

V. Items For Discussion:

c. TSA Consulting Group Administration Agreement

## **Retirement Plan Compliance and Administration Services Agreement**

**PREAMBLE:** The following constitutes a binding “Agreement,” effective as of August 1, 2018 between TSA Consulting Group, Inc., a Florida Corporation, (hereinafter referred to as “TSACG”) whose principal place of business is 15 Yacht Club Drive NE, Ft. Walton Beach, Florida 32548 and the **East Stroudsburg Area School District, 50 Vine Street, East Stroudsburg, PA 18301**, hereinafter referred to as “Plan Sponsor.”

**PURPOSE:** Plan Sponsor wishes to retain the services of TSACG to provide retirement plan consulting, compliance and administration services to the Plan Sponsor for the Plan Sponsor’s voluntary retirement programs under Sections 403(b) and/or 457(b) of the Internal Revenue Code (“403(b)/457(b)”) and TSACG is willing to provide such services.

1. TSACG agrees that for a period of twelve (12) months, commencing with the effective date of this Agreement, it will, consistent with its other obligations, render to the Plan Sponsor such consulting, plan administration services and IRS compliance guarantee as set forth in the “Compliance Edge Services;”; “IRS Compliance Guarantee”; “Plan Administration Agreement”; “Plan Administration Fee Schedule”; “EPARS Subscription Agreement”; and “EPARS Subscription Adoption Agreement,” all of which are attached and incorporated herein referred to as the “Agreements.” This Agreement may be renewable at the end of each contract year by mutual agreement of both parties for four (4) additional one-year periods.
2. Plan Sponsor agrees that it will render to TSACG all reasonable assistance and information necessary to accomplish services set forth in the Agreements. The Plan Sponsor shall provide all information including, yet not limited to, items set forth in “Plan Sponsor Duties”, attached and incorporated herein. Transmission of all information from the Plan Sponsor to TSACG shall be performed on a timely basis relative to services provided and service dates set forth in this Agreement.
3. Plan Sponsor agrees that TSACG shall be remunerated for such consulting, compliance and administration services by the authorized Investment Providers participating in the Plan(s), also known as Compliance Edge®, at the stated rate and methods shown in the Plan Administration Agreement Fee Schedule attached and herein incorporated by reference.
4. TSACG shall act as an independent consultant and/or administrator and not as an agent or employee of the Plan Sponsor and TSACG shall make no representation as an agent or employee of the Plan Sponsor. TSACG shall furnish evidence of business liability and errors and omissions insurance in such limits of liability and written by an insurance company licensed in the state of Florida and acceptable to the Plan Sponsor. TSACG shall be responsible for all taxes as an independent consultant and/or administrator. TSACG shall have no authority to bind the Plan Sponsor or incur other obligations on behalf of the Plan Sponsor.
5. TSACG agrees to hold in confidence all employee information received from the Plan Sponsor in connection with this Agreement and necessary to complete the scope of services outlined in the Agreements. TSACG shall protect all information received from the Plan Sponsor from misuse, espionage, loss or theft and in accordance with federal laws. This information will not be transmitted or used for the purpose of solicitation in any form, and upon request all information held by TSACG will be returned to the Plan Sponsor.
6. TSACG warrants that it is under no obligation to any other entity that in any way conflicts with this Agreement and that it is free to enter into this Agreement.

7. This Agreement and all extensions and modifications hereof and all questions relating to its validity and interpretation, performance and enforcement shall be governed by and construed in conformance with the laws of the State of Pennsylvania, unless preempted by federal law.
8. All parties agree that proper venue for any lawsuit arising out of this Agreement shall be in Monroe County, Pennsylvania.
9. TSACG agrees that it will indemnify and hold harmless the Plan Sponsor, individual members of the Plan Sponsor, its representatives and employees, from any claim, demand or suit which may arise from, be connected with, or be made due to the negligence or failure to satisfy the requirements of this Agreement. This indemnification shall include all related costs, including but not limited to, attorneys' fees, consultant fees, fees for other professional service providers, as well as court costs, fines, penalties or other similar charges against the Plan Sponsor, provided that the Plan Sponsor notifies TSACG, in writing, no later than 30 calendar days after receipt of such claim or demand. Notwithstanding the preceding, this indemnification shall not cover any claim or demand based on erroneous information provided by the Plan Sponsor, its employees or other representatives.
10. This Agreement may be modified, amended or terminated by either party upon 60 days written notice to the other party, provided that no such modification, amendment or termination shall affect the liability of either party incurred prior to such event.
11. This Agreement may be executed in any number of counterparts, each of which, including any reliable copies or facsimiles thereof, will be deemed to be an original and all of which together shall be deemed to be one and the same instrument.
12. If any provision of this agreement shall be held or declared to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provisions shall not affect any other provision of this Agreement, and the remainder of this Agreement shall continue in full force and effect as though such provisions had not been contained in this Agreement. If the scope of any provision in this agreement is found to be too broad to permit enforcement of such provision to its fullest extent, the parties consent to judicial modification of such provision and enforcement to the maximum extent permitted by law.

We, the undersigned as duly authorized representatives, agree to all the terms and conditions stated above, and by our signatures, place this Agreement into full force and effect as of the date first above-written.

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

**TSA CONSULTING GROUP, INC.**

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

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

Name: \_\_\_\_\_

Name: Janet Williamson

Title \_\_\_\_\_

Title: Senior VP, Chief Financial Officer

Federal Tax Identification Number:

Federal Tax Identification Number:

23-1669371

59-3451677

## Compliance Edge® Services

In accordance with the Agreement between the Plan Sponsor and TSA Consulting Group, Inc. (TSACG), the following services will be provided by TSACG;

1. Maximum Allowable Contribution (MAC) calculations will be maintained for all employees eligible to participate in the employer's authorized 403(b) and/or 457(b) plans. These calculations shall include limits applicable to 403(b) and/or 457(b) plans under applicable Sections of the Internal Revenue Code. Such calculations shall be performed in accordance with accepted standards and subject to the prevailing Internal Revenue Codes and Regulations at that time. MAC's will be based on information obtained from the Plan Sponsor and/or the employee and any statement or guarantee of accuracy by TSACG will be contingent on the accuracy of the information delivered by the Plan Sponsor and/or the employee.
2. TSACG shall provide an annual review and audit of the previous year's contributions for all employees. TSACG shall notify the Plan Sponsor of all non-compliant contributions and provide the necessary data to facilitate notification to employees affected and completion of correction procedures as required by current Revenue Procedures.
3. A master file of MAC calculations will be maintained by TSACG during the term of this Agreement.
4. TSACG will administer the plan with respect to processing participant requests for loans, distributions, transfers, qualified domestic relations orders, and rollovers, including interactions with other investment providers necessary to administer the plan subject to the terms and conditions included in the Plan Administration Agreement.
5. Electronic remittance services will be available to the Plan Sponsor through the Electronic Process for Automated Remittance Services of EPARS program maintained by TSACG. These services are subject to the terms and conditions included in the EPARS Subscription and Adoption Agreement included as EPARS Subscription and Adoption Agreement.
6. Employee communications components (handbooks) will be delivered to the Plan Sponsor once annually in sufficient quantities for all eligible employees. The employee awareness and educational materials shall be generic in content regarding 403(b) and/or 457(b) requirements, and will also address the specific policies and procedures of the Plan Sponsor relative to all retirement programs maintained by the Plan Sponsor. Components will be revised annually to facilitate changes in IRS rules or changes in the Plan Sponsor's policies and procedures.
7. Video presentations will be produced, distributed and available via online stream by TSACG once annually. Video presentations shall be generic and topical in nature concerning the 403(b) and/or 457(b) programs.
8. Web pages specific to the Plan Sponsor will be made available and will be maintained by TSACG for information on their retirement plans.
9. TSACG shall provide ongoing administrative support to the Plan Sponsor, including, but not limited to, the development of appropriate policies and/or procedures regarding all employee retirement programs. Such administrative support includes research and development of any new programs and/or Investment Providers or Investment Products that may be regarded as beneficial to the Plan Sponsor and its employees.
10. TSACG expressly agrees to cooperate with and offer assistance to the Plan Sponsor in the event of any audit of the 403(b) and/or 457(b) plans by the IRS.



## **IRS Compliance Guarantee**

TSACG Consulting Group, Inc. (TSACG) guarantees retirement plan compliance with regulations and guidelines issued by the Internal Revenue Service (IRS) for all clients that are subject to IRS audit for a calendar year in which the client has a Retirement Plan Compliance and Administrative Services Agreement in effect with TSACG on January 1 of that year. In the event that the IRS determines, on audit, that there is a compliance failure with respect to the client's plan, and the client incurs financial loss due to that determination, TSACG will reimburse the client for the tax, penalty and interest assessed by the IRS in connection with that compliance failure, or will refund the client 100% of the administrative fees collected by TSACG for that calendar year, whichever is less. This guarantee is contingent on the following items being true:

1. TSACG is appointed to represent the client (at no additional charge) during the audit. (IRS Form 2848 – Power of Attorney and Declaration of Representative)
2. The compliance failure is not related to inaccurate communications or data provided to TSACG for which the client was/is responsible.
3. The client has continually acted in cooperation with the operational directives offered by TSACG relative to the plan audited.

This IRS Compliance Guarantee is effective for contracts dated on or after September 1, 2017.

## **Plan Sponsor Duties**

In accordance with the Agreement between TSACG and the East Stroudsburg Area School District, the following information and services will be provided by the Plan Sponsor to TSACG;

1. All available data necessary to complete the services provided by TSACG as outlined in the Agreements. Such data shall include, yet not be limited to, Plan Sponsor policies and procedures regarding all qualified plans offered by the Plan Sponsor, participating vendor information, employee data pertinent to MAC calculations to the extent possible for current and prior years' service, and all additional information deemed necessary to complete the scope of work as defined by the Agreement. Data required for MAC calculations shall be supplied electronically by the Plan Sponsor in a format mutually agreed upon by both parties to the Agreement.
2. Distribution of all employee and worksite materials on a timely basis
3. All other appropriate, commonly accepted, efforts necessary to develop and maintain compliance with existing or amended Internal Revenue Codes regarding the retirement plans offered by the Plan Sponsor.
4. The Plan Sponsor shall require all providers of investment products and services to the retirement plans to cooperate with TSACG by providing any information needed to complete the terms of this Agreement.
5. The Plan Sponsor shall instruct staff to cooperate fully with TSACG regarding the compliance review and in obtaining all necessary information for TSACG to complete the duties described in this Agreement. The Plan Sponsor realizes that any delay in providing data and information to TSACG may impede completion of services as described in this Agreement.

## Plan Administration Agreement

This Administrative Agreement (hereinafter "Agreement") is executed this 1st day of August 2018 by TSA Consulting Group, Inc. ("TSACG") and East Stroudsburg Area School District (Plan Sponsor").

WHEREAS, Plan Sponsor has established a  403(b) Plan and/or a  457(b) Plan and is authorized to appoint service providers; and

WHEREAS, Plan Sponsor desires to appoint TSACG as the administrator of the Plan(s) established and indicated herein; and

WHEREAS, TSACG is authorized to accept the appointment as administrator and desires to provide such services subject to the terms and conditions set forth herein;

NOW THEREFORE, the parties agree as follows:

### 1.0 Designation of TSACG as Administrator.

Plan Sponsor hereby appoints TSACG as Administrator of the plan(s) established and indicated herein.

### 2.0 Responsibilities of TSACG.

TSACG will provide the recordkeeping and related plan administrative services, which services shall include the following:

- 2.1 Plan Documents: TSACG will provide appropriate Plan Documents to the Plan Sponsor, for review and approval. These documents shall govern the plan(s).
- 2.2 Meaningful Notice: TSACG will assist the Plan Sponsor in developing and distributing employee communications material including specific information on eligibility and enrollment procedures. These communications shall be developed and distributed at least once each calendar year.
- 2.3 Forms and Procedures: TSACG will develop standardized administrative forms for use by the Plan Sponsor and participants for the purposes of enrollment and asset transactions under the Plan(s).
- 2.4 Participant Records: TSACG will establish and maintain a record for each participant reflecting the date, amount and type of each transaction in the participant's account based on information provided to TSACG from the Plan Sponsor, employees and product providers. Records maintained by TSACG shall include all information necessary to comply with applicable regulations, rulings and procedures established by the Internal Revenue Service for the plan types indicated herein. The Plan Sponsor will determine eligibility requirements for employees and TSACG shall be entitled to rely on the Plan Sponsor's eligibility determinations.
- 2.5 Participant Inquiries: TSACG will provide adequate access to participants regarding their records and transactions recorded by TSACG. Access shall include, at a minimum, customer service representatives during normal business hours to assist participants with information and transactions under the Plan(s).
- 2.6 Aggregation of Data: TSACG will assist the Plan Sponsor with the development and execution of agreements between the Plan Sponsor and each investment product provider under the Plan(s) regarding the sharing and aggregation of participant data necessary to facilitate recordkeeping and administration duties for the Plan(s). TSACG will exercise its best efforts to cooperate with each provider that maintains participant accounts under the Plan(s) that are subject to the recordkeeping requirements of applicable Internal Revenue Service regulations, rulings and procedures.
- 2.7 Plan Sponsor Reports: TSACG will prepare Plan reports as necessary for the Plan Sponsor including, yet not limited to, contribution auditing and excess contribution corrections.
- 2.8 Technical Assistance: TSACG will provide technical and consulting assistance to the Plan Sponsor upon request and under terms mutually agreeable between TSACG and the Plan Sponsor.
- 2.9 Other Assistance: TSACG will provide other assistance to the Plan Sponsor upon mutual agreement between both parties.

- 3.0 **Responsibilities of the Plan Sponsor.** Plan Sponsor acknowledges that it is responsible for the following:
- 3.1 Plan and Participant Data: Plan Sponsor will provide all necessary plan and participant data required by TSACG to accomplish proper plan administration duties including, yet not limited to, plan documents, policies and procedures, contribution history and all other data as may be reasonably requested by TSACG.
  - 3.2 Fee Billing and Payment: Plan Sponsor agrees that TSACG will charge fees for its services to the authorized Investment Providers participating in the Plan(s) in accordance with the Plan Administration Fee Schedule. Any changes to the fee schedule will be subject to mutual agreement between TSACG and the Plan Sponsor and require notice of at least sixty (60) days prior to the change effective date.

4.0 **Miscellaneous.**

- 4.1 Termination: Plan Sponsor or TSACG may terminate this agreement at any time upon sixty (60) days prior written notice to the other party. TSACG agrees to deliver to the Plan Sponsor or its designee, all records reasonably necessary for the continuing recordkeeping of the Plan.
- 4.2 Notices: Notices or other communications given pursuant to this agreement shall be hand delivered, mailed by first class mail service, addressed as follows, or as changed by notice:
  - a) To TSACG: TSA Consulting Group, Inc.  
15 Yacht Club Drive NE  
Fort Walton Beach, FL 32548
  - b) To Plan Sponsor: East Stroudsburg Area School District  
50 Vine Street  
East Stroudsburg, PA 18301
- 4.3 Entire Agreement: Supplements and Amendments. This agreement generally constitutes the entire agreement between the parties, merging all prior presentations, discussions and negotiations. It may be modified by additional letter or other written agreements executed by each party contemporaneously with this agreement, which may modify its provisions or meanings. It may be further supplemented, but not modified, by TSACG from time to time with written procedures that provide a description of the ordinary processes for the parties to fulfill their obligations hereunder, which shall not exclude extraordinary processing in appropriate situations that produces comparable results. Finally, this agreement may be amended at any time, but only by written agreement signed by all parties hereto.
- 4.4 Assignment: Some or all of the rights and duties of TSACG hereunder may be assigned to an affiliate, or to any successor through merger, reorganization, or sale of assets. Some duties of TSACG may be performed by others under subcontract, without the release of TSACG for responsibility for such services. Otherwise, no party may assign this agreement nor any rights or duties hereunder without the prior written consent of the other party.
- 4.5 Governing Law: Except to the extent governed by federal law, this agreement shall be governed by and constructed according to the laws of the state where Plan Sponsor's principal office resides.

**PLAN ADMINISTRATION FEE SCHEDULE**

Plan Sponsor hereby agrees that TSACG, in remuneration for administrative and recordkeeping services for the Plan(s) indicated in the Administrative Services Agreement and dated August 1, 2018 shall be entitled to collect the following fees from each authorized investment product provider under the plan:

**INVESTMENT PRODUCT PROVIDER FEES:**

Recordkeeping – (Per Participant \* Account) \$0.00 per year billed monthly

Billing Effective Date\*\*: September 1, 2018

\*"Participant" is defined as any individual that maintains one or more accounts with assets under the Plan

\*\*The "Billing Effective Date" will be the billing cycle that is at least 30 days following the execution date of the Plan Administration Fee Schedule (i.e., a January 15 execution date would trigger a March 1 billing date).

Required Provider Fees: Plan Sponsor further agrees and stipulates that each authorized investment product provider is required to pay the fees described herein directly to TSACG unless otherwise modified by the Plan Sponsor upon notice to the investment product provider. Each authorized provider must agree to the fee schedule set forth herein as a condition of participation under the Plan(s).

Method of Payment: Investment Product Providers shall remit the fees described herein in a timely manner and according to a reasonable method of remittance as determined by TSACG.

Basis for Invoicing – Provider Fees: TSACG shall bill each Investment Product Provider monthly according to the number of participants that maintain one or more accounts under the Plan. The actual number of participant accounts will be determined according to the participant data files generated by the Provider as required under the Investment Provider Service Agreement between the Plan Sponsor and the Provider.

Provider Discretion – Investment Product Pricing: The Plan Sponsor intends to maintain a high quality array of investment products and providers under the Plan for the benefit of participants. Plan Sponsor recognizes and agrees that Providers have sole discretion regarding the pricing of their investment products and the generation of revenue models sufficient to offset expenses related to participation in the Plan Sponsor Plan.

Plan Sponsor Reports: TSACG shall be responsible for submitting reports to the Plan Sponsor regarding fees assessed to and collected from Investment Product Providers. TSACG shall not attempt to collect any fees from Investment Product Providers other than those expressed in this fee schedule.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their authorized representatives.

PLAN SPONSOR:  
EAST STROUDSBURG AREA SCHOOL DISTRICT

ADMINISTRATOR:  
TSA CONSULTING GROUP, INC.

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

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

Name: \_\_\_\_\_

Name: Janet Williamson

Title: \_\_\_\_\_

Title: Senior VP, Chief Financial Officer

Execution Date: \_\_\_\_\_

## EPARS Subscription Agreement - Section I

TSA Consulting Group Inc.(TSACG) is owner of a software product known as Electronic Process for Automated Remittance Services or “EPARS,” which, among other things as of the date set forth on the Adoption Form, is designed to support and facilitate: (i) the input and transmittal of Employer and/or Participant Data, and (ii) the transfer of Employer and/or Participant Contribution Remittances through banking institutions as regulated by the Federal Reserve System, as licensed pursuant to this Schedule.

1. **Definitions** The following definitions are used in this Schedule as defined below:

“**Subscription Adoption Agreement**” shall mean Section II outlining the specific administrative guidelines selected by the Licensee with regard to the transmission of Employer and Participant Data and Contribution Remittances to Authorized Provider Companies, error correction and transaction fees applicable to the Authorized Provider Companies and/or the Licensee.

“**Authorized Provider Companies**” shall mean any organization authorized by the Employer to provide products and/or services pursuant to an established Employer benefit program.

“**Bank Transfer Agent**” shall mean the bank listed in section 8 below, “Bank Transfer Agent” and subsequently responsible for the transfer of data and funds received from the Licensee to Authorized Provider Companies.

“**Contribution Remittances**” shall mean monetary employer contributions and/or employee contributions to Authorized Provider Companies or payments to Designated Entities.

“**Designated Entities**” shall mean any person, organization or governmental agency to whom the Licensee or Employee is bound by authorization or legal order to remit payments.

“**Employer Data**” shall mean information specific to the Licensee and pertinent to the accurate remittance of Employer or Participant remittances.

“**Licensee**” shall mean the Employer/User of the EPARS software product.

“**Participant**” shall mean the Employee for whom payroll deduction or reduction remittances are processed or for whom Employer Contribution Remittances are made.

“**Participant Data**” shall mean information specific to the Participant and pertinent to the accurate remittance of Employer or Participant remittances.

“**Transaction**” shall mean any transmission initiated by the Employer via EPARS in which a Contribution Remittance and Employer and Participant Data is delivered to an Authorized Provider Company.

2. **Restrictions on Use** Licensee shall only use the Licensed Materials for its own internal business purposes. Without derogating the generality of the foregoing, (i) Licensee shall not use or allow others to use the Licensed Materials in a multiple-use arrangement or as a part of a service bureau without the prior written consent of TSACG.

3. **Licensee's Obligations**

- a) Licensee is obligated to abide by the EPARS Adoption Agreement provisions selected by the Licensee during the term of the Subscription Agreement.
- b) The Licensee acknowledges that the provisions of the Adoption Agreement must be congruent with the policies and guidelines established for the employee benefit programs supported by EPARS.
- c) The Licensee acknowledges the role and responsibilities of TSACG to install and maintain the EPARS software for the Licensee and the need for the Licensee to communicate changes regarding Authorized Provider Companies or bank relationships to TSACG on a timely basis.
- d) The Licensee acknowledges the need to communicate with both TSACG and Authorized Provider Companies regarding the resolution of errors or omissions that may occur during the Licensee's preparation and submission of Employer and Participant Data or the application of the Employer and Participant Data by the Authorized Provider Company.

4. **Licensed Software Limitations** Neither TSACG nor the Bank Transfer Agent guarantees that remittances will be credited to participant accounts within any specified period of time after transfer of the data and funds to Authorized Provider Companies. Licensee acknowledges the role and responsibilities of the Licensee with respect to the use of EPARS and the preparation of Employer and Participant Data and the role and responsibilities of the Authorized Provider Companies regarding the proper application of data and funds transferred using EPARS.

5. **Use of Licensed Software** Licensee will use the Licensed Software to submit Employer and Participant Data to the Bank Transfer Agent and Authorized Provider Companies. Licensed Software is intended to allow the Licensee to transfer bundled Employer and Employee Data via a secure Internet site to Authorized Provider Companies. The Licensed Software will separate Employer and Participant Data and transfer said Data specific to each Authorized Provider Company. The Licensed Software will also allow the Licensee to provide instructions to the Bank Transfer Agent regarding funds transfer to each specific Authorized Provider Company.

6. **Compliance with Law** Licensee understands that it is responsible for complying with any applicable federal, state or local statutes, regulations or ordinances governing or regulating the remittance of Employer and Participant Data and Contributions.

7. **Recordkeeping** Licensee acknowledges and agrees that it may be required to maintain records of certain data pursuant to federal or state laws and regulations. Licensee understands and agrees that: (i) it bears sole responsibility for such obligation; (ii) it may need to download data into its own systems storage facilities or print out hard copies of such data from the Licensed Software in order to generate or obtain information necessary to meet such recordkeeping requirements; and (iii) in no event will TSACG be responsible for maintaining any such data for Licensee. TSACG will make every reasonable attempt to assist the Licensee in the maintenance and retrieval of records pertaining to Employer and Participant Data and Contribution Remittances.

8. **Bank Transfer Agent** TSACG assumes sole responsibility for the maintenance of EPARS. Therefore, the Bank Transfer Agent may be changed at any time as deemed necessary by TSACG to ensure the proper function and viability of EPARS. Notice of any changes shall be forwarded to the Employer and Authorized Provider Company at least 30 days prior to the effective date of any changes.



## Designated Bank Transfer Agent

Wells Fargo, N. A.  
Treasury Services Department  
225 Water Street, 2<sup>nd</sup> Floor FL0120  
Jacksonville, FL 32202

9. **Restrictions** Licensee shall not directly, or permit others to: (i) disassemble, decompile or otherwise derive source code from the Licensed Software; (ii) reverse engineer the Licensed Software or the services; (iii) copy the Licensed Software; (iv) use the Licensed Software or services in any manner that infringes the intellectual property or other rights of another party; or (v) transfer the Licensed Software or any copy thereof or access to the Services to another party without the express prior written consent of TSACG.
10. **Term and Termination** This Agreement is effective upon the Licensee's assent to its terms and conditions and shall continue for the period agreed upon by the Licensee and TSACG. This Agreement may be modified, amended only by a written amendment signed by both parties hereto. This Agreement may be terminated, without cause, by either party upon 60 days written notice to the other party. No modification, amendment, or termination of this Agreement shall affect the liability of either party incurred prior to such event.
11. **Assignment** Some or all of the rights and duties of TSACG hereunder may be assigned to an affiliate, or to any successor through merger, reorganization, or sale of assets. Some duties of TSACG may be performed by others under subcontract, without the release of TSACG for responsibility for such services. Otherwise, no party may assign this agreement nor any rights or duties hereunder without the prior written consent of the other party.
12. **Confidentiality** All data processed through EPARS is considered confidential, including, without limitation, the information pertaining to the Licensed Software. The Licensee and TSACG agree to hold all data and information in confidence both during the term of this Agreement and thereafter. The parties further agree, unless required by law, not to make data or information available in any form to any third party for any purpose other than the implementation of this Agreement.
13. **Survival** If any provision of this agreement shall be held or declared to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provisions shall not affect any other provision of this agreement, and the remainder of this agreement shall continue in full force and effect as though such provisions had not been contained in this agreement. If the scope of any provision in this agreement is found to be too broad to permit enforcement of such provision to its fullest extent, the parties consent to judicial modification of such provision and enforcement to the maximum extent permitted by law. Any provisions of this Agreement that contemplate their continuing effectiveness, including, without limitation, Sections 4, 6, 7, 8, 9 and 11 shall survive any termination of this Agreement.



**EPARS Subscription Adoption Agreement – Section II**

The Agreement (Agreement) sets forth the administrative guidelines selected by the Licensee with regard to the transmission of Employer and Participant Data and Contribution Remittances to Authorized Provider Companies (APC), error correction and transaction fees applicable to the Authorized Provider Companies and/or the Licensee.

- I. Licensee:** Name: East Stroudsburg Area School District  
Address: 50 Vine Street, East Stroudsburg, PA 18301

**EPARS Guidelines:**

**A. Transmission of Employer and Participant Data**

The Licensee requires Authorized Provider Companies to accept data in the following manner(s):

- EPARS transmission to APC secure File Transfer Protocol (FTP) site.
- APC retrieval of Data from EPARS secure FTP site.
- Encrypted e-mail or attachment to data transmitted to APC.

**Contribution Remittance/ Funds Transmittal Requirements**

The Licensee requires Authorized Provider Companies to accept Contribution Remittance Funds in one of the following methods:

- ACH transfers of funds to APC bank. (Direct Deposit) and/or
- Paper check mailed to APC via regular mail (Digital Signature Required)

- Plan Sponsor elects to implement EPARS**
- Plan Sponsor elects to postpone implementation of EPARS at this time.**

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

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

Name: \_\_\_\_\_

Title \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT C**

BASIS OF REMUNERATION: Annual compensation for services provided by TSACG subject to the Agreement shall be invoiced at stated rate including an initial setup fee in the first year.

Standard Fees for all services listed in the **Compliance Edge® Program**:

Comprehensive Program - **The Compliance Edge®**  
**Total Cost of basic services**

- All services described in Exhibit A of this contract-

**\$2.00 per month, per contributing participant, billed monthly to the Plan Sponsor.**

Number of contributing participants will be determined monthly by the most recent data furnished to TSA Consulting Group, Inc. by the Plan Sponsor.

All services shall be billed monthly beginning September 1, 2018, at the equivalent rates shown above. Fees described above are based on total number of employees for this employer. Rates for larger or smaller groups may vary according to current published rate schedules established by TSACG.

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

**TSA CONSULTING GROUP, INC.**

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

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

Name: \_\_\_\_\_

Name: Janet Williamson

Title \_\_\_\_\_

Title: Senior VP, Chief Financial Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Retirement Plan Compliance and Administration Services Agreement**

**PREAMBLE:** The following constitutes a binding "Agreement," effective as of August 1, 2018 between TSA Consulting Group, Inc., a Florida Corporation, (hereinafter referred to as "TSACG") whose principal place of business is 15 Yacht Club Drive NE, Ft. Walton Beach, Florida 32548 and the **East Stroudsburg Area School District, 50 Vine Street, East Stroudsburg, PA 18301**, hereinafter referred to as "Plan Sponsor."

**PURPOSE:** Plan Sponsor wishes to retain the services of TSACG to provide retirement plan consulting, compliance and administration services to the Plan Sponsor for the Plan Sponsor's voluntary retirement programs under Sections 403(b) and/or 457(b) of the Internal Revenue Code ("403(b)/457(b)") and TSACG is willing to provide such services.

1. TSACG agrees that, commencing with the effective date of this Agreement, it will, consistent with its other obligations, render to the Plan Sponsor such consulting, plan administration services and IRS compliance guarantee as set forth in the "Compliance Edge Services," "IRS Compliance Guarantee"; "Plan Administration Agreement"; "Plan Administration Fee Schedule"; "EPARS Subscription Agreement"; and "EPARS Subscription Adoption Agreement," all of which are attached and incorporated herein referred to as the "Agreements."
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4. TSACG shall act as an independent consultant and/or administrator and not as an agent or employee of the Plan Sponsor and TSACG shall make no representation as an agent or employee of the Plan Sponsor. TSACG shall furnish evidence of business liability and errors and omissions insurance in such limits of liability and written by an insurance company licensed in the state of Florida and acceptable to the Plan Sponsor. TSACG shall be responsible for all taxes as an independent consultant and/or administrator. TSACG shall have no authority to bind the Plan Sponsor or incur other obligations on behalf of the Plan Sponsor.
5. TSACG agrees to hold in confidence all employee information received from the Plan Sponsor in connection with this Agreement and necessary to complete the scope of services outlined in the Agreements. TSACG shall protect all information received from the Plan Sponsor from misuse, espionage, loss or theft and in accordance with federal laws. This information will not be transmitted or used for the purpose of solicitation in any form, and upon request all information held by TSACG will be returned to the Plan Sponsor.
6. TSACG warrants that it is under no obligation to any other entity that in any way conflicts with this Agreement and that it is free to enter into this Agreement.

7. This Agreement and all extensions and modifications hereof and all questions relating to its validity and interpretation, performance and enforcement shall be governed by and construed in conformance with the laws of the State of Pennsylvania, unless preempted by federal law.
8. All parties agree that proper venue for any lawsuit arising out of this Agreement shall be in Monroe County, Pennsylvania.
9. TSACG agrees that it will indemnify and hold harmless the Plan Sponsor, individual members of the Plan Sponsor, its representatives and employees, from any claim, demand or suit which may arise from, be connected with, or be made due to the negligence or failure to satisfy the requirements of this Agreement. This indemnification shall include all related costs, including but not limited to, attorneys' fees, consultant fees, fees for other professional service providers, as well as court costs, fines, penalties or other similar charges against the Plan Sponsor, provided that the Plan Sponsor notifies TSACG, in writing, no later than 30 calendar days after receipt of such claim or demand. Notwithstanding the preceding, this indemnification shall not cover any claim or demand based on erroneous information provided by the Plan Sponsor, its employees or other representatives.
10. This Agreement may be modified, amended or terminated by either party upon 60 days written notice to the other party, provided that no such modification, amendment or termination shall affect the liability of either party incurred prior to such event.
11. This Agreement may be executed in any number of counterparts, each of which, including any reliable copies or facsimiles thereof, will be deemed to be an original and all of which together shall be deemed to be one and the same instrument.
12. If any provision of this agreement shall be held or declared to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provisions shall not affect any other provision of this Agreement, and the remainder of this Agreement shall continue in full force and effect as though such provisions had not been contained in this Agreement. If the scope of any provision in this agreement is found to be too broad to permit enforcement of such provision to its fullest extent, the parties consent to judicial modification of such provision and enforcement to the maximum extent permitted by law.

We, the undersigned as duly authorized representatives, agree to all the terms and conditions stated above, and by our signatures, place this Agreement into full force and effect as of the date first above-written.

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

**TSA CONSULTING GROUP, INC.**

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

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

Name: \_\_\_\_\_

Name: Janet Williamson

Title \_\_\_\_\_

Title: Senior VP, Chief Financial Officer

Federal Tax Identification Number:

Federal Tax Identification Number:

23-1669371

59-3451677



## Compliance Edge® Services

In accordance with the Agreement between the Plan Sponsor and TSA Consulting Group, Inc. (TSACG), the following services will be provided by TSACG;

1. Maximum Allowable Contribution (MAC) calculations will be maintained for all employees eligible to participate in the employer's authorized 403(b) and/or 457(b) plans. These calculations shall include limits applicable to 403(b) and/or 457(b) plans under applicable Sections of the Internal Revenue Code. Such calculations shall be performed in accordance with accepted standards and subject to the prevailing Internal Revenue Codes and Regulations at that time. MAC's will be based on information obtained from the Plan Sponsor and/or the employee and any statement or guarantee of accuracy by TSACG will be contingent on the accuracy of the information delivered by the Plan Sponsor and/or the employee.
2. TSACG shall provide an annual review and audit of the previous year's contributions for all employees. TSACG shall notify the Plan Sponsor of all non-compliant contributions and provide the necessary data to facilitate notification to employees affected and completion of correction procedures as required by current Revenue Procedures.
3. A master file of MAC calculations will be maintained by TSACG during the term of this Agreement.
4. TSACG will administer the plan with respect to processing participant requests for loans, distributions, transfers, qualified domestic relations orders, and rollovers, including interactions with other investment providers necessary to administer the plan subject to the terms and conditions included in the Plan Administration Agreement.
5. Electronic remittance services will be available to the Plan Sponsor through the Electronic Process for Automated Remittance Services of EPARS program maintained by TSACG. These services are subject to the terms and conditions included in the EPARS Subscription and Adoption Agreement included as EPARS Subscription and Adoption Agreement.
6. Employee communications components (handbooks) will be delivered to the Plan Sponsor once annually in sufficient quantities for all eligible employees. The employee awareness and educational materials shall be generic in content regarding 403(b) and/or 457(b) requirements, and will also address the specific policies and procedures of the Plan Sponsor relative to all retirement programs maintained by the Plan Sponsor. Components will be revised annually to facilitate changes in IRS rules or changes in the Plan Sponsor's policies and procedures.
7. Video presentations will be produced, distributed and available via online stream by TSACG once annually. Video presentations shall be generic and topical in nature concerning the 403(b) and/or 457(b) programs.
8. Web pages specific to the Plan Sponsor will be made available and will be maintained by TSACG for information on their retirement plans.
9. TSACG shall provide ongoing administrative support to the Plan Sponsor, including, but not limited to, the development of appropriate policies and/or procedures regarding all employee retirement programs. Such administrative support includes research and development of any new programs and/or Investment Providers or Investment Products that may be regarded as beneficial to the Plan Sponsor and its employees.
10. TSACG expressly agrees to cooperate with and offer assistance to the Plan Sponsor in the event of any audit of the 403(b) and/or 457(b) plans by the IRS.

## **IRS Compliance Guarantee**

TSACG Consulting Group, Inc. (TSACG) guarantees retirement plan compliance with regulations and guidelines issued by the Internal Revenue Service (IRS) for all clients that are subject to IRS audit for a calendar year in which the client has a Retirement Plan Compliance and Administrative Services Agreement in effect with TSACG on January 1 of that year. In the event that the IRS determines, on audit, that there is a compliance failure with respect to the client's plan, and the client incurs financial loss due to that determination, TSACG will reimburse the client for the tax, penalty and interest assessed by the IRS in connection with that compliance failure, or will refund the client 100% of the administrative fees collected by TSACG for that calendar year, whichever is less. This guarantee is contingent on the following items being true:

1. TSACG is appointed to represent the client (at no additional charge) during the audit. (IRS Form 2848 – Power of Attorney and Declaration of Representative)
2. The compliance failure is not related to inaccurate communications or data provided to TSACG for which the client was/is responsible.
3. The client has continually acted in cooperation with the operational directives offered by TSACG relative to the plan audited.

This IRS Compliance Guarantee is effective for contracts dated on or after September 1, 2017.

## **Plan Sponsor Duties**

In accordance with the Agreement between TSACG and the East Stroudsburg Area School District, the following information and services will be provided by the Plan Sponsor to TSACG;

1. All available data necessary to complete the services provided by TSACG as outlined in the Agreements. Such data shall include, yet not be limited to, Plan Sponsor policies and procedures regarding all qualified plans offered by the Plan Sponsor, participating vendor information, employee data pertinent to MAC calculations to the extent possible for current and prior years' service, and all additional information deemed necessary to complete the scope of work as defined by the Agreement. Data required for MAC calculations shall be supplied electronically by the Plan Sponsor in a format mutually agreed upon by both parties to the Agreement.
2. Distribution of all employee and worksite materials on a timely basis
3. All other appropriate, commonly accepted, efforts necessary to develop and maintain compliance with existing or amended Internal Revenue Codes regarding the retirement plans offered by the Plan Sponsor.
4. The Plan Sponsor shall require all providers of investment products and services to the retirement plans to cooperate with TSACG by providing any information needed to complete the terms of this Agreement.
5. The Plan Sponsor shall instruct staff to cooperate fully with TSACG regarding the compliance review and in obtaining all necessary information for TSACG to complete the duties described in this Agreement. The Plan Sponsor realizes that any delay in providing data and information to TSACG may impede completion of services as described in this Agreement.

## Plan Administration Agreement

This Administrative Agreement (hereinafter "Agreement") is executed this 1st day of August 2018 by TSACG Consulting Group, Inc. ("TSACG") and East Stroudsburg Area School District (Plan Sponsor").

WHEREAS, Plan Sponsor has established a  403(b) Plan and/or a  457(b) Plan and is authorized to appoint service providers; and

WHEREAS, Plan Sponsor desires to appoint TSACG as the administrator of the Plan(s) established and indicated herein; and

WHEREAS, TSACG is authorized to accept the appointment as administrator and desires to provide such services subject to the terms and conditions set forth herein;

NOW THEREFORE, the parties agree as follows:

**1.0 Designation of TSACG as Administrator.**

Plan Sponsor hereby appoints TSACG as Administrator of the plan(s) established and indicated herein.

**2.0 Responsibilities of TSACG.** TSACG will provide the recordkeeping and related plan administrative services, which services shall include the following:

- 2.1 Plan Documents: TSACG will provide appropriate Plan Documents to the Plan Sponsor, for review and approval. These documents shall govern the plan(s).
- 2.2 Meaningful Notice: TSACG will assist the Plan Sponsor in developing and distributing employee communications material including specific information on eligibility and enrollment procedures. These communications shall be developed and distributed at least once each calendar year.
- 2.3 Forms and Procedures: TSACG will develop standardized administrative forms for use by the Plan Sponsor and participants for the purposes of enrollment and asset transactions under the Plan(s).
- 2.4 Participant Records: TSACG will establish and maintain a record for each participant reflecting the date, amount and type of each transaction in the participant's account based on information provided to TSACG from the Plan Sponsor, employees and product providers. Records maintained by TSACG shall include all information necessary to comply with applicable regulations, rulings and procedures established by the Internal Revenue Service for the plan types indicated herein. The Plan Sponsor will determine eligibility requirements for employees and TSACG shall be entitled to rely on the Plan Sponsor's eligibility determinations.
- 2.5 Participant Inquiries: TSACG will provide adequate access to participants regarding their records and transactions recorded by TSACG. Access shall include, at a minimum, customer service representatives during normal business hours to assist participants with information and transactions under the Plan(s).
- 2.6 Aggregation of Data: TSACG will assist the Plan Sponsor with the development and execution of agreements between the Plan Sponsor and each investment product provider under the Plan(s) regarding the sharing and aggregation of participant data necessary to facilitate recordkeeping and administration duties for the Plan(s). TSACG will exercise its best efforts to cooperate with each provider that maintains participant accounts under the Plan(s) that are subject to the recordkeeping requirements of applicable Internal Revenue Service regulations, rulings and procedures.
- 2.7 Plan Sponsor Reports: TSACG will prepare Plan reports as necessary for the Plan Sponsor including, yet not limited to, contribution auditing and excess contribution corrections.
- 2.8 Technical Assistance: TSACG will provide technical and consulting assistance to the Plan Sponsor upon request and under terms mutually agreeable between TSACG and the Plan Sponsor.
- 2.9 Other Assistance: TSACG will provide other assistance to the Plan Sponsor upon mutual agreement between both parties.



- 3.0 **Responsibilities of the Plan Sponsor.** Plan Sponsor acknowledges that it is responsible for the following:
- 3.1 **Plan and Participant Data:** Plan Sponsor will provide all necessary plan and participant data required by TSACG to accomplish proper plan administration duties including, yet not limited to, plan documents, policies and procedures, contribution history and all other data as may be reasonably requested by TSACG.
  - 3.2 **Fee Billing and Payment:** Plan Sponsor agrees that TSACG will charge fees for its services to the authorized Investment Providers participating in the Plan(s) in accordance with the Plan Administration Fee Schedule. Any changes to the fee schedule will be subject to mutual agreement between TSACG and the Plan Sponsor and require notice of at least sixty (60) days prior to the change effective date.

4.0 **Miscellaneous.**

- 4.1 **Termination:** Plan Sponsor or TSACG may terminate this agreement at any time upon sixty (60) days prior written notice to the other party. TSACG agrees to deliver to the Plan Sponsor or its designee, all records reasonably necessary for the continuing recordkeeping of the Plan.
- 4.2 **Notices:** Notices or other communications given pursuant to this agreement shall be hand delivered, mailed by first class mail service, addressed as follows, or as changed by notice:
  - a) To TSACG: TSA Consulting Group, Inc.  
15 Yacht Club Drive NE  
Fort Walton Beach, FL 32548
  - b) To Plan Sponsor: East Stroudsburg Area School District  
50 Vine Street  
East Stroudsburg, PA 18301
- 4.3 **Entire Agreement: Supplements and Amendments.** This agreement generally constitutes the entire agreement between the parties, merging all prior presentations, discussions and negotiations. It may be modified by additional letter or other written agreements executed by each party contemporaneously with this agreement, which may modify its provisions or meanings. It may be further supplemented, but not modified, by TSACG from time to time with written procedures that provide a description of the ordinary processes for the parties to fulfill their obligations hereunder, which shall not exclude extraordinary processing in appropriate situations that produces comparable results. Finally, this agreement may be amended at any time, but only by written agreement signed by all parties hereto.
- 4.4 **Assignment:** Some or all of the rights and duties of TSACG hereunder may be assigned to an affiliate, or to any successor through merger, reorganization, or sale of assets. Some duties of TSACG may be performed by others under subcontract, without the release of TSACG for responsibility for such services. Otherwise, no party may assign this agreement nor any rights or duties hereunder without the prior written consent of the other party.
- 4.5 **Governing Law:** Except to the extent governed by federal law, this agreement shall be governed by and constructed according to the laws of the state where Plan Sponsor's principal office resides.

**PLAN ADMINISTRATION FEE SCHEDULE**

Plan Sponsor hereby agrees that TSACG, in remuneration for administrative and recordkeeping services for the Plan(s) indicated in the Administrative Services Agreement and dated August 1, 2018 shall be entitled to collect the following fees from each authorized investment product provider under the plan:

**INVESTMENT PRODUCT PROVIDER FEES:**

Recordkeeping – (Per Participant \* Account) \$24.00 per year billed monthly

Billing Effective Date<sup>\*\*</sup>: October 1, 2018

\*"Participant" is defined as any individual that maintains one or more accounts with assets under the Plan

\*\*The "Billing Effective Date" will be the billing cycle that is at least 30 days following the execution date of the Plan Administration Fee Schedule (i.e., a January 15 execution date would trigger a March 1 billing date).

Required Provider Fees: Plan Sponsor further agrees and stipulates that each authorized investment product provider is required to pay the fees described herein directly to TSACG unless otherwise modified by the Plan Sponsor upon notice to the investment product provider. Each authorized provider must agree to the fee schedule set forth herein as a condition of participation under the Plan(s).

Method of Payment: Investment Product Providers shall remit the fees described herein in a timely manner and according to a reasonable method of remittance as determined by TSACG.

Basis for Invoicing – Provider Fees: TSACG shall bill each Investment Product Provider monthly according to the number of participants that maintain one or more accounts under the Plan. The actual number of participant accounts will be determined according to the participant data files generated by the Provider as required under the Investment Provider Service Agreement between the Plan Sponsor and the Provider.

Provider Discretion – Investment Product Pricing: The Plan Sponsor intends to maintain a high quality array of investment products and providers under the Plan for the benefit of participants. Plan Sponsor recognizes and agrees that Providers have sole discretion regarding the pricing of their investment products and the generation of revenue models sufficient to offset expenses related to participation in the Plan Sponsor Plan.

Plan Sponsor Reports: TSACG shall be responsible for submitting reports to the Plan Sponsor regarding fees assessed to and collected from Investment Product Providers. TSACG shall not attempt to collect any fees from Investment Product Providers other than those expressed in this fee schedule.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their authorized representatives.

PLAN SPONSOR:  
EAST STROUDSBURG AREA SCHOOL DISTRICT

ADMINISTRATOR:  
TSA CONSULTING GROUP, INC.

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

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

Name: \_\_\_\_\_

Name Janet Williamson

Title: \_\_\_\_\_

Title: Senior VP, Chief Financial Officer

Execution Date: \_\_\_\_\_

## EPARS Subscription Agreement - Section I

TSA Consulting Group Inc.(TSACG) is owner of a software product known as Electronic Process for Automated Remittance Services or “EPARS,” which, among other things as of the date set forth on the Adoption Form, is designed to support and facilitate: (i) the input and transmittal of Employer and/or Participant Data, and (ii) the transfer of Employer and/or Participant Contribution Remittances through banking institutions as regulated by the Federal Reserve System, as licensed pursuant to this Schedule.

1. **Definitions** The following definitions are used in this Schedule as defined below:

“**Subscription Adoption Agreement**” shall mean Section II outlining the specific administrative guidelines selected by the Licensee with regard to the transmission of Employer and Participant Data and Contribution Remittances to Authorized Provider Companies, error correction and transaction fees applicable to the Authorized Provider Companies and/or the Licensee.

“**Authorized Provider Companies**” shall mean any organization authorized by the Employer to provide products and/or services pursuant to an established Employer benefit program.

“**Bank Transfer Agent**” shall mean the bank listed in section 8 below, “Bank Transfer Agent” and subsequently responsible for the transfer of data and funds received from the Licensee to Authorized Provider Companies.

“**Contribution Remittances**” shall mean monetary employer contributions and/or employee contributions to Authorized Provider Companies or payments to Designated Entities.

“**Designated Entities**” shall mean any person, organization or governmental agency to whom the Licensee or Employee is bound by authorization or legal order to remit payments.

“**Employer Data**” shall mean information specific to the Licensee and pertinent to the accurate remittance of Employer or Participant remittances.

“**Licensee**” shall mean the Employer/User of the EPARS software product.

“**Participant**” shall mean the Employee for whom payroll deduction or reduction remittances are processed or for whom Employer Contribution Remittances are made.

“**Participant Data**” shall mean information specific to the Participant and pertinent to the accurate remittance of Employer or Participant remittances.

“**Transaction**” shall mean any transmission initiated by the Employer via EPARS in which a Contribution Remittance and Employer and Participant Data is delivered to an Authorized Provider Company.

2. **Restrictions on Use** Licensee shall only use the Licensed Materials for its own internal business purposes. Without derogating the generality of the foregoing, (i) Licensee shall not use or allow others to use the Licensed Materials in a multiple-use arrangement or as a part of a service bureau without the prior written consent of TSACG.

3. **Licensee's Obligations**

- a) Licensee is obligated to abide by the EPARS Adoption Agreement provisions selected by the Licensee during the term of the Subscription Agreement.
- b) The Licensee acknowledges that the provisions of the Adoption Agreement must be congruent with the policies and guidelines established for the employee benefit programs supported by EPARS.
- c) The Licensee acknowledges the role and responsibilities of TSACG to install and maintain the EPARS software for the Licensee and the need for the Licensee to communicate changes regarding Authorized Provider Companies or bank relationships to TSACG on a timely basis.
- d) The Licensee acknowledges the need to communicate with both TSACG and Authorized Provider Companies regarding the resolution of errors or omissions that may occur during the Licensee's preparation and submission of Employer and Participant Data or the application of the Employer and Participant Data by the Authorized Provider Company.

4. **Licensed Software Limitations** Neither TSACG nor the Bank Transfer Agent guarantees that remittances will be credited to participant accounts within any specified period of time after transfer of the data and funds to Authorized Provider Companies. Licensee acknowledges the role and responsibilities of the Licensee with respect to the use of EPARS and the preparation of Employer and Participant Data and the role and responsibilities of the Authorized Provider Companies regarding the proper application of data and funds transferred using EPARS.

5. **Use of Licensed Software** Licensee will use the Licensed Software to submit Employer and Participant Data to the Bank Transfer Agent and Authorized Provider Companies. Licensed Software is intended to allow the Licensee to transfer bundled Employer and Employee Data via a secure Internet site to Authorized Provider Companies. The Licensed Software will separate Employer and Participant Data and transfer said Data specific to each Authorized Provider Company. The Licensed Software will also allow the Licensee to provide instructions to the Bank Transfer Agent regarding funds transfer to each specific Authorized Provider Company.

6. **Compliance with Law** Licensee understands that it is responsible for complying with any applicable federal, state or local statutes, regulations or ordinances governing or regulating the remittance of Employer and Participant Data and Contributions.

7. **Recordkeeping** Licensee acknowledges and agrees that it may be required to maintain records of certain data pursuant to federal or state laws and regulations. Licensee understands and agrees that: (i) it bears sole responsibility for such obligation; (ii) it may need to download data into its own systems storage facilities or print out hard copies of such data from the Licensed Software in order to generate or obtain information necessary to meet such recordkeeping requirements; and (iii) in no event will TSACG be responsible for maintaining any such data for Licensee. TSACG will make every reasonable attempt to assist the Licensee in the maintenance and retrieval of records pertaining to Employer and Participant Data and Contribution Remittances.

8. **Bank Transfer Agent** TSACG assumes sole responsibility for the maintenance of EPARS. Therefore, the Bank Transfer Agent may be changed at any time as deemed necessary by TSACG to ensure the proper function and viability of EPARS. Notice of any changes shall be forwarded to the Employer and Authorized Provider Company at least 30 days prior to the effective date of any changes.

## Designated Bank Transfer Agent

Wells Fargo, N. A.  
Treasury Services Department  
225 Water Street, 2<sup>nd</sup> Floor FL0120  
Jacksonville, FL 32202

9. **Restrictions** Licensee shall not directly, or permit others to: (i) disassemble, decompile or otherwise derive source code from the Licensed Software; (ii) reverse engineer the Licensed Software or the services; (iii) copy the Licensed Software; (iv) use the Licensed Software or services in any manner that infringes the intellectual property or other rights of another party; or (v) transfer the Licensed Software or any copy thereof or access to the Services to another party without the express prior written consent of TSACG.
10. **Term and Termination** This Agreement is effective upon the Licensee's assent to its terms and conditions and shall continue for the period agreed upon by the Licensee and TSACG. This Agreement may be modified, amended only by a written amendment signed by both parties hereto. This Agreement may be terminated, without cause, by either party upon 60 days written notice to the other party. No modification, amendment, or termination of this Agreement shall affect the liability of either party incurred prior to such event.
11. **Assignment** Some or all of the rights and duties of TSACG hereunder may be assigned to an affiliate, or to any successor through merger, reorganization, or sale of assets. Some duties of TSACG may be performed by others under subcontract, without the release of TSACG for responsibility for such services. Otherwise, no party may assign this agreement nor any rights or duties hereunder without the prior written consent of the other party.
12. **Confidentiality** All data processed through EPARS is considered confidential, including, without limitation, the information pertaining to the Licensed Software. The Licensee and TSACG agree to hold all data and information in confidence both during the term of this Agreement and thereafter. The parties further agree, unless required by law, not to make data or information available in any form to any third party for any purpose other than the implementation of this Agreement.
13. **Survival** If any provision of this agreement shall be held or declared to be illegal, invalid or unenforceable, such illegal, invalid or unenforceable provisions shall not affect any other provision of this agreement, and the remainder of this agreement shall continue in full force and effect as though such provisions had not been contained in this agreement. If the scope of any provision in this agreement is found to be too broad to permit enforcement of such provision to its fullest extent, the parties consent to judicial modification of such provision and enforcement to the maximum extent permitted by law. Any provisions of this Agreement that contemplate their continuing effectiveness, including, without limitation, Sections 4, 6, 7, 8, 9 and 11 shall survive any termination of this Agreement.

**EPARS Subscription Adoption Agreement – Section II**

The Agreement (Agreement) sets forth the administrative guidelines selected by the Licensee with regard to the transmission of Employer and Participant Data and Contribution Remittances to Authorized Provider Companies (APC), error correction and transaction fees applicable to the Authorized Provider Companies and/or the Licensee.

- I. **Licensee:** Name: East Stroudsburg Area School District  
Address: 50 Vine Street, East Stroudsburg, PA 18301

**EPARS Guidelines:**

**A. Transmission of Employer and Participant Data**

The Licensee requires Authorized Provider Companies to accept data in the following manner(s):

- EPARS transmission to APC secure File Transfer Protocol (FTP) site.
- APC retrieval of Data from EPARS secure FTP site.
- Encrypted e-mail or attachment to data transmitted to APC.

**Contribution Remittance/ Funds Transmittal Requirements**

The Licensee requires Authorized Provider Companies to accept Contribution Remittance Funds in one of the following methods:

- ACH transfers of funds to APC bank. (Direct Deposit) and/or
- Paper check mailed to APC via regular mail (Digital Signature Required)

- Plan Sponsor elects to implement EPARS**
- Plan Sponsor elects to postpone implementation of EPARS at this time.**

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

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

Name: \_\_\_\_\_

Title \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT C**

**BASIS OF REMUNERATION:** Annual compensation for services provided by TSACG subject to the Agreement shall be invoiced at stated rate including an initial setup fee in the first year.

Standard Fees for all services listed in the **Compliance Edge® Program:**

**The invoices generated in the months of August 2018 and September 2018 will remain \$2.00 per month, per contributing participant, billed monthly in arrears to the Plan Sponsor. Following the transition and notification of the fee change to the authorized investment providers, the invoices generated will change beginning in October 2018 to \$2.00 per month per plan participant\* billed monthly in arrears to the authorized investment providers.**

**\*“Participant” is defined as any individual who maintains one or more accounts with assets under the Plan.**

All services shall be billed monthly beginning October 1, 2018, at the equivalent rates shown above. Fees described above are based on total number of employees for this employer. Rates for larger or smaller groups may vary according to current published rate schedules established by TSACG.

**EAST STROUDSBURG AREA SCHOOL DISTRICT**

**TSA CONSULTING GROUP, INC.**

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

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

Name: \_\_\_\_\_

Name: Janet Williamson

Title \_\_\_\_\_

Title: Senior VP, Chief Financial Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

V. Items For Discussion:

e. 2019-20 Bus Pricing





2701 E. Cumberland St. Lebanon PA 17042 - P 1/800-932-4625 F 717/272-0970

[www.brightbill.com](http://www.brightbill.com)

**Customer:** East Stroudsburg Area School District

**Address:** 50 Vine Street, East Stroudsburg, PA 18301

**Contact Name:** Jeffrey Bader/ Robert Sutjak

**Phone#:** (570) 424-8500

**Cell#:**

**FAX #**

**EMAIL:**

**Stk/Bdy#:** \_\_\_\_\_ **VIN:** \_\_\_\_\_

**Stk/Bdy#:** \_\_\_\_\_ **VIN:** \_\_\_\_\_

**Stk/Bdy#:** \_\_\_\_\_ **VIN:** \_\_\_\_\_

**Stk/Bdy#:** \_\_\_\_\_ **VIN:** \_\_\_\_\_

QTY	DESCRIPTION	EACH	TOTAL AMOUNT
2	2020" NEW" Blue Bird 30 Pass. School Bus w/ Propane Power	102,465.00	204,930.00
	Vision w 6.8L LPG 169" WB Spec Package 166956		0.00
	Sourcewell 166956		0.00
	Configuration # 2- 30 Passenger Buses w/ Lift		0.00
	Air Conditioning System added		0.00
	Includes local add ons		0.00
			0.00
			0.00
			0.00
	TIRE 1. ea /TRANSFER w/Lien \$ 84./NEW w/Lien 119. / Process 51./Tax6-7-8		0.00

**TOTAL INVESTMENT:**

\$204,930.00

**TRADE PAYOFF TO:** NA

Please attached Trade payoff form!!

**PAYOFF AMOUNT:** \_\_\_\_\_

**TOTAL ORDER AMOUNT AFTER TRADE PAYOFF:** \$204,930.00

**THIS ORDER FINANCED BY:** \_\_\_\_\_

**REQUESTED delivery date:** 05/25/18

**SPECIAL INSTRUCTIONS / PREOWNED WARRANTY TERMS:**

Reference Sourcewell

166956

Pricing good thru 9-15-18

Mason Hemphill 8.09.18  
Sales Rep. & Date

\_\_\_\_\_  
Customer Accepted & Date

Window sheet attached? ????

Lettering sheet attached? ????



2701 E. Cumberland St. Lebanon PA 17042 - P 1/800-932-4625 F 717/272-0970

[www.brightbill.com](http://www.brightbill.com)

**Customer:** East Stroudsburg Area School District

**Address:** 50 Vine Street, East Stroudsburg, PA 18301

**Contact Name:** Jeffrey Bader/ Robert Sutjak

**Phone#:** (570) 424-8500

**Cell#:**

**FAX #**

**EMAIL:**

**Stk/Bdy#:** \_\_\_\_\_

**VIN:** \_\_\_\_\_

**Stk/Bdy#:** \_\_\_\_\_

**VIN:** \_\_\_\_\_

**Stk/Bdy#:** \_\_\_\_\_

**VIN:** \_\_\_\_\_

**Stk/Bdy#:** \_\_\_\_\_

**VIN:** \_\_\_\_\_

QTY	DESCRIPTION	EACH	TOTAL AMOUNT
21	2020" NEW" Blue Bird 72 Pass. School Bus w/ Propane Power	91,705.00	1,925,805.00
	Vision w 6.8L LPG 169" WB Spec Package 159714		0.00
	Sourcewell 159714		0.00
	Configuration # 1 - Auto Trans/ Air Ride; Air Disc Brakes		0.00
			0.00
	Includes local add ons		0.00
			0.00
			0.00
			0.00
	TIRE 1. ea /TRANSFER w/Lien \$ 84./NEW w/Lien 119. / Process 51./Tax6-7-8		0.00

**TOTAL INVESTMENT:**

\$1,925,805.00

**TRADE PAYOFF TO:** NA

Please attached Trade payoff form!!

**PAYOFF AMOUNT:** \_\_\_\_\_

**TOTAL ORDER AMOUNT AFTER TRADE PAYOFF:** \$1,925,805.00

**THIS ORDER FINANCED BY:** \_\_\_\_\_

**REQUESTED delivery date:** 05/25/18

**SPECIAL INSTRUCTIONS / PREOWNED WARRANTY TERMS:**

Reference Sourcewell 159714

Pricing good thru 9-15-18

Mason Homphill 8/09/18  
Sales Rep. & Date

\_\_\_\_\_  
Customer Accepted & Date

Window sheet attached? ????

Lettering sheet attached? ????

V. Items For Discussion:

f. Property & Facilities Items

i. JTL Masonry – Jones Pay App #7 – \$17,977.85



PROJECT: J T Lambert Intermediate School Masonry Repairs

Distribution to:

OWNER
X ARCHITECT
CONTRACTOR

PERIOD TO: 6/30/18  
 PROJECT NO: 287005  
 CONTRACT DATE:


VIA ARCHITECT:  
 DHuy Engineering, Inc.

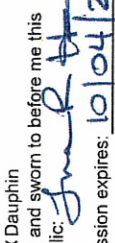
FROM CONTRACTOR:  
 Jones Masonry Restoration Corporation  
 CONTRACT FOR:  
 East Stroudsburg Area School District

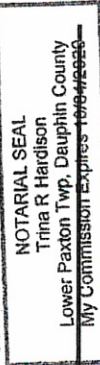
CONTRACTOR'S APPLICATION FOR PAYMENT  
 Application is made for payment, as shown below, in connection with the Contract.  
 Continuation Sheet, AIA Document G703, is attached.

- 1. Original Contract Sum \$ 1,548,000.00
- 2. Net change by Change Orders \$ 3,859.50
- 3. Contract Sum to Date (line 1 + 2) \$ 1,551,859.50
- 4. TOTAL COMPLETED & STORED TO DATE (COLUMN G ON G703) \$ 1,551,859.50
- 5. RETAINAGE: \$ 0.00
  - a. 0% of Completed Work (Column D + E on G703) \$ 0.00
  - b. 0% of Stored Material (Column F on G703) \$ 0
- 6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total) \$ 1,551,859.50
- 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ 1,533,881.65
- 8. CURRENT PAYMENT DUE \$ 17,977.85
- 9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ 0.00

CONTRACTOR: Jones Masonry Restoration Corporation

By:  Date: 7/9/18

State of: PA  
 County of: ( Dauphin  
 Subscribed and sworn to before me this 9th day of July 2018  
 Notary Public:   
 My Commission expires: 10/04/2020 COMMONWEALTH OF PENNSYLVANIA



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the Amount Certified.

AMOUNT CERTIFIED.....\$ 17,977.85

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)  
 ARCHITECT:

BY:  Date: 7/9/2018

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner of Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by owner	17,375.00	
Total approved this Month	-13,515.50	
<b>TOTALS</b>	3,859.50	
<b>NET CHANGES By Change order</b>	3,859.50	

CONTINUATION SHEET

APPLICATION NO. 6  
 PERIOD ENDING 12/15/2017  
 Architect's No. 287005

Project No.

ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	PREVIOUS	THIS PERIOD	STORED MATERIAL	TOTAL COMPLETE	% COMPLETE	BALANCE TO FINISH	RETAINAGE
1	Mobilization	142,500.00	142,500.00			142,500.00	100%	0.00	7,125.00
2	Submittals	28,500.00	28,500.00			28,500.00	100%	0.00	1,425.00
3	Bond	46,440.00	46,440.00			46,440.00	100%	0.00	2,322.00
4	JT Lambert								
5	Masonry Cleaning	60,000.00	60,000.00			60,000.00	100%	0.00	3,000.00
6	Masonry Veneer Replacement	292,310.00	292,310.00			292,310.00	100%	0.00	14,615.50
7	Caulking	72,000.00	72,000.00			72,000.00	100%	0.00	3,600.00
8	Window Head Repair	150,000.00	150,000.00			150,000.00	100%	0.00	7,500.00
9	Site Walls Reconstruction	375,000.00	375,000.00			375,000.00	100%	0.00	18,750.00
10	Steel	80,000.00	80,000.00			80,000.00	100%	0.00	4,000.00
11	Metal Coping	15,000.00	15,000.00			15,000.00	100%	0.00	750.00
12	Landscaping	10,000.00	5,000.00	5,000.00		10,000.00	100%	0.00	500.00
13	Lintel Replacement	5,000.00	5,000.00			5,000.00	100%	0.00	250.00
14	Alternate#1	18,000.00	18,000.00			18,000.00	100%	0.00	900.00
15	Allowance	105,400.00	88,906.65	2,977.85		91,884.50	87%	13,515.50	4,594.23
16	North High School								
17	Masonry Veneer Replacement	80,000.00	80,000.00			80,000.00	100%	0.00	4,000.00
18	Repointing	40,000.00	40,000.00			40,000.00	100%	0.00	2,000.00
19	Caulking	3,000.00	3,000.00			3,000.00	100%	0.00	150.00
20	Masonry Cleaning	3,000.00	3,000.00			3,000.00	100%	0.00	150.00
	Sheet Metal	3,000.00	3,000.00			3,000.00	100%	0.00	150.00
21	Close Out Documents	5,000.00	5,000.00			5,000.00	100%	0.00	250.00
22	Demobilization	13,850.00	13,850.00			13,850.00	100%	0.00	692.50
	Change Order #1	17,375.00	17,375.00			17,375.00	100%	0.00	868.75
	Change Order #2 (unused allow.)	-13,515.50		-13,515.50		-13,515.50	100%	0.00	-675.78
		1,551,859.50	1,543,881.65	-5,537.65		1,551,859.50		13,515.50	77,592.98

V. Items For Discussion:

f. Property & Facilities Items

ii. JTL Masonry – D’Huy Engineering - \$146.65



**D'HUY Engineering, Inc.**  
 One East Broad Street, Suite 310 Bethlehem, PA 18018  
 Phone: 610.865.3000 Fax: 610.861.0181

**INVOICE**

No. 47314  
 02/28/2018

**East Stroudsburg Area School District**

50 Vine Street  
 East Stroudsburg, PA 18301  
 Mr. Jeffrey Bader

**J. T. Lambert Intermediate School Masonry Investigation**  
**287005**  
 For Services Rendered From January 27, 2018 To February 23, 2018

**01 - Field Surveys & Probes**

<u>Contract Amount</u>	<u>Previously Billed</u>	<u>% Complete</u>	<u>Invoice Amount</u>
\$25,400.00	\$25,400.00	100.00	\$0.00

**02 - Analysis & Report**

<u>Contract Amount</u>	<u>Previously Billed</u>	<u>% Complete</u>	<u>Invoice Amount</u>
\$18,500.00	\$18,500.00	100.00	\$0.00

**03 - Natatorium at High School North**

<u>Contract Amount</u>	<u>Previously Billed</u>	<u>% Complete</u>	<u>Invoice Amount</u>
\$5,000.00	\$5,000.00	100.00	\$0.00

**04 - Design & Bidding for Masonry Repairs**

<u>Contract Amount</u>	<u>Previously Billed</u>	<u>% Complete</u>	<u>Invoice Amount</u>
\$64,000.00	\$64,000.00	100.00	\$0.00

**05 - Construction Services for Masonry Repairs**

Contract Maximum:	\$72,000.00
Previous Billings Against Maximum:	\$72,000.00
Current Billings Against Maximum	\$0.00
Balance After This Invoice:	\$0.00

**06 - Extended Design & Construction**

<b>Contract Maximum:</b>	<b>\$21,000.00</b>
<b>Previous Billings Against Maximum:</b>	<b>\$20,853.35</b>
<b>Current Billings Against Maximum</b>	<b>\$146.65</b>
<b>Balance After This Invoice:</b>	<b>\$0.00</b>

**Professional Services**

	<b>Task</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Principal Engineer	Document Review	.50	180.00	\$90.00
Senior Project Manager	Project Administration	1.00	130.00	\$130.00
<b>Total Professional Services for 06</b>				<b>\$220.00</b>
<b>Total Charges for 06</b>				<b>\$220.00</b>

**INVOICE TOTAL** **\$146.65**



V. Items For Discussion:

f. Property & Facilities Items

iii. HS North/Lehman Removal of Paint Chips-VLS Painting - \$4,316.60

# ATTACHMENT VI, E.1

7/16/2018

Wave • VLS Painting LLC • Estimate 1178

## ESTIMATE

Grand Total (USD)  
**\$4,575.60**

**BILL TO**  
**Robert Sutjak**  
Lehman intermediate School  
  
robert-sutjak@esasd.net

**Estimate Number:** 1178  
**Estimate Date:** July 14, 2018  
**Expires On:** July 31, 2018

Services	Quantity	Rate	Amount
<b>Interior Painting</b> Removed Peeling Paint From Cafeteria Ceiling	80	\$46.87	\$3,749.60
<b>Machine Rental</b> Electric Scissor Lift	1	\$567.00	\$567.00
<b>Subtotal:</b>			\$4,316.60
sales 6%:			\$259.00
<b>Total:</b>			\$4,575.60
<b>Grand Total (USD) :</b>			<b>\$4,575.60</b>

**VLS Painting LLC**  
East Stroudsburg, PA 18302  
United States

**Contact Information**  
570-213-9026  
www.vlspaintingllc.com

V. Items For Discussion:

f. Property & Facilities Items

- iv. Seal Coating parking lots at the Administration Building and High School South – Karl Moeller - \$10,547.88

# ATTACHMENT VI : F. 1

7/19/2018

Quote 0000063 from Karl Moeller Construction

Karl Moeller Construction  
1164 Hillside dr  
East Stroudsburg, Pa. 18301

## QUOTE

ESASD  
50 Vine st  
East Stroudsburg Pa 18301

Quote # 0000063  
Quote Date 07/18/2018

Item	Description	Unit Price	Quantity	Amount
	Crack Seal	1140.00	1.00	1,140.00
	Seal Coat with GemSeal FedSpec 34833 sqft	34833.00	0.12	4,179.96
	Re-Strip all parking and ADA spaces and yellow on curbing	705.00	1.00	705.00
<b>NOTES:</b> Parking area main entrance ESASDS				
			<b>Subtotal</b>	6,024.96
			<b>Total</b>	6,024.96
			<b>Amount Paid</b>	0.00
			<b>Quote</b>	\$6,024.96

7/19/2018

Quote 0000062 from Karl Moeller Construction

Karl Moeller Construction  
1164 Hillside dr  
East Stroudsburg, Pa. 18301

# QUOTE

ESASD  
50 Vine st  
East Stroudsburg Pa 18301

Quote # 0000062

Quote Date 07/18/2018

Item	Description	Unit Price	Quantity	Amount
	Crack seal	840.00	1.00	840.00
	Seal Coat with GemSeal FedSpec 25666 sqft	0.12	25666.00	3,079.92
	Re-Strip all parking and ADA spaces	603.00	1.00	603.00
<b>NOTES:</b> Admin parking lot ESASDS				
			<b>Subtotal</b>	4,522.92
			<b>Total</b>	4,522.92
			<b>Amount Paid</b>	0.00
			<b>Quote</b>	\$4,522.92

V. Items For Discussion:

f. Property & Facilities Items

v. RFP for a Special Solicitor



# East Stroudsburg Area School District

## *Request for Proposals*

### *Construction Counsel Legal Services*

1. **INTENT**

The EAST STROUDSBURG AREA SCHOOL DISTRICT (the "District") is soliciting proposals from qualified, licensed attorneys to represent the District in public school construction related matters. The term of the engagement is to start 10/1/18.

2. **QUALIFICATION REQUIREMENTS**

Respondents to this RFP must meet the following minimum requirements:

- a) Member in good standing of the Bar of the Supreme Court of Pennsylvania
- b) Must have experience with Pennsylvania and nationwide government construction laws, and a minimum of five (5) years working with or for Pennsylvania school districts on public construction related matters.
- c) Ability to provide same day response.

3. **SCOPE OF SERVICE**

The District has an enrollment of approximately \_\_\_\_\_ students and maintains ten (10) school buildings: two (2) high schools, two (2) intermediate schools, and six (6) elementary schools. In conjunction with the construction, reconstruction, and maintenance of its school buildings, the school district requires legal counsel with specialized knowledge of the law concerning public construction to provide advice, guidance and recommendations to the School Board and appropriate administrators on an as-needed basis. The District is primarily interested in retaining legal counsel to review past projects and related documentation to determine the merit of any potential litigation connected to those projects.

4. **TIME FRAME**

The successful attorney will be expected to commence the provision of services on October 1, 2018.

5. **PROJECT MANAGEMENT**

The Superintendent of Schools shall be the primary contact person with the successful attorney. However, this responsibility may be delegated by the Superintendent to other School District Administrators, employees or representatives as appropriate.

6. **PROPOSALS**

Respondents to this RFP are hereby notified that all proposals submitted and information contained therein and attached thereto will not become public information until selection of the successful respondent.

a) **Submission and Deadline**

All Proposals must be received by 2:00PM, September 10, 2018. One original and twelve (12) copies shall be submitted to:

William Riker, Superintendent  
East Stroudsburg Area School District  
50 Vine Street  
East Stroudsburg, PA 18301

Questions about this RFP may be directed to School District Solicitor Christopher S. Brown, 570-421-5653 or [chris@dirvonas.com](mailto:chris@dirvonas.com).

All attorneys who are furnished a copy of this RFP, but who decide not to offer a Proposal to the District, are asked to submit a negative reply. Specific comments and observations are encouraged.

**LATE PROPOSALS WILL NOT BE CONSIDERED**

b) **Submittal Letter**

Respondents shall submit a cover letter, addressed to the Superintendent and signed by the Respondent, which provides an overview of the respondent's offer as well as the name, title and phone number of the person to whom the District may direct questions concerning the proposal. The letter should identify lead counsel within Respondent's firm who will be chiefly responsible for the work as set forth in this RFP, and should identify any associate counsel who will also perform services for the District. The letter should provide a detailed explanation of the experience each identified legal counsel has with public sector construction law and litigation, with a particular emphasis on experience representing Pennsylvania school districts. The letter should also include a statement by the Respondent accepting all terms and conditions contained in this RFP, signed by the Respondent.

c) **References**

A minimum of five (5) client references which encompass the areas outlined in this RFP, especially other Pennsylvania school districts, must be identified.

e)d) **Budget/Fee Proposal**

All respondents are required to complete and submit a detailed itemized fee schedule and expected schedule of payment to perform all services. As part of the proposal, each response must provide the following: (a) a single hourly rate for the Respondent and a separate single hourly rate for associate attorneys, as applicable; (b) an hourly rate for clerical, paralegal or other professional; and (c) a schedule of all out-of-pocket

disbursements which are anticipated to result in a charge to the Board/District. Note that the Board/District expects that these reimbursable charges will be charged at the firm's actual cost, without additional mark-up. The District is exempt from the payment of excise taxes, transportation and sales taxes imposed by the Federal Government and/or the Commonwealth of Pennsylvania. Such taxes must not be included.

The Board reserves the right to negotiate fees and payment schedules with the selected respondent.

d)e) **Form of Contract**

The District intends to enter into a contract with the most responsible Respondent whose proposal is determined to be in the best interest of the District. The form of contract for any award made as a result of this proposal will be a District purchase order, referencing this RFP, which shall be considered as part of the contract. The amount will be based on the fees shown in this proposal, as modified if necessary during negotiations. If Respondent will require the Board to sign an additional or separate contract, a copy of the proposed contract must be included with the proposal.

7. **EVALUATION AND AWARD**

a) **Selection Criteria**

The following criteria will be used, without limitation, in evaluating proposals and determining the most responsive Respondent:

- i. The Respondent's technical understanding of the scope of services and proposed professional services as evidenced by the proposal submitted.
- ii. The background and experience of the Respondent in providing similar services as well as the specific background, education, qualifications and relevant experience of key personnel to be assigned to the contract.
- iii. Location of Firm's office.
- iv. Proposed fees and costs, although the District is not bound to select the Respondent who proposes the lowest fees. The District reserves the right to negotiate fees with Respondents.
- v. Any other information obtained by the District
- vi. Best interests of the District.

b) **Selection Procedure**

The District intends to enter into a contract with the most responsible Respondent whose proposal is determined to be in the best interest of the District.

- i. The District reserves the right to reject any or all proposals or parts thereof for any reasons, to negotiate changes to proposal terms, to waive minor inconsistencies with the RFP, and to negotiate a contract with the successful Respondent.
- ii. The District will initially review all proposals to determine responsiveness. Any proposal that does not address all requested requirements or is incomplete will not be considered.



- iii. The District will evaluate all responsive and responsible proposals based on the criteria set forth in Section 7a, above. Any proposal that does not address all requested requirements or is incomplete may be rejected.
- iv. The District may conduct interviews of the Respondents it judges to be the most qualified to perform the services required, based upon the criteria in this RFP. If so, Respondents will be notified in advance of the proposed interview date. If conducted, interviews may be conducted in person or by conference call. Respondents are advised that the District reserves the right to award this contract solely on the basis of the submitted proposals.

8. **GENERAL REQUIREMENTS AND CONDITIONS**

a) **Insurance**

The selected Respondent shall be required to furnish proof of the following insurance coverage within ten (10) days of the receipt of the Notice of Selection. Insurance shall be issued by an insurance company licensed to conduct business in the Commonwealth of Pennsylvania with a Best's key Rating of A- or better. Any and all exceptions must be approved by the District. Insurance coverage shall remain in full force for the duration of the contract term including any and all extensions or renewals thereof. Each insurance certificate shall contain a thirty (30) day notice of cancellation. All renewal certificates shall be furnished at least thirty (30) days prior to policy expiration.

- i. Commercial General Liability, including Contractual Liability Insurance, with limits not less than \$1,000,000 per occurrence, \$2,000,000 aggregate. All, if any, deductibles are the sole responsibility of the Respondent to pay and/or indemnify.
- ii. Workers' Compensation if required by Pennsylvania law.
- iii. Professional Liability Insurance including errors and omissions with a limit of not less than \$1,000,000 per occurrence and \$1,000,000 aggregate. Any changes to the Respondent's policy or carrier from year to year will include "Full Prior Acts" coverage.
- iv. The East Stroudsburg Area School District is named as an Additional Insured, under the Commercial General Liability insurance policy. Additional Insured requirement is expressly waived for Workers' Compensation and Professional Liability coverages.
- v. It is further agreed that the amount of insurance required herein does not, in any way, limit the liability of the Respondent by virtue of its promise to hold the District harmless so that in the event that any claim results in a settlement or judgment in any amount above the limits set in Paragraph 8.1 herein, the Respondent shall be liable to, or for the benefit of, the District for the excess.
- vi. Insurance requirements and coverages may be reviewed from time to time during the term of this Contract and all extensions and renewals thereof. The Respondent agrees to comply with any and all reasonable insurance requirements or modifications requested by the District.
- vii. Cancellation or other termination of insurance policies required by this Agreement without immediate replacement thereof may be considered a

default in the terms and conditions of this Agreement. The legal firm agrees that such default may be cured by procurement of insurance on behalf of the Respondent, at Respondent's expense, at the District's option.

b) **Hold Harmless Agreement**

In addition to its obligation to provide insurance as specified above, the Respondent shall indemnify and hold harmless the District, including but not limited to, its elected officials, its officers, employees, and agents, from any and all claims made against the District, including but not limited to, damages, awards, costs, and reasonable attorneys fees, to the extent any such claim directly and proximately results from the wrongful, willful or negligent performance of services by the Respondent during the Respondent's performance of this Agreement. The District agrees to give the legal firm prompt notice of any such claim and, absent a conflict of interest, an opportunity to control the defense thereof.

C) **Conditions**

Respondents to this RFP will be expected to adhere to the following conditions and must make a positive statement to that effect in the proposal submitted:

- i. The selected Respondent shall have an office or facility in Pennsylvania. The specific location of the facility must be identified in the proposal submitted.
- ii. The selected Respondent shall have personnel/resources sufficient to assure service continuity and agree to maintain an adequate level of qualified personnel for the term of the Agreement.
- iii. The selected Respondent shall agree to maintain and preserve the confidentiality in all matters relating to the resultant contract and services provided under it.
- iv. The selected Respondent shall agree that the District and the Respondent may terminate the contract at any time with ninety (90) days written notice. In the event of termination, the District shall pay the Respondent for any services rendered prior to termination. However, if the selected Respondent has damaged the District in any way, such payment may be withheld until the District determines whether or by how much such payment should be reduced.
- v. The selected Respondent shall agree to accept and follow management direction from the District and specifically the District's designated personnel.
- vi. The selected Respondent shall agree to conform to all applicable laws and ordinances and statutes of the United State and the Commonwealth of Pennsylvania.
- vii. The selected Respondent shall agree that if the District cannot in good faith negotiate a written contract within a reasonable time with the selected Respondent, the District may unilaterally cancel its selection of that Respondent.
- viii. The selected Respondent shall agree that periodic payments to the Respondent will be made as agreed upon in the contract.

- ix. The selected Respondent shall agree that the contract between the District and Respondent shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, and that the forum for any dispute between the District and the Respondent lies exclusively in Monroe County, Pennsylvania.

9. **PRINCIPALS/COLLUSION**

By submission of a proposal, the Respondent does declare that the only person or persons interested in this proposal as principal or principals is/are named therein and that no other person other than therein mentioned has any interest in this proposal or contract to be entered into; that this proposal is made without connection with any person, company or parties making a proposal, and that it is in all respects fair and in good faith without collusion or fraud.

10. **CONFLICT OF INTEREST**

Respondents shall provide a statement of any potential conflict of interest that may exist in rendering service to and in representing the District.

11. **DISCIPLINARY ACTION**

Respondent shall provide a statement that neither Respondent nor any attorney affiliated with Respondent has, within five years preceding the date of submission, been disciplined by the Disciplinary Board of the Supreme Court of Pennsylvania or any other like authority in another state.

12. **AFFIRMATIVE ACTION STATEMENT**

As a condition of doing business with the District, the legal firm must comply with all Federal and Commonwealth laws and orders pertaining to non-discrimination.

13. **TAXPAYER IDENTIFICATION NUMBER**

The selected Respondent shall submit to the District a completed *Internal Revenue Service Form W-9, Payers Request for Taxpayer Identification Number*.

14. **ALTERNATIVES AND EXCEPTIONS**

Only slight additions or changes would be expected to be negotiated with the successful Respondent in order to resolve any variances between the proposal and the final contract. Respondents may submit alternate proposals which deviate from this RFP or take exceptions to this RFP; however, alternates and exceptions shall be clearly identified as such, and shall include a discussion of the purpose and benefits to such alternate/exception, and the District is not bound to accept them if it determines that they are not in the best interest of the District.

15. **ADDITIONAL INFORMATION AND REVISIONS TO PROPOSALS**

Information may be provided to potential Respondents for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Prospective Respondents shall be afforded fair and equal treatment with respect to additional information and revision of proposals.