100 PILLS OR 30 DAYS SUPPLY (Whichever is Greater) AT RETAIL / 100 PILLS OR 90 DAYS SUPPLY (Whichever is greater) AT HOME DELIVERY											
RXC1D RX PLAN DESIGN			RXC1E RX PLAN DESIGN			RXC1F RX PLAN DESIGN			RXC1 RX PLAN DESIGN		
	Retail	Home Delivery		Retail	Home Delivery		Retail	Home Delivery		Retail	Home Delivery
Generic	\$1	\$0	Generic	\$1	\$1	Generic	\$5	\$5	Generic	\$10	\$0
Single Source Brand	\$1	\$0	Single Source Brand	\$1	\$1	Single Source Brand	\$5	\$5	Single Source Brand	\$10	\$0
Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$1	\$0	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$1	\$1	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$5	\$5	Multi-Source Brand with Dispensed as Written from the Physician (MSB and DAW1)	\$10	\$0
Multi-Source Brand	\$1	\$0	Multi-Source Brand	\$5	\$5	Multi-Source Brand	\$10	\$10	Multi-Source Brand	\$20	\$0
Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$1	\$0	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$5	\$5	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$10	\$10	Multi-Source Brand and Member Requests MSB (MSB and DAW2)	\$20	\$0
OOP Max (Single/Family)	N/A		OOP Max (Single/Family)	N/A		OOP Max (Single/Family)	N/A		OOP Max (Single/Family)	N/A	
"DAW1" => Physician does not want Generic Substituted for Brand Name;											
"DAW2" => Physician is OK with Generic Substitution, but Member insists on Brand Name											

New Jersey Turnpike Authority

Draft Agreement
ACTUARIAL ATTESTATION SERVICES

THIS AGREEMENT, dated _____, by and between the New Jersey Turnpike Authority, a body corporate and politic of the State of New Jersey having its principal office at 1 Turnpike Plaza, Woodbridge, New Jersey (the "Authority") and _____ having principal offices located at _____ "Consultant").

WITNESSETH, that the said Consultant, for and in consideration of the payments hereinafter specified, hereby covenants, and agrees to furnish the Insurance Archaeology Services specified in this contract in strict conformance with scope of work attached hereto and made a part hereof. Defined terms used herein carry the same meaning as defined in the scope of work.

The term of the Agreement shall commence on the date of the Agreement and terminate two (2) years therefrom, unless earlier terminated. The Authority may opt, at its sole discretion, to renew this Agreement for three (3) additional one (1) year terms.

The Consultant agrees to defend, indemnify and save harmless the Authority, its officers, agents and employees and each and every one of them against and from, and to make payment of all or completed actions, suits, demands for damages or costs of every kind and description actually and reasonably incurred (including attorneys' fees and costs and court costs) (collectively "Liabilities") including, without implied limitations, Liabilities for damage to property or Liabilities for injury or death of the officers, agents and employees of the Consultant or of its sub consultants or of the officers, agents and employees of the Authority), resulting from any act or omission or from the willful misconduct of the Consultant or of any of its officers, agents, employees or sub consultants or of the Authority, its officers, agents, and employees, in any manner related to the subject matter of this Agreement. Any money due to the Consultant under and by virtue of this Agreement as shall be considered necessary by the Authority may be retained by the Authority and held until any and all Liabilities shall have been settled and suitable evidence to that effect furnished to the Authority. The obligations in this Section shall survive the termination, expiration or rescission of this Agreement.

In consideration of the premises, the Authority hereby agrees to pay, as sole compensation for the performance of the Agreement, payments for the actual quantity of authorized work performed, as provided in the scope of work, at the prices for the Scheduled Items of Work in the Proposal.

This Agreement is to be binding upon the Authority, its successor or successors, and upon the Consultant and its heirs, executor, administrators, successor or successors, and is voidable and may be terminated by the Authority, in accordance with the terms of the scope of work, or upon violation by the Consultant of any statute relative thereto.

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The Authority and the Consultant agree to be bound by the terms and conditions attached hereto as Exhibit A.

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this agreement and to affix their respective corporate seals thereto on the day and year first above written.

ATTEST:

NEW JERSEY TURNPIKE AUTHORITY

Kim Schurman
Secretary to the Authority

BY _____
John M. Keller
Executive Director

[Corporate Seal]

ATTEST:

Name / Title

BY _____
Name / Title

[Corporate Seal]

**Exhibit A
Terms and Conditions**

- 1. BILLING TERMS.** Authority acknowledges the obligation to pay Consultant for services rendered, whether arising from Authority's request or *otherwise* necessary as a result of this engagement, at Consultant's standard hourly billing rates for the personnel utilized plus all out-of-pocket expenses incurred. Consultant will bill Authority periodically for services rendered and expenses incurred. All invoices are payable upon receipt. Consultant reserves the right to stop all work if any bill goes unpaid for 60 days. In the event of such termination, Consultant shall be entitled to collect the outstanding balance, as well as charges for all services and expenses incurred up to the date of termination.
- 2. TOOL DEVELOPMENT.** Consultant shall retain all rights, title and interest (including, without limitation, all copyrights, patents, service marks, trademarks, trade secret and other intellectual property rights) in and to all technical or internal designs, methods, ideas, concepts, know-how, techniques, generic documents and templates that have been previously developed by Consultant or developed during the course of the provision of the Services provided such generic documents or templates do not contain any Authority Confidential Information or proprietary data. Rights and ownership by Consultant of original technical designs, methods, ideas, concepts, know-how, and techniques shall not extend to or include all or any part of Authority's proprietary data or Authority Confidential Information. To the extent that Consultant may include in the materials any pre-existing Consultant proprietary information or other protected Consultant materials, Consultant agrees that Authority shall be deemed to have a fully paid up license to make copies of the Consultant owned materials as part of this engagement for its internal business purposes and provided that such materials cannot be modified or distributed outside the Authority without the written permission of Consultant or except as otherwise permitted hereunder.
- 3. LIMITATION OF LIABILITY.** Consultant will perform all services in accordance with applicable professional standards. In the event of any claim arising from services provided by Consultant at any time, the total liability of Consultant, its officers, directors, agents and employees to Authority shall not exceed five million dollars (\$5,000,000). This limit applies regardless of the theory of law under which a claim is brought, including negligence, tort, contract, or otherwise. In no event shall Consultant be liable for lost profits of Authority or any other type of incidental or consequential damages. The foregoing limitations shall not apply in the event of the intentional fraud or willful misconduct of Consultant. Authority has had the opportunity to review the foregoing Limitation of Liability provision with legal counsel. Authority understands that this clause limits Authority's ability to recover damages from Consultant, including damages caused by Consultant's negligence. On the advice of counsel Authority believes and agrees that this clause is enforceable under Wisconsin law and intends to be bound by same.
- 4. DISPUTES.** If any dispute occurs between the parties, they shall attempt in good faith to resolve the dispute through informal negotiations between senior level executives with decision making authority. If such negotiations fail after a good-faith effort has occurred, only then may a party institute litigation. The parties agree that any litigation will be filed and conducted in the federal courts located in Newark, New Jersey and, subject to the next sentence, all parties consent to the exclusive venue and the personal jurisdiction of such federal courts. A party may challenge federal jurisdiction under 28 U.S.C. § 1332 only if such motion is based solely on a lack of sufficient amount in controversy. Both parties agree to waive the right to a trial by jury.
- 5. CHOICE OF LAW.** The construction, interpretation, and enforcement of this Agreement shall be governed by the substantive contract law of the State of New Jersey without regard to its conflict of laws provisions. In the event any provision of this agreement is unenforceable as a matter of law, the remaining provisions will stay in full force and effect.
- 6. NO THIRD PARTY DISTRIBUTION.** Consultant's work is prepared solely for the use and benefit of the Authority in accordance with its statutory and regulatory requirements. Consultant recognizes that materials it delivers to the Authority may be public records subject to disclosure to third parties, however, Consultant does not intend to benefit and assumes no duty or liability to any third parties who receive Consultant's work and may include disclaimer language on its work product so stating. The Authority agrees not to remove any such disclaimer

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language from Consultant's work. The Authority agrees that it shall not disclose Consultant's work product to any third party other than the Authority's Officers, Commissioners, Employees, Agents, or as required by applicable law. Additionally, the Authority may disclose Consultant's work product to its professional service advisors who (a) are bound by and obligation of confidentiality, and (b) agree to use the Contractor work product only in connection with their provision of services to the Authority.

- 7. USE OF CONSULTANT'S NAME.** Authority agrees that it shall not use Consultant's name, trademarks or service marks, or refer to Consultant directly or indirectly in any media release, public announcement or public disclosure, including in any promotional or marketing materials, customer lists, referral lists, websites or business presentations without Consultant's prior written consent for each such use or release, which consent shall be given in Consultant's sole discretion.
- 8. CONFIDENTIALITY.** In connection with this Agreement, each party hereto (a "disclosing party") may disclose its confidential and proprietary information to the other party (a "receiving party"). Subject to the exceptions listed below, a disclosing party's "Confidential Information" shall be defined as information disclosed by the disclosing party to the receiving party under this Agreement that is either: (i) clearly marked or otherwise clearly designated as confidential or proprietary; or (ii) should be reasonably understood by the receiving party to be the confidential or proprietary information of the disclosing party. Confidential Information shall include, without limitation, the terms of this Agreement. During the term of this Agreement and after its expiration or termination, a receiving party shall not disclose to any third party, a disclosing party's Confidential Information without the prior written consent of the disclosing party. In addition, each party agrees to take reasonable measures to protect the other party's Confidential Information and to ensure that such Confidential Information is not disclosed, distributed, or used in violation of the provisions of this Agreement (which measures shall be no less than that which a reasonable person would take with respect to like confidential, proprietary, or trade secret information). Notwithstanding anything to the contrary, the obligations of the receiving party set forth in this paragraph shall not apply to any information of the disclosing party which: (i) is or becomes a part of the public domain through no wrongful act of the receiving party; (ii) was in the receiving party's possession free of any obligation of confidentiality at the time of the disclosing party's communication thereof to the receiving party; (iii) is developed by the receiving party completely independent from the Confidential Information of the disclosing party; or (iv) is required by law or regulation to be disclosed, but only to the extent and for the purpose of such required disclosure after providing the disclosing party with advance written notice if reasonably possible such that the disclosing party is afforded an opportunity to contest the disclosure or seek an appropriate protective order.
- 9. GENERAL.** This Agreement and any amendment hereto or thereto may be executed in two or more counterparts (including by facsimile or email attachment), each of which will be considered an original but all of which together will constitute one agreement. This Agreement shall not be deemed or construed to be modified, amended, or waived, in whole or in part, except as set forth herein or by a separate written agreement duly executed by the parties to this Agreement. No document, purchase order, or any handwritten or typewritten text which purports to alter or amend the printed text of this Agreement shall alter or amend any provision of this Agreement or otherwise control, unless Consultant and Authority both specify in writing that such terms or conditions shall control. Neither party shall be liable for any delay or failure to perform due to causes beyond its reasonable control. Consultant and Authority are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between Consultant and Authority. Neither Consultant nor Authority will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent, except as otherwise expressly provided in this Agreement. Failure to enforce any term or condition of this Agreement shall not be deemed a waiver of the right to later enforce such term or condition or any other term or condition of this Agreement.