



## State of West Virginia

RILEY MOORE  
STATE TREASURER

OFFICE OF THE STATE TREASURER  
PHONE: 304-558-5000 or 1-800-422-7498  
[www.wvtreasury.com](http://www.wvtreasury.com)

STATE CAPITOL, ROOM E-145  
1900 KANAWHA BOULEVARD, EAST  
CHARLESTON, WV 25305

### Bid Opportunity Notice

<b>Solicitation Number:</b>	<b>ARFP STO2300000001</b>	
<b>Solicitation Description:</b>	<b>Investment Consulting Services</b>	
<b>Deadline for Q&amp;A:</b>	<b>11/02/2022</b>	<b>2:00 PM EST</b>
<b>Bid Closing Date and Time:</b>	<b>11/16/2022</b>	<b>1:30 PM EST</b>

Dear Potential Bidder:

Your business has been identified as a potential vendor for the solicitation noted above.

Should your business be interested in this bid opportunity, please visit [www.wvOASIS.gov](http://www.wvOASIS.gov), and click on the Vendor Self Service (VSS) Portal. At the welcome screen, please review announcements and log into your account or click on *View Published Solicitations* at the top portion of the page in order to view the *West Virginia Purchasing Bulletin*. You may view all bid opportunities, or you may search for the solicitation noted above by typing the solicitation number in the “keyword search” box. Additional information may be accessed by clicking on the summary or details of the solicitation. All modifications to solicitations prior to award will be noted as an “addendum” and also available at this same location; please make sure to review for Addenda before submitting a final response to a solicitation.

**The above Solicitation is also cross-posted to the WV State Treasurer’s Office web page. Please visit <https://www.wvtreasury.com/RFP-RFQ> and review this same page for Addenda or other information before submitting your final bid response.**

Should you decide to bid on this opportunity, you may submit a response through the acceptable delivery methods including electronic submission via wvOASIS system, hand delivery, delivery by courier, secure email, or by facsimile; however, wvOASIS does not accept bids for Request for Proposals (ARFP).

Solicitations prefaced with an “A” are agency-delegated bid opportunities expected to be \$50,000 or less, Or, are considered exempt from the requirements of the WV Purchasing Division pursuant to W.Va. Code §12-3A-3 and §5-10B-3. Those prefaced with a “C” are Central Purchasing Division solicitations that are expected to exceed \$50,000.

Should you have any questions regarding becoming a registered vendor with the State of West Virginia, please visit the vendor registration webpage within the WV State Purchasing Division at <http://www.state.wv.us/admin/purchase/VendorReg.html>. **Questions regarding the solicitation should be directed to the designed Buyer listed in the *Instructions to Bidders* document.**

WV State Treasurer’s Office – Purchasing Division  
General Email: [purchasing@wvsto.com](mailto:purchasing@wvsto.com) / Phone: 304-558-5000

**REQUEST FOR PROPOSAL**  
WV State Treasurer's Office  
for  
**Investment Consulting Services**  
**Solicitation# ARFP STO2300000001**

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**SECTION ONE: GENERAL INFORMATION**

- 1.1.** Purpose: The West Virginia State Treasurer's Office, hereafter referred to as the "STO", is soliciting proposals from qualified vendors to provide investment consulting (Services) for the West Virginia 457 Deferred Compensation Plan known as West Virginia Retirement Plus (Plan or 457 Plan), in accordance with the specifications, terms and conditions of the RFP. This procurement is exempt from the requirements of the West Virginia State Purchasing Division pursuant to §5-10B-3. The base term of a contract award will be for a two (2) year time period, with optional renewals of up to three (3) one-year renewal periods.
- 1.2.** By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this Request for Proposal ("RFP").

An RFP is generally used for the procurement of services in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problems, or needs specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

- 1.3.** Schedule of Events:

Vendor's Written Questions Submission Deadline ..... 11/02/2022 at 2:00pm EST  
Addendum Issued..... TBD  
Bid Opening Date..... 11/16/2022 at 1:30pm EST

The STO will make an effort to notify vendors originally included in the invitation notice of any addenda to this solicitation through direct notification; **however**, it is the Vendor's responsibility to check for updates in both wvOASIS.gov and the STO public web page before it responds with a proposal. The STO webpage address is <http://www.wvtreasury.com/RFP-RFQ>

The wvOASIS (Vendor Self Service Portal) webpage address, and general information for other bid opportunities, is <https://prod-fin-vss.wvoasis.gov/webapp/prdvss11/AltSelfService>

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**1.4.** Attachments:

Attachment A – Vendor Response Sheet  
Attachment B – Vendor Mandatory Specification Checklist  
Attachment C – Cost Sheet

**1.5** Exhibits:

Exhibit 1 – 457(b) Plan Document  
Exhibit 2 – Investment Policy Statement

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**SECTION TWO: INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

Instructions are attached

## **INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

### **WV State Treasurer's Office (STO) Exempt Procurement**

**1. REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

**2. MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

**3. PREBID MEETING:** The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

☐ A MANDATORY PRE-BID meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in - but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five (5) business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

**4. VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the STO Purchasing Division designated buyer. Questions must be submitted in writing and be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written questions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding. Submitted emails should have the solicitation number in the subject line.

**Questions Submission Deadline:** November 2, 2022 **By:** 2:00PM EST

Submit questions to Buyer: ALBERTA KINCAID

**State Treasurer's Office – Purchasing Division, 322 70<sup>th</sup> Street SE, Charleston, WV 25304**

Fax: (304) 340-1518 / Buyer Email: alberta.kincaid@wvsto.com

**5. VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the STO Purchasing Division is binding.

**6. BID SUBMISSION:** All bids must be submitted on or before the date and time of the bid opening listed in Section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the STO Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the STO Purchasing Division at the number listed below. For non-complex purchases, the STO may also allow for bids to be submitted via email. Notwithstanding the foregoing, the STO Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS.

Bids submitted in paper, facsimile, or email form must contain a signature. Bids submitted in wvOASIS are deemed to be electronically signed, however, additional information may be requested and/or signed based on directions in the Solicitation. Any bid received by the STO Purchasing Division staff is considered to be in the possession of the STO Purchasing Division and will not be returned for any reason.

**For Request for Proposal ("RFP") Responses Only:** Submission of a response to a Request for Proposal is not currently permitted in wvOASIS. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified below, plus SIX (6) convenience copies of the technical proposal to the STO Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

**Bid Delivery Address and Fax Number:**

WV State Treasurer's Office  
Attn: Purchasing Division  
322 70<sup>th</sup> Street SE, Charleston, WV 25304  
Fax: (304) 340-1518

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope, or fax cover sheet as applicable, or the bid may be rejected by the STO. Note: information in *italics* is for information purposes only to assist in responding.

SEALED BID: Investment Consulting Services  
BUYER: Alberta Kincaid, CPPB  
SOLICITATION NO.: ARFP STO2300000001  
BID OPENING DATE: Nov. 16, 2022  
BID OPENING TIME: 1:30PM EST  
FAX NUMBER: 304-340-1518 (use if submitting bid response via facsimile)

**7. BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official STO Purchasing Division time clock (in the case of hand delivery).

**Bid Opening Date:** Nov. 16, 2022 **Time:** 1:30PM EST

**Bid Opening Location:** WV State Treasurer's Office, Purchasing Division  
322 70<sup>th</sup> Street SE, Charleston WV 25304

**8. ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official addendum issued by the STO. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

**9. BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

**10. ALTERNATE MODEL OR BRAND:** Any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications.

The equality of any alternate being bid shall be determined by the STO at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

☐ This solicitation is based upon a standardized commodity established by the WV State Treasurer's Office under its exemption authority. Vendors are expected to bid the standardized commodity identified, or upon bid a comparable product that meets or exceeds the standard for consideration.

**11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

**12. COMMUNICATION LIMITATIONS:** Communication with anyone other than the designated buyer or STO Purchasing Division staff regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the STO Purchasing Division, is strictly prohibited without prior STO Purchasing Division approval.

**13. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable. Other registrations, including but are not limited to business registration requirements of the WV Secretary of State, WV State Tax Department, and any other state or local entities, will also be required prior to receiving a contract/purchase order.

**14. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

**15. WAIVER OF MINOR IRREGULARITIES:** The STO Purchasing Director reserves the right to waive minor irregularities in bids or specifications.

**16. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the STO Purchasing Division staff immediately upon bid opening. The STO will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or removed access restrictions to allow the STO to print or electronically save documents provided that those documents are viewable by the STO prior to obtaining the password or removing the access restriction.

**17. NON-RESPONSIBLE:** The STO Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible when the STO Deputy Treasurer of Purchasing determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.



**18. ACCEPTANCE / REJECTION:** The State Treasurer's Office may accept or reject any bid in whole, or in part.

**19. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., 5G-1- 1 et seq. and the Freedom of Information Act in West Virginia Code §§ 29B-1-1 et seq.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the STO Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The STO Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

**20. WITH THE BID REQUIREMENTS:** In instances where the specifications require documentation or other information with the bid response, and a vendor fails to provide it with the bid, the STO Purchasing Division Director reserves the right to request those items after the bid opening and prior to the contract award pursuant to the authority to waive minor irregularities in bids or specifications. This authority does not apply to instances where state law mandates receipt with the bid.

**21. EMAIL NOTIFICATION OF AWARD:** The STO Purchasing Division will attempt to provide bidders with email notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the STO Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or request the information from the STO Purchasing Division.

**22. ISRAEL BOYCOTT CERTIFICATION:** Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel.

## ADDENDUM ACKNOWLEDGEMENT FORM

### SOLICITATION NO.:

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

*(Check the box next to each addendum received)*

<input type="checkbox"/>	Addendum No. 1	<input type="checkbox"/>	Addendum No. 6
<input type="checkbox"/>	Addendum No. 2	<input type="checkbox"/>	Addendum No. 7
<input type="checkbox"/>	Addendum No. 3	<input type="checkbox"/>	Addendum No. 8
<input type="checkbox"/>	Addendum No. 4	<input type="checkbox"/>	Addendum No. 9
<input type="checkbox"/>	Addendum No. 5	<input type="checkbox"/>	Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

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Company

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Authorized Signature

---

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

**REQUEST FOR PROPOSAL**  
WV State Treasurer's Office  
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**SECTION THREE: GENERAL TERMS AND CONDITIONS**

Terms and conditions are attached

## **GENERAL TERMS AND CONDITIONS**

### **West Virginia State Treasurer's Office - Exempt Procurement**

1. **CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Treasurer, or his designee, and approved as to form by the Agency's Counsel constitutes acceptance of this Contract made by and between the West Virginia State Treasurer's Office ("STO") and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in the Contract.
2. **DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
  - 2.1. **"Agency"** means the West Virginia State Treasurer's Office ("STO"), and any of its boards or financial programs identified in the Solicitation seeking to procure goods or services under this Contract.
  - 2.2. **"Bid" or "Proposal"** means the vendors submitted response to this solicitation
  - 2.3. **"Contract"** means the binding agreement that is entered into between the STO and the Vendor to provide the goods or services requested in the Solicitation.
  - 2.4. **"Director"** means the Deputy Treasurer of STO Purchasing Division
  - 2.5. **"Award Document"** means the document issued by the STO that identifies the Vendor as the contract holder.
  - 2.6. **"Solicitation"** means the official notice of an opportunity to supply the STO with goods or services that is published by the STO Purchasing Division.
  - 2.7. **"Exempt"** means the solicitation/purchase is exempt from the requirements of the West Virginia Department of Administration - Purchasing Division.
  - 2.8. **"Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.
3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:



**Term Contract**

**Initial Contract Term:** The Initial Contract Term will be for a period of Jan. 1, 2023 - Dec. 31, 2024 (Two Yrs). The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signature of the STO Purchasing Division Director or authorized designee, and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the STO and the Vendor, and the Attorney General's Office, as applicable, as to form only. A request for Contract renewal should be submitted to the STO Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract.

Unless otherwise specified below, Renewal of this Contract is limited to Three ( 3 ) successive One (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Renewals must be approved by the Vendor and STO.  
**Automatic renewal of this Contract is prohibited.**

☐ **Alternate Renewal Term** – This contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. **Automatic renewal of this Contract is prohibited.** Renewals must be approved by the STO and the Vendor.

**Delivery Order Limitations:** In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within \_\_\_\_\_ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion, of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for \_\_\_\_\_ years;

☐ the contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year renewal periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. **Automatic renewal of this Contract is prohibited.** Renewals must be approved by the Vendor and the STO.

☐ **One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures (electronic or written) of the STO Purchasing Division designee, and continues until the project for which the vendor providing oversight is complete.

☐ **Other:** Contract Term specified in \_\_\_\_\_.

4. **AUTHORITY TO PROCEED:** Vendor is authorized to begin performance of this Contract on the date of encumbrance listed on the front page of the Award Document unless either the box for “Fixed Period Contract” or “Fixed Period Contract with Renewals” has been checked in Section 3 above. If either box has been checked, Vendor must not begin work until it receives a separate notice to proceed from the STO. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☐ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the STO. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☒ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor and Agency.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. **EMERGENCY PURCHASES:** The STO Deputy Treasurer of Purchasing, or their designee, may authorize the purchase of goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in

an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the STO Deputy Treasurer of Purchasing, or their designee, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the STO from filling its obligations under a One Time Purchase contract.

**7. REQUIRED DOCUMENTS:** All of the items checked below must be provided to the STO Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the STO Purchasing Division. The request may be prior to or after contract award at the STO's sole discretion.

☐☐☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the Specifications prior to Contract award regardless of whether or not that requirement is listed above.

**8. INSURANCE:** The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of the contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the STO with proof that the insurance mandated herein has been continued. Vendor must also provide the STO with the immediately notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section. Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of:

ONE MILLION DOLLARS \_\_\_\_\_ per occurrence.

☒ **Automobile Liability Insurance** in at least an amount of: \$500,000 \_\_\_\_\_ per occurrence.

☒ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: ONE MILLION DOLLARS \_\_\_\_\_ per occurrence. Notwithstanding the foregoing, Vendor is not required to list the State/STO as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in at least an amount of:  
\_\_\_\_\_ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence.

[ ] **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

[ ] **Pollution Insurance** in an amount of: \_\_\_\_\_ per occurrence.

[ ] **Aircraft Liability** in an amount of: \_\_\_\_\_ per occurrence.

Notwithstanding anything contained in this section to the contrary, the STO Deputy Treasurer of Purchasing reserves the right to have the STO be named as an additional insured on one or more of the Vendor's insurance policies if he/she finds that doing so is in the STO's best interest.

9. **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. **VENUE:** All legal actions for damages brought by Vendor against the STO shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. **LIQUIDATED DAMAGES:** This clause shall in no way be considered exclusive and shall not limit the STO's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ \_\_\_\_\_ for \_\_\_\_\_.

☐ Liquidated Damages Contained in the Specifications

☒ Liquidated Damages Are Not Included in this Contract.

12. **ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the STO that cannot be unilaterally withdrawn, signifies that the product or service proposed by Vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in Solicitation unless otherwise indicated.

13. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the STO. A Vendor's inclusion of price adjustment provisions in its bid, without express authorization from the STO in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly



advertised sale price to the STO and invoice at the lower of the contract price or the publicly advertised sale price.

14. **PAYMENT IN ARREARS:** Payment for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.
15. **PAYMENT METHODS:** The State's preferred payment methods are by electronic funds transfer and/or a State issued credit card, also known as P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards). Payments requested by physical warrant/check are available but take additional time for processing and are only processed once per week.
16. **TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
17. **ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State Treasurer's Office, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.
18. **FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the STO may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
19. **CANCELLATION:** The STO Deputy Treasurer of Purchasing reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The STO Deputy Treasurer may also cancel any purchase order or Contract upon 30 days written notice to the Vendor.
20. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
21. **APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

- 22. COMPLIANCE WITH LAWS:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

- 23. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

- 24. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the STO and the Vendor. Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the STO Purchasing Division and/or Agency's Counsel as to form prior to the implementation of the change or commencement of work affected by the change. No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the STO Purchasing Division.

**VENDOR NAME MODIFICATIONS:** If a Vendor has a change of name (and/or address) after the issuance of a contract, Vendor must notify the STO and also update its business registrations with all applicable State of West Virginia entities it has previously registered. If invoices do not match the name on the Contract and applicable business registrations, they must be held until compliance is verified. Address changes may require additional supporting information before accepting.

- 25. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 26. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by the Vendor to the STO such as price lists, order forms, invoices, sales agreements, or maintenance agreements, any clauses that may void State law, including internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 27. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the STO, and any other government agency or office that may be required to approve such assignments.

- 28. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the STO; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 29. STATE EMPLOYEES:** STO employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 30. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State Treasurer's Office may deem this Contract null and void, and terminate this Contract without notice.
- 31. PRIVACY, SECURITY, AND CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the STO, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the STO's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.
- 32. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are considered public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia and the Freedom of Information Act found in West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the STO Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal or document. The STO Purchasing Division will disclose any document labeled "confidential", "proprietary", "trade secret", "private", or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by W. Va. Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

- 33. LICENSING:** Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the STO Purchasing Division to verify that the Vendor is licensed and in good standing with the above entities.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing

commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up to date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

- 34. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting an Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency renders the initial payment to Vendor.
- 35. VENDOR NON-CONFLICT:** Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the STO.
- 36. VENDOR RELATIONSHIP:** The relationship of the Vendor to the STO/State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the STO with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 37. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the STO, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor,

its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

- 38. NO DEBT CERTIFICATION:** The State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the STO, Vendor is (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or political subdivision of the state; and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.
- 39. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts (“Other Government Entities”), provided, that both the Other Government Entity and the Vendor agree, and, have such authority to do so. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 40. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the STO.
- 41. REPORTS:** Vendor shall provide the STO with the following reports identified by a checked box below:
- ☒ Such reports as the STO may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures, etc.
  - ☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by the agency. Unless otherwise provided for upon Contract award, quarterly reports should be delivered to the STO Purchasing Division via email at [purchasing@wvsto.com](mailto:purchasing@wvsto.com).
- 42. BACKGROUND CHECK:** In accordance with W.Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider’s employees from accessing sensitive or critical information or to be present at the Capitol Complex based on results addressed from a criminal background check. Service providers should contact the WV Division of Protective Services at (304) 558-9911 for more information.
- 43. JOINT PROPOSALS AND SUBCONTRACTING:** Joint Proposals are not permitted. Subcontracting is permitted subject to STO authorization. The purchase order/contract shall be awarded to the Vendor submitting the proposal. The Vendor awarded the purchase order/contract

shall be the sole point of contact with regard to the purchase order and shall be solely responsible for all matters provided pursuant to the purchase order/contract, including without limitation, any tangible or intangible items provided by a subcontractor or other party.

**43. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the (WV Dept. of Administration) Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. “State Contract Project” means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. “Steel Products” means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.:
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
  - 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
  - 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**44. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:**

In accordance with W.Va. Code § 5-19-1 et seq., and W.Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a “substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

- 45. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.
- 46. PROHIBITION AGAINST USED OR REFURBISHED:** Unless expressly permitted in the solicitation published by the STO, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.
- 47. VOID CONTRACT CLAUSES:** This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State Law.
- 48. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W.Va, Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

**DESIGNATED CONTACT:** Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

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(Printed Name and Title)

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(Address)

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(Phone Number) / (Fax Number)

---

(Email address)

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the STO that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration, or shall promptly register upon notification of any such requirement by the STO.

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(Company Name)

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Printed Name and Title of Authorized Signatory

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(Authorized Signature) \_\_\_\_\_ Date \_\_\_\_\_

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(Phone Number)

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(Fax Number)

Email: \_\_\_\_\_



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**SECTION FOUR: PROJECT SPECIFICATIONS**

**4.1. Location:** Agency's corporate office is located at 1900 Kanawha Blvd. E, Bldg. 1 Suite E-145, Charleston, WV 25305. The WV Retirement Plus program staff office are located at 315 70<sup>th</sup> Street, Charleston, WV 25304.

**4.2. Background and Current Operating Environment:**

West Virginia Code §5-10B-1 et seq. authorized the creation of the qualified 457(b) Plan in 1982 within the West Virginia Consolidated Public Retirement Board (WVCPRB). The initial Plan was structured by the WVCPRB as an unbundled plan. After a series of changes, such as State Street determining to no longer serve as an administrator, the Plan became a bundled plan with ING as the sole administrator. In 2006, Plan operation was transferred to the Treasurer.

The Plan consists of one (1) multiple employer defined contribution pension plans, under IRC §457(b). The §457(b) plan consists of employee contributions and very small amounts of employer contributions from political subdivisions (see Exhibit 1). Political subdivisions have the option offer their own matching plan, but there is currently no matching program for state employees. Participants direct investments and funds may rollover to and from the Plan, as well as, to and from other qualified tax-deferred plans.

Full-time state employees and some full-time political subdivision employees participate in a defined benefit plan through the West Virginia Consolidated Public Retirement Board. The 457 Plan is mostly a supplemental retirement program, open to state employees and political subdivisions that elect to use the Plan. However, the Plan serves as the primary retirement plan for entities with no defined benefit plan.

The Plan is open to most state employees and those political subdivisions that elect to use the Plan. There are approximately 27,000 eligible state agency employees along with another 26,000 employees from counties, cities, and other political subdivisions. As additional entities adopt the Plan, the total number of eligible employees will increase beyond the current 53,000 total.

As of June 30, 2022, there were 19,377 participant accounts with approximately \$301 million in assets. The number of contributing employees at that time was 10,651, with contributions in Fiscal Year 2022 totaling \$17.5 million. The average participant account balance was \$15,538 and 314 political subdivisions had adopted the Plan. The plan is currently distributing approximately 2,900 small balance inactive accounts, which will increase the average participant account balance but reduce the total number of participant accounts.

The Plan offers 23 investment options including a guaranteed interest and five target date funds from managers such as the American Funds, Fidelity, T. Rowe Price, and Vanguard covering several different asset classes. There are both active managed and index fund options.

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Additionally, a Self-directed Brokerage Account offering a large number of mutual funds is available to participants for an additional fee through T. D. Ameritrade. Also, for an additional fee, Empower Retirement Advisory Services offers a managed account service provided by Great-West's Advised Assets Group, LLC.

Empower Retirement, the current Plan administrator, provides all Plan Services, e.g., administrative services, recordkeeping, education, investments, marketing, reporting, compliance, enrollment, and customer service (contract ends January 13, 2023 with (2) one-year renewals which could extend the contract to January 13, 2025 if exercised). Segal Marco Advisors is the current Investment Consultant to the Plan, and provides investment and administrative monitoring services, quarterly and annual Plan reviews, research, market information, and as needed services.

The STO closely monitors all Plan operations and works diligently to maintain a Plan compliant with federal and state laws and regulations. A copy of the Plan Documents and a copy of the Investment Policy are in Exhibits to this RFP. Copies of current Plan materials, such as enrollment information, are available on the website [www.wv457.com](http://www.wv457.com), as well as other information.

*All capitalized terms and abbreviations used in the RFP shall have the meaning as set forth below.*

- 4.3 Qualifications and Experience:** Vendors should provide in **Attachment A: Vendor Response Sheet** information regarding their firm, such as staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

4.3.1 Provide the following information for your Firm:

- a. Name
- b. Corporate Mailing Address
- c. Telephone Number
- d. Primary Contact, including telephone number and e-mail address

4.3.2 Briefly discuss Vendor's organization, including, without limitation, its legal structure, ownership (direct and indirect), control, history, lines of business, staffing numbers, pending contract(s) to merge or sell any portion of Vendor, any changes in senior management in the last three years, and other information that will assist in evaluating Vendor's organization.

4.3.3 Describe Vendor's business plan and long-term goals for the future. Include growth Plans, talent retention policy, etc. Do you offer any services that may not be offered by other consultants? What are your firm's strengths? What are your firm's limitations? Describe how you believe your clients should evaluate your performance.

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- 4.3.4 In addition to consulting, does Vendor provide investment management services? If so, what processes are in place to maintain independence and objectivity in the consulting services?
- 4.3.5 Provide a listing of Vendor's various office locations and the services provided by those locations. Provide an organizational chart for Vendor's organization. Indicate which office(s) will provide services to the STO.
- 4.3.6 Describe the scope and length of Vendor's experience as an investment consultant, particularly discussing Vendor's experience with 457 Plans, discussing Vendor's research and consulting capabilities.
- 4.3.7 As the STO reserves the right to authorize or prohibit subcontracting or any joint venture, please note that the STO views any entities providing any portion of the Services, other than the Vendor submitting the proposal, to be a subcontractor. State whether any of the Services will be subcontracted to another entity; fully describe these Services and the background and qualifications of the entity that will provide the Services; and disclose and explain any affiliation with Vendor.
- 4.3.8 Discuss any arrangements Vendor has with any investment, money management or broker dealer entities and a brief description of the terms of each arrangement. Disclose any revenue sharing arrangements.
- 4.3.9 Discuss any investigation, examination, complaint, charge, bankruptcy or insolvency proceedings, litigation, arbitration, settlement or disciplinary action in the last two (2) years involving Vendor and any subcontractor Vendor proposes to use in connection with providing any of the Services contemplated by this RFP that may affect Vendor's relationship with or that could be considered a material conflict of interest with the STO or the State of West Virginia. Include any censures or reprimands from regulatory bodies.
- 4.3.10 Discuss no more than five (5) of Vendor's engagements in the last five (5) years comparable to a potential engagement with the STO or that demonstrate the ability of Vendor to provide Services for the STO. Please select at least one client that is relatively new, one that has been with you for more than five years, and one client that has been with you for at least ten years. All or none of these references may be contacted as a reference.

Furthermore, the STO reserves the right to contact any person or entity it believes prudent in order to inquire about the Vendor. Include the following information:

- a. Entity name and address
- b. Contact person with current contact information, including telephone, email
- c. Length of relationship

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- d. Services provided, including dates of the services
- e. Assets under management in comparison to those sought through this RFP

4.3.11 List the total number and size of accounts gained and lost by the Vendor, by year, for the past five years. For each account lost, provide a brief explanation for the reason of the loss.

4.3.12 State the name of the individual who would be primarily responsible for providing the services, the individual's duties, years and type of experience, areas of expertise, professional designations and memberships, and a brief resume (including the individual's qualifications and licenses). For this person, state how many other accounts/clients he or she is assigned as the primary consultant or backup. Indicate whether this individual has any responsibilities other than providing consulting services, and if so, specify those responsibilities. Provide resumes on any additional staff that may be working on the STO account.

4.3.13 Describe secession planning and/or back-up planning in the event the primary consultant is not available to work on the STO account.

**4.4. Project and Goals:** Provide response to the project goals and objectives:

4.4.1. Discuss how Vendor will provide the Basic Services specified in Section 4.5.2.

4.4.2. To differentiate Vendor's ability to effectively provide the Services, provide written responses to the following:

- a. What steps would the Vendor take at the initiation of the engagement to become familiar with the STO, the Plan and its investments? If you are the current Vendor, what would you do to demonstrate your renewed commitment to the STO?
- b. Explain Vendor's approach to developing investment policies and investment guidelines. Include Vendor's process for assisting with the ongoing review of and monitoring compliance with investment policies and procedures. Describe your mutual fund due diligence screening.
- c. Describe the process employed in providing performance measurement reports. Discuss the types of reports the Vendor offers and Vendor's ability to customize reports. Include a sample monthly and quarterly performance report in the Miscellaneous section of Vendor's proposal.
- d. What steps does the Vendor take if an investment is not performing as expected? What criteria does the Vendor consider when recommending replacement of an investment offering?

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- e. Discuss the Vendor's ability to review and oversee operations of any service providers for the Plan. What type of support can your firm provide to assist the STO in their decision-making process?
- f. Describe the Vendor's process for helping the STO design an investment menu for its participants and the ongoing due diligence related to those investment offerings including monitoring performance to benchmarks. Which fixed interest or stable value companies/managers do you have a regular working relationship with?
- g. Concerning the requested Services within this RFP, discuss Vendor's fiduciary responsibilities. Will your firm contract as a co-fiduciary?
- h. Describe the contents of Vendor's business continuity/disaster recovery plan. Indicate the date of the latest test and the results of that event. Have there been any disruptions in Vendor's operations that have required implementation of the plan? If so, please discuss.

**4.5. Mandatory Requirements**

**The following mandatory requirements must be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal.** The terms "must", "will", "shall", "minimum", "maximum", or "is/are required" identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the STO Purchasing Division.

**4.5.1. Mandatory Qualifications Requirement**

- 4.5.1.1 Vendor must be authorized to do business in and with the State of West Virginia or obtain such authorization within thirty (30) calendar days of being notified by the STO to obtain the authorization. No contract award will be made until all business registrations are complete and/or lists the Vendor in good standing.
- 4.5.1.2 Vendor must be a registered adviser under the Investment Advisers Act of 1940 (explain if Vendor is exempt from registration).
- 4.5.1.3 Vendor must have at least five (5) years experience in providing these types of Services for IRC 457(b) deferred compensation plans.
- 4.5.1.4 Vendor must currently be providing similar consulting services to clients with assets totaling at least \$500 million.

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- 4.5.1.5 Vendor's primary consultant or team leader assigned to the Plan must have a minimum of three (3) years' experience providing similar consulting services to other 457 Plans.
- 4.5.1.6 Vendor must have a minimum of two (2) public deferred compensation clients with assets of at least \$250 million each.
- 4.5.1.7 Vendor must not be currently providing investment management services to the Plan (does not include the Services described in this RFP); and Vendor must have no conflict of interest in connection with the STO and the State of West Virginia.

**4.5.2. Basic Services: Vendor shall provide the following Basic Services**

- 4.5.2.1 Advice - Provide objective third-party advice and counsel;
- 4.5.2.2 Standards – Perform all analyses using commonly accepted methods and standards used by investment professionals and prepare and maintain all charts, assumptions and backup data necessary to verify the conclusions articulated within a report or document;
- 4.5.2.3 Consultation – Include consultation time with the STO, by telephone and e-mail, sufficient to maintain good communication on the planning, progress-toward-completion and review of all of the Services;
- 4.5.2.4 Reports – Provide reports and documents in a manner and format requested by the STO in an electronic (digital) format, and, if requested, twelve (12) printed copies. The electronic versions of the documents will be as follows: spreadsheets must be Microsoft Excel files; expository reports must be Microsoft Word and/or searchable Adobe PDF format files;
- 4.5.2.5 Fees- Provide analysis of all fees, including without limitation, investment management fees, fund expense ratios and eligibility for lower fee opportunities as Plan assets grow;
- 4.5.2.6 Investment Policy – Assist the STO with the maintenance of an appropriate, up-to-date investment policy. Review Policy at least annually and assess and/or recommend proposed changes. Work with the STO to help ensure proper implementation of and compliance with the Investment Policy (see **Exhibit 2**);
- 4.5.2.7 Benchmarks – Identify and recommend appropriate measurement benchmarks used to assess investment performance. Review investment performance against appropriate benchmarks, including investment performance for each asset;

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- 4.5.2.8 Quarterly and Annual Investment Performance Reports – Analyze and report on the performance of the funds, including benchmark and peer reviews (where applicable); and, make recommendations to the STO and review the reports with the STO. Report must include fund recommendations and alternatives to any investment option not meeting or exceeding its benchmark. Submit quarterly investment performance reports within 45 business days following month end and annual report within 45 business days following calendar year end;
- 4.5.2.9 Quarterly Investment Market Commentary – Provide current commentary of market conditions, economic matters, and other issues and matters affecting investment market performance within 45 business days following month end;
- 4.5.2.10 Investment Review – Evaluate and make recommendations to the STO regarding the Plan's investment options and potential modifications to the Plan's investment structure or investment options;
- 4.5.2.11 Training – Provide training to STO staff on investment related topics as requested and advise on the laws, rules and regulations affecting 457 plans and pending federal legislation affecting deferred compensation plans. These trainings shall be held in conjunction with in-person quarterly on-site meetings or virtually, as requested;
- 4.5.2.12 Due Diligence Reviews – Assist the STO in the ongoing due diligence reviews of service providers and investment funds;
- 4.5.2.13 Policy and Document Review – As requested, review and comment on proposed changes to STO policies, Plan documents, Plan communications, enrollment material, fulfillment services, and other documents related to investments;
- 4.5.2.14 RFP Participation – Assist in preparing RFPs, reviewing proposals, and searching for vendors as needed;
- 4.5.2.15 Customized Reports – Provide customized reports, as requested by the STO;
- 4.5.2.16 Compliance - Comply with the STO policies, and all applicable federal and state laws, rules, regulations, and policies;
- 4.5.2.17 Reports on industry and plan sponsor trends (government sector), new investment products and developing industry best practices for both internal and external service provider functions;

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4.5.2.18 Onsite Meetings- Attend two onsite meetings annually in-person at a Charleston, West Virginia area location. Other meetings are anticipated to be virtual.

**4.5.3. Additional Services**

Vendor may be requested to provide related Additional Services that the Vendor offers, but are not included in the Basic Services 4.5.2. In **Attachment C, Cost Proposal Form**, include the category of service and related hourly rate, including all associated fees within the hourly rate.

A Statement of Work specifying the Additional Services and the fee shall be negotiated by the parties and authorized by written order. The hourly rate of the fee shall not exceed the hourly rate the Vendor proposed on its Cost Proposal Form. There is no guarantee the STO will request any Additional Services. In the event a Vendor does not state an hourly rate for Additional Services, the STO may obtain the Additional Services from another Vendor.

**SECTION FIVE: VENDOR PROPOSAL**

**5.1. Economy of Preparation:** Proposals should be prepared simply and economically providing a straightforward, concise description of the Vendor's abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of the content.

**\*\* NOTE \*\* Vendors proposals should not exceed 50 pages excluding any requested exhibits or attachments.**

**5.2. Incurring Cost:** Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.

**5.3. Proposal Format:** Vendors should provide responses in the format listed below:

**Title Page:** State the RFP subject, RFP number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.

**Table of Contents:** Clearly identify the material by section and page number.

**Attachment A:** Within the attached response sheet (**Attachment A: Vendor Response Sheet**), Vendor should provide the following related to **Section 4.3:** firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed



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entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

Also, describe the approach and methodology proposed for this project. This should include how each of the goals and objectives listed in **Section 4.4** is to be met.

**Attachment B:** Complete **Attachment B: Mandatory Specification Checklist**. By signing and dating this attachment, the Vendor acknowledges that they meet or exceed each of these specifications as outlined in 4.5 of Section Four: Project Specifications. The State reserves the right to require documentation detailing how each is met at its discretion.

**Attachment C:** Complete **Attachment C: Cost Sheet** included in this RFP and submit in a separate sealed envelope. Cost should be clearly marked on the outside of the envelope within the response packet.

**5.4. Proposal Submission:** Proposals must be received in two distinct parts: technical and cost.

- **Technical proposals** must not contain any cost information relating to the project.
- **Cost proposal** shall be sealed in a separate envelope and will not be opened initially.

**Vendor is to provide ONE (1) original Technical and ONE (1) original Cost proposal.**

**Vendor is to provide (6) convenience copies of its Technical proposal.**

Vendor is requested to provide an exact copy of the Technical response on a USB flash drive in Adobe PDF or Microsoft Word, and/or a zip drive sent electronically via email in Adobe PDF or Microsoft Word with its proposal or immediately upon request by the designated buyer/contact person named within the solicitation document. **No proposed costs shall be included in any of this type of media provided.**

All proposals must be submitted to the STO Purchasing Division **prior** to the date and time stipulated in the RFP as the opening date. All bids will be date and time stamped to verify official time and date of receipt. Bids not received prior to the proposal opening date and time as required shall be immediately disqualified. All submissions must be in accordance with the provisions listed below and in Section Two: Instructions to Bidders Submitting Bids above.

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- 5.5. Technical Bid Opening:** The STO Purchasing Division will open and announce only the technical proposals received prior to the date and time specified in the Request for Proposal. The technical proposals shall then be provided to the Agency evaluation committee.
- 5.6. Cost Bid Opening:** The STO Purchasing Division shall schedule a date and time to publicly open and announce cost proposals when the STO Purchasing Division has approved the technical recommendation of the evaluation committee. All cost bids for qualifying proposals will be opened. Cost bids for non-qualifying proposals will also be opened but shall not be considered. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award.

**SECTION SIX: EVALUATION AND AWARD**

- 6.1 Evaluation Process:** Proposals will be evaluated by a committee of three (3) or more individuals against the established criteria with points deducted for deficiencies. The Vendor who demonstrates that they meet all of the mandatory specifications required; and has appropriately presented within their written response and/or during the oral demonstration (if applicable) their understanding in meeting the goals and objectives of the project; and attains the highest overall point score of all Vendors shall be awarded the contract. The STO reserves the right to contact any Vendor to clarify or elaborate on the proposal. No new or additional matter may be discussed. The selection of the successful Vendor will be made by a consensus of the evaluation committee.
- 6.2 Evaluation Criteria:** All evaluation criteria is defined in the specifications section and based on a 100 point total score. Cost shall represent a minimum of 30 of the 100 total points.

The following are the evaluation factors and maximum points possible for technical point scores:

• Qualifications and experience	(30) Points Possible
• Project and Goals	(40) Points Possible
• Cost	<u>(30) Points Possible</u>
<b>Total</b>	100 Points Possible

Each cost proposal cost will be scored by use of the following formula for all Vendors who attained the minimum acceptable score:

$$\frac{\text{Lowest price of all proposal}}{\text{Price of Proposal being evaluated}} \times 30 = \text{Price Score}$$

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- 6.2.1 Technical Evaluation: The Agency evaluation committee will review the technical proposals, deduct points where appropriate, and make a final written recommendation to the Purchasing Division.
- 6.2.2 Minimum Acceptable Score: Vendors must score a minimum of 70% (49 points) of the total technical points possible. All Vendors not attaining the minimum acceptable score (MAS) shall be considered as non-qualifying. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Cost bids for non-qualifying proposals will also be opened but shall not be considered. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award.
- 6.2.3 Cost Evaluation: The Agency evaluation committee will review the cost proposals, assign appropriate points, and make a final recommendation to the Purchasing Division.

## **SECTION SEVEN: VENDOR PROTESTS**

### **7.1 Types of Protests**

#### **7.1.1 Protests of Requirements, Specifications or Terms**

By issuing the RFP, the STO intends to encourage competition among eligible Vendors. Any protest, complaint or problem with the RFP, including any requirement, specification or term contained in the RFP or any combination thereof, must be filed in writing with the Deputy Treasurer of Purchasing no later than five (5) working days prior to the Proposal Opening Date specified in the RFP. Protests received after that date will not be considered.

#### **7.1.2 Protests of Award**

After selection of the apparent successful Vendor, the Deputy Treasurer of Purchasing will send a written Notice to each Vendor regarding the award. Each Vendor will have until the date specified in the notice to file a written protest as to the award, generally five (5) working days. Protests received after that date will not be considered.

### **7.2 Written Letter of Protest**

The written letter of protest must contain the name and address of the protesting Vendor, the RFP number, a statement explaining why the protest has been filed, the relief sought, and any other information that may assist the Deputy Treasurer of Purchasing in reaching a decision on the matter. The Deputy Treasurer of Purchasing must receive the letter of protest by the appropriate deadline to be considered.

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**7.3 Review of Protest and Issuing Decision**

The STO will review the letter of protest and issue a written decision. The STO may contact the protestor or any other entity he or she considers necessary to reach a decision. Opening of the proposals, evaluation of the proposals or award of the purchase order may be delayed, as considered appropriate by the STO.

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**Attachment A: Vendor Response Sheet**

**Section 4.3   Qualifications & Experience**

*Provide a response regarding the following: firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives where and how they were met.*

4.3.1 Provide the following information for your Firm:

- a. Name
- b. Corporate Mailing Address
- c. Telephone Number
- d. Primary Contact, including telephone number and e-mail address

VENDOR RESPONSE:

4.3.2 Briefly discuss Vendor's organization, including, without limitation, its legal structure, ownership (direct and indirect), control, history, lines of business, staffing numbers, pending contract(s) to merge or sell any portion of Vendor, any changes in senior management in the last three years, and other information that will assist in evaluating Vendor's organization.

VENDOR RESPONSE:

4.3.3 Describe Vendor's business plan and long-term goals for the future. Include growth plans, talent retention policy, etc. Do you offer any services that may not be offered by other consultants? What are your firm's strengths? What are your firm's limitations? Describe how you believe your clients should evaluate your performance.

VENDOR RESPONSE:

4.3.4 In addition to consulting, does Vendor provide investment management services? If so, what processes are in place to maintain independence and objectivity in the consulting services?

VENDOR RESPONSE:

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- 4.3.5 Provide a listing of Vendor's various office locations and the services provided by those locations. Provide an organizational chart for Vendor's organization. Indicate which office(s) will provide services to the STO.

VENDOR RESPONSE:

- 4.3.6 Describe the scope and length of Vendor's experience as an investment consultant, particularly discussing Vendor's experience with 457 Plans, discussing Vendor's research and consulting capabilities.

VENDOR RESPONSE:

- 4.3.7 As the STO reserves the right to authorize or prohibit subcontracting or any joint venture, please note that the STO views any entities providing any portion of the Services, other than the Vendor submitting the proposal, to be a subcontractor. State whether any of the Services will be subcontracted to another entity; full describe these Services and the background and qualifications of the entity that will provide the Services; and disclose and explain any affiliation with Vendor.

VENDOR RESPONSE:

- 4.3.8 Discuss any arrangements Vendor has with any investment, money management or broker dealer entities and a brief description of the terms of each arrangement. Disclose any revenue sharing arrangements.

VENDOR RESPONSE:

- 4.3.9 Discuss any investigation, examination, complaint, charge, bankruptcy or insolvency proceedings, litigation, arbitration, settlement or disciplinary action in the last two (2) years involving Vendor and any subcontractor Vendor proposes to use in connection with providing any of the Services contemplated by this RFP that may affect Vendor's relationship with or that could be considered a material conflict of interest with the STO or the State of West Virginia. Include any censures or reprimands from regulatory bodies.

VENDOR RESPONSE:

- 4.3.10 Discuss no more than three (3) of Vendor's engagements in the last three (3) years comparable to a potential engagement with the STO or that demonstrate the ability of Vendor to provide Services for the STO. Please select at least one client that is relatively new, one that has been with you for more than five years, and one client that has been with you for at least ten years. All or

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none of these references may be contacted as a reference. Furthermore, the STO reserves the right to contact any person or entity it believes prudent in order to inquire about the Vendor. Include the following information:

Entity name  
Address  
Contact person  
Telephone number  
Email address  
Length of relationship  
Services provided  
Assets under management

**VENDOR RESPONSE:**

- 4.3.11 List the total number and size of accounts gained and lost by the Vendor, by year, for the past five years. For each account lost, provide a brief explanation for the reason of the loss.

**VENDOR RESPONSE:**

- 4.3.12 State the name of the individual who would be primarily responsible for providing the services, the individual's duties, years and type of experience, areas of expertise, professional designations and memberships, and a brief resume (including the individual's qualifications and licenses). For this person, state how many other accounts/clients he or she is assigned as the primary consultant or backup. Indicate whether this individual has any responsibilities other than providing consulting services, and if so, specify those responsibilities. Provide resumes on any additional staff that may be working on the STO account.

**VENDOR RESPONSE:**

- 4.3.13 Describe secession planning and/or back-up planning in the event the primary consultant is not available to work on the STO account.

**VENDOR RESPONSE:**

**Section 4.4 Project and Goals: Provide a response to the project goals and objectives:**

- 4.4.1 Discuss how Vendor will provide the Basic Services specified in Section 4.5.2.

**VENDOR RESPONSE:**

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4.4.2 To differentiate Vendor's ability to effectively provide the Services, provide written responses to the following:

- a. What steps would the Vendor take at the initiation of the engagement to become familiar with the STO, the Plan and its investments? If you are the current Vendor, what would you do to demonstrate your renewed commitment to the STO?

VENDOR RESPONSE:

- b. Explain Vendor's approach to developing investment policies and investment guidelines. Include Vendor's process for assisting with the ongoing review of and monitoring compliance with investment policies and procedures. Describe your mutual fund due diligence screening.

VENDOR RESPONSE:

- c. Describe the process employed in providing performance measurement reports. Discuss the types of reports the Vendor offers and Vendor's ability to customize reports. Include a sample monthly and quarterly performance report in the Miscellaneous section of Vendor's proposal.

VENDOR RESPONSE:

- d. What steps does the Vendor take if an investment is not performing as expected? What criteria does the Vendor consider when recommending replacement of an investment offering?

VENDOR RESPONSE:

- e. Discuss the Vendor's ability to review and oversee operations of any service providers for the Plan. What type of support can your firm provide to assist the STO in their decision-making process?

VENDOR RESPONSE:

- f. Describe the Vendor's process for helping the STO design an investment menu for its participants and the ongoing due diligence related to those investment offerings including monitoring performance to benchmarks. Which fixed interest or stable value companies/managers do you have a regular working relationship with?



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VENDOR RESPONSE:

- g. Concerning the requested Services within this RFP, discuss Vendor's fiduciary responsibilities. Will your firm contract as a co-fiduciary?

VENDOR RESPONSE:

- h. Describe the contents of Vendor's business continuity/disaster recovery plan. Indicate the date of the latest test and the results of that event. Has there been any disruptions in Vendor's operations that required implementation of the plan? If so, please discuss.

VENDOR RESPONSE:

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**Attachment B: Mandatory Specification Checklist**

**Section 4.5 Mandatory Requirements**

The following mandatory requirements **must** be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal. The terms “must”, “will”, “shall”, “minimum”, “maximum”, or “is/are required” identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the STO Purchasing Division.

**4.5.1 Mandatory Qualification Requirements**

4.5.1.1 Vendor must be authorized to do business in and with the State of West Virginia or obtain such authorization within thirty (30) calendar days of being notified by the STO to obtain the authorization.

VENDOR RESPONSE:

4.5.1.2 Vendor must be a registered adviser under the Investment Advisers Act of 1940 (explain if Vendor is exempt from registration).

VENDOR RESPONSE:

4.5.1.3 Vendor must have at least five (5) years' experience in providing these Services for IRC 457(b) deferred compensation plans.

VENDOR RESPONSE:

4.5.1.4 Vendor must currently be providing similar consulting services to clients with assets totaling at least \$500 million.

VENDOR RESPONSE:

4.5.1.5 Vendor's primary consultant or team leader assigned to the Plan must have a minimum of three (3) years' experience providing similar consulting services to other 457 Plans.

VENDOR RESPONSE:

4.5.1.6 Vendor must have a minimum of two (2) public deferred compensation clients with assets of at least \$250 million each.

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VENDOR RESPONSE:

4.5.1.7 Vendor must not be currently providing accounting, auditing, actuarial or investment management services to the Plan (does not include the Services described in this RFP).

VENDOR RESPONSE:

4.5.1.8 Vendor must have no conflict of interest in connection with the STO and the State of West Virginia.

VENDOR RESPONSE:

**4.5.2 Basic Services: Vendor shall provide the following Basic Services:**

4.5.2.1 Advice - Provide objective third-party advice and counsel.

VENDOR RESPONSE:

4.5.2.2 Standards – Perform all analyses using commonly accepted methods and standards used by investment professionals and prepare and maintain all charts, assumptions and backup data necessary to verify the conclusions articulated within a report or document.

VENDOR RESPONSE:

4.5.2.3 Consultation – Include consultation time with the STO, by telephone and e-mail, sufficient to maintain good communication on the planning, progress-toward-completion and review of all of the Services.

VENDOR RESPONSE:

4.5.2.4 Reports - Provide reports and documents in a manner and format requested by the STO in an electronic (digital) format, and, if requested, eight (8) printed copies. The electronic versions of the documents will be as follows: spreadsheets must be Microsoft Excel files, expository reports must be Microsoft Word and/or searchable Adobe PDF format files.

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- 4.5.2.5 Fees- Provide analysis of all fees, including without limitation, investment management fees, fund expense ratios and eligibility lower fee opportunities as Plan assets grow.

VENDOR RESPONSE:

- 4.5.2.6 Investment Policy – Assist the STO with the maintenance of an appropriate, up-to date investment policy. Review Policy at least annually and assess and/or recommend proposed changes. Work with the STO to help ensure proper implementation of and compliance with the Investment Policy (Exhibit 2).

VENDOR RESPONSE:

- 4.5.2.7 Benchmarks – Identify and recommend appropriate measurement benchmarks used to assess investment performance. Review investment performance against appropriate benchmarks, including investment performance for each asset.

VENDOR RESPONSE:

- 4.5.2.8 Annual and Investment Performance Reports – Analyze and report on the performance of the funds, including benchmark and peer reviews (where applicable), make recommendations to the STO and review the reports with the STO. Report must include fund recommendations and alternatives to any investment option not meeting or beating its benchmark. Submit quarterly investment performance reports within 45 business days following month end and annual report within 45 business days following calendar year end.

VENDOR RESPONSE:

- 4.5.2.9 Quarterly Investment Market Commentary – Provide current commentary of market conditions, economic matters, and other issues and matters affecting investment market performance within 45 business days following month end.

VENDOR RESPONSE:

- 4.5.2.10 Investment Review – Evaluate and make recommendations to the STO regarding the Plan's investment options and potential modifications to the Plan's investment structure or investment options.

VENDOR RESPONSE:

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4.5.2.11 Training – Provide training to STO staff on investment related topics as requested and advise on the laws, rules and regulations affecting 457 plans and pending federal legislation affecting deferred compensation plans. These trainings shall be held in conjunction with in-person quarterly meetings or virtually as requested.

VENDOR RESPONSE:

4.5.2.12 Due Diligence Reviews – Assist the STO in the ongoing due diligence reviews of service providers and investment funds.

VENDOR RESPONSE:

4.5.2.13 Policy and Document Review – As requested, review and comment on proposed changes to STO policies, Plan Documents, Plan communications, enrollment material, fulfillment services and other documents related to investments.

VENDOR RESPONSE:

4.5.2.14 RFP Participation – Assist in preparing RFPs, reviewing proposals, and searching for vendors as needed.

VENDOR RESPONSE:

4.5.2.15 Customized Reports – Provide customized reports as requested by the STO.

VENDOR RESPONSE:

4.5.2.16 Compliance - Comply with the STO policies, and all applicable federal and state laws, rules, regulations, and policies.

VENDOR RESPONSE:

4.5.2.17 Industry – Report on industry and plan sponsor trends (government sector), new investment products and developing industry best practices for both internal and external service provider functions.

VENDOR RESPONSE:

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**4.5.3 Additional Services-**

Vendor may be requested to provide Additional Services that the Vendor offers but are not included in the Basic Services 4.5.2. In Attachment C, Cost Proposal Form, include the category of service and related hourly rate, including all associated fees within the hourly rate. Examples of service category for pricing: Senior Financial Adviser, Managing Director, etc.

A Statement of Work specifying the Additional Services and the fee shall be negotiated by the parties and authorized by written order. The hourly rate of the fee shall not exceed the hourly rate the Vendor proposed on its Cost Proposal Form. There is no guarantee the STO will request any Additional Services. In the event a Vendor does not state an hourly rate for Additional Services, the STO may obtain the Additional Services from another Vendor.

VENDOR RESPONSE:

By signing below, I certify that I have reviewed this Request for Proposal in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that, to the best of my knowledge, the bidder has properly registered, or will register, with any State agency that may require registration.

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(Company)

---

(Representative Name, Title)

---

(Contact Phone/Fax Number)

---

(Date)

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**Attachment C: Cost Sheet**

**Vendor Name:** \_\_\_\_\_

Vendor shall complete this Cost Proposal Form and submit it in a **separate sealed envelope**, marked "Cost Proposal" on the outside with its Proposal package. Vendor shall complete the Cost Proposal Form by proposing a fee for each of the five (5) years. Vendor may also propose an hourly fee for any additional services agreed upon by the STO and the Vendor. All fees shall remain fixed during the term of the contract purchase order and be all inclusive.

***A. Required Fee for Basic Services***

Vendor hereby proposes to provide the Basic Services contemplated in the RFP for the following fee amount per year, inclusive of all costs, payable quarterly in arrears:

\$ \_\_\_\_\_ Year One

\$ \_\_\_\_\_ Year Two

\$ \_\_\_\_\_ Year Three Optional Renewal

\$ \_\_\_\_\_ Year Four Optional Renewal

\$ \_\_\_\_\_ Year Five Optional Renewal

\$ \_\_\_\_\_ **OVERALL TOTAL COST FOR FIVE (5) YEARS**

**\*\* Cost Evaluation will be based on overall total cost for five years.**

***B. Hourly Fee for Additional Services (agency option as per section 4.5.3)***

Vendor hereby proposes to provide Additional Services at the following rate per hour, inclusive of all costs, pursuant to a Statement of Work negotiated by the parties:

\$ \_\_\_\_\_ per hour for \_\_\_\_\_ Staff Title/Level

\$ \_\_\_\_\_ per hour for \_\_\_\_\_ Staff Title/Level

# **EXHIBIT 1**

**STATE OF WEST VIRGINIA**

**AMENDED AND RESTATED  
DEFERRED COMPENSATION PLAN  
JANUARY 15, 2016**

**PURSUANT TO**

**SECTION 457(b)  
OF THE  
INTERNAL REVENUE CODE**

**ADMINISTERED**

**BY THE**

**WEST VIRGINIA  
STATE TREASURER'S OFFICE**



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**STATE OF WEST VIRGINIA  
AMENDED AND RESTATED DEFERRED COMPENSATION PLAN  
PURSUANT TO SECTION 457(b) OF THE INTERNAL REVENUE CODE**

**INTRODUCTION**

The State of West Virginia ("State") hereby amends and restates its Deferred Compensation Plan ("Plan") as of January 15, 2016, pursuant to Section 457(b) of the Internal Revenue Code of 1986, as amended ("Code"), the regulations thereto, and applicable State laws, rules and policies. The purpose of the Plan is to encourage and enable employees to save for retirement by permitting them to enter into agreements with the West Virginia State Treasurer's Office ("STO"), on behalf of the Employer (as defined in Article I below), that provide for the payment of deferred compensation on retirement or separation from service and death benefits in the event of death before or after separation.

After the adoption of this Plan Document, as amended, any limitations or restrictions herein that are suspended or limited by the Internal Revenue Code or regulations thereunder, as amended from time to time, in whole or in part, for a period of time or indefinitely, shall be suspended or eliminated for the time period authorized or until this Plan Document is amended.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between the Participant (as defined in Article I below) and the Employer or the STO, to give a Participant (as defined in Article I below) any right to be retained in the employment of, or under contract to, the Employer, nor to modify the terms of any employment contract or agreement between the Participant and the Employer.

**ARTICLE I  
DEFINITIONS**

1.01 **Account:** The bookkeeping account established and maintained with respect to a Participant which reflects the earnings, losses, market valuation, rollovers, transfers, distributions, fees and expenses attributable to the Account, such as a deferred Compensation Account, Designated Roth Account, Rollover Account, Alternate Payee Account and Beneficiary Account.

1.02 **Administrator:** The West Virginia State Treasurer's Office or any successor entity thereto.

1.03 **Adoption Agreement:** An agreement between the Administrator and an Employer in which the Employer agrees to participate in the Plan. The Adoption Agreement shall be considered a part of the Plan.

1.04 **Annual Deferral:** The amount of Compensation deferred in any year.

1.05 **Applicable Dollar Amount:** The maximum amount that may be deferred in any Plan Year, and as specified in the Code.

1.06 **Approved Institution:** Any organization which as been approved by the Administrator to provide services or Investment Product(s) to the Plan in accordance with the terms of the Plan and provisions of Code Section 457(g)(3).

1.07 **Automatic Enrollment:** In accordance with W.Va. Code §5-10B-3a, the program whereby every state Employee beginning employment on or after July 1, 2007, has a minimum of \$10.00 of his or her salary each pay period deferred under the Plan or whereby a Political Subdivision Employer requires its Employees to have a minimum amount of their salaries deferred under the Plan. An Employee participating in Automatic Enrollment may change the contribution amount or cease participation at any time. An employee declining to participate in the Plan may elect to participate at a later time.

1.08 **Beneficiary:** The designated person (or, if none, the Participant's estate) entitled to receive benefits under the Plan after the death of a Participant. Nothing herein shall prevent the Participant from designating more than one Beneficiary, designating primary and secondary Beneficiaries or changing the designation of a Beneficiary; provided that such designations are applicable and permissible under Code Section 457(b) and the regulations thereunder. If two or more or less than all designated Beneficiaries survive the Participant, payments shall be made equally to all such Beneficiaries, unless otherwise provided in the Participant's Beneficiary designation.

1.09 **Code:** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.10 **Compensation or Includable Compensation:** All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, and increased (up to the dollar maximum) by any compensation reduction election under Section 125, 132(f), 401(k), 403(b) or 457(b) of the Code (including an election to defer Compensation under Article III). "Compensation" has the meaning given to the term "Participant's Compensation" by 415(c)(3). In addition, pursuant to IRC Reg.

Section 1.415(c)-2(e)(4), "Includable Compensation" shall include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in IRC Section 404(u)(5)) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service. For purposes of Leased Employees, "Compensation" shall mean all amounts payable to a Participant from the Employer as remuneration for services rendered which would be includible in income for federal tax purposes if not deferred under this Plan, subject to the provisions of the Code.

**1.11 Contribution:** The maximum amount that may be contributed by or on behalf of a Participant during any taxable year.

**1.12 Deferral:** The amount of Compensation not yet earned, which the Participant and the Employer agree shall be deferred in accordance with the provisions of the Plan.

**1.13 Employee:** Each natural person, whether appointed or elected, who performs services for the Employer. For purposes of this Plan, "Employee" includes Leased Employees.

**1.14 Employer:** The State of West Virginia and any agency or instrumentality thereof, and any Political Subdivision or agency or instrumentality thereof, which:

- a. satisfies the definition of Code Section 457 (together with any other entity required to be aggregated with that governmental employer under Code Sections 414(b), (c), (m) or (o)), and
- b. upon the consent of the Administrator, agrees to participate in the Plan, including any applicable Investment Product of the Plan, by executing an agreement with the Administrator.

**1.15 Excess Deferrals:** The amounts contributed to the Plan by a Participant exceeding the amount of the Applicable Dollar Amount in any given Plan Year.

**1.16 In Good Order:** When a document, instruction or action has been properly and fully completed or performed in compliance with procedures or methods established by the Plan and has been presented to the Administrator or Approved Institution for processing with no research or discretion required to process. Instructions sent to the Approved Institution by telephone, facsimile or mail must be received no later than the close of the New York Stock Exchange (typically 4:00 p.m. Eastern Time).

**1.17 Investment Option or Investment Product:** Any investment issued by or obtained through an Approved Institution for the purposes of holding Plan assets.

**1.18 Leased Employee:** Means any natural person (other than a common law or statutory Employee) who performs services under the primary direction or control of the

Employer, pursuant to the agreement between the Employer and a person or entity for the performance of services for the Employer on a substantially full time basis.

**1.19 Normal Retirement Age:** For purposes of the Catch-up Limitation under Section 3.02 of the Plan, the Normal Retirement Age shall be age 70½, unless prior to that time, another Normal Retirement Age is elected in writing by the Participant. In selecting an alternate Normal Retirement Age, a Participant may select any age (1) at which he or she has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and (2) not later than the date the Participant attains age 70½.

**1.20 Participant:** An individual who has entered into a Participation Agreement or been automatically enrolled in the Plan and for whom a Participant Account exists.

**1.21 Participant Agreement:** An agreement entered into between the Participant and the Administrator pursuant to which an Employee agrees to defer amounts of Compensation to the Plan and become a Participant.

**1.22 Permissive Service Credit:** Service credit which is permitted to be purchased by voluntary contributions in an amount which does not exceed the amount necessary to fund the benefit attributable to the period of service for which the service credit is being purchased, as defined in Section 415 of the Code.

**1.23 Political Subdivision:** County, municipality, or other local government of the State of West Virginia, and any board, commission or related entity thereof.

**1.24 Plan:** The "State of West Virginia Retirement Plus Deferred Compensation Plan."

**1.25 Plan Account, UPA or Unallocated Plan Account:** An account maintained by the Service Provider for the Administrator which may be used for Program purposes as determined by the Administrator and which will be invested in a single Investment Option selected by the Administrator.

**1.26 Plan Year:** The calendar year.

**1.27 Public Safety Officer:** An individual serving a public entity in an official capacity as a law enforcement officers, fire fighter, chaplain, emergency medical technician, or member of a rescue squad or ambulance crew, or as may be defined from time to time by the U.S. Department of Justice.

**1.28 Qualified Default Investment Alternative, QDIA, Qualified Default Investment Option or QDIO:** The Investment Product selected by the Administrator to receive all Deferrals in the absence of direction from a Participant.

**1.29 Qualified Domestic Relations Order or QDRO:** Order, judgment or decree issued by a court of competent jurisdiction relating to the provision of child support, alimony payments or the marital property rights of an Alternate Payee that meets the requirements of Code §414(p).

**1.30 Regulations:** The regulations of the Internal Revenue Service, 26 C.F.R. 1.0-1 et seq.

**1.31 Severance from Employment:** The term Severance from Employment means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator.

**1.32 Trust Agreement:** The written agreement (or declaration) made by and between the Employer and the Trustee under which the Trust Fund is maintained.

**1.33 Trust Fund:** The trust fund or deemed trust fund holding Plan assets under and subject to the Trust Agreement and the provisions of West Virginia Code §5-10B-10, as amended from time to time.

**1.34 Trustee:** The entity or entities duly appointed and currently serving under the Trust Agreement.

**1.35 Unforeseeable Emergency:** The extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant, including but not limited to:

- a. severe financial hardship of the Participant resulting from an illness or accident of a Participant, the Participant's spouse or of a Participant's dependent (as defined in Code Section 152(a));
- b. loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance); or
- c. the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code Section 152(a)).

A determination of an Unforeseeable Emergency shall be based on each Participant's specific facts and circumstances.

**1.36 Valuation Date:** Each day the New York Stock Exchange is open for business.

**1.37 West Virginia State Treasurer's Office or STO:** The entity authorized by W. Va. Code §5-10B-1 et seq. to manage the Plan.

## ARTICLE II



## **PARTICIPATION AND CONTRIBUTIONS**

**2.01 Eligibility.** Each Employee shall be eligible to participate in the Plan and defer Compensation hereunder immediately upon becoming employed by the Employer.

**2.02 Participation Agreements.** An Employee may elect to become a Participant by completing and executing a Participation Agreement and any other documents required by the Administrator (including a election for investments) to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it with the Administrator or the Approved Institution. Pursuant to the Participation Agreement, the Employee agrees to be bound by all the terms and conditions of the Plan and to abide by the minimum Annual Deferral specified by the Administrator, which minimum may change from time to time.

**2.03 Vesting.** All moneys deposited into an Account shall be fully vested and owned by the Participant.

**2.04 Automatic Enrollment.** In accordance with West Virginia Code §5-10B-3a, any person employed by the State on or after July 1, 2007 is automatically enrolled in the Plan and deemed to have elected to defer \$10.00 of his or her Compensation per pay period (and have that annualized amount contributed as an Annual Deferral on his or her behalf) for deposit in the QDIA designated by the Administrator. A person automatically enrolled is deemed to agree to be bound by all the terms and conditions of the Plan. He or she may opt out of the Plan without penalty for a period of thirty (30) days from the beginning date he or she performs services for the Employer, terminate his or her participation at any time, and may change the amount of Annual Deferral, Investment Products and Beneficiaries at any time upon submission of the appropriate forms or instructions to the Administrator or Approved Institution. Annual notice explaining the right to designate Investment Products and the QDIA shall be sent to automatically enrolled Employees that have not yet made an allocation of the assets in their Account.

### **2.05 Commencement of Participation.**

a. An Employee electing to participate shall become a Participant as soon as administratively practicable following the date the Employee enters into an agreement with the Administrator and files a participation election pursuant to Section 2.02. The election shall be made before Compensation to be deferred is paid or made available and shall become effective no earlier than the first day of the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the Employer.

b. An Employee automatically enrolled in the Plan shall become a Participant on the first day on which the Participant performs services for the Employer.

**2.06 Information Provided by the Participant.** Each Employee enrolling in the Plan should provide to the Administrator or Approved Institution at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including without limitation, whether the Employee is a Participant in any other eligible plan under Code Section 457.

**2.07 Contributions Made Promptly.** Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is no longer than is reasonable for the proper administration of the Participant's Account. For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration, if the contribution is made to the Trust Fund within fifteen (15) business days following the end of the month in which the amount would otherwise have been paid to the Participant.

**2.08 Amendment of Annual Deferrals.** Subject to other provisions of the Plan, a Participant may at any time execute a new Participation Agreement to change of the amount of his or her Annual Deferrals. Unless the Participation Agreement specifies a later effective date, a change in the amount of the Annual Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later.

**2.09 Amendment of Investment Election.** At any time, a Participant may contact the Approved Institution or may contact the Approved Institution by telephone or via the internet to change his or her investment election. In certain limited situations, such as when a Participant is subject to trading restrictions, the Participant may be required to complete a paper form, as provided by the Approved Institution, to change his or her investment election. A change in the investment election shall take effect the same day the Participant's election is received In Good Order.

**2.10 Designation and Amendment of Beneficiaries.** A Participant may at any time complete a paper form provided by the Approved Institution to designate or change his or her designation of Beneficiaries. A change in the Beneficiary designation shall take effect when the election is completed and accepted In Good Order by the Approved Institution.

**2.11 Leave of Absence.** Unless a new Participation Agreement is executed, if a Participant is absent from work by leave of absence, Annual Deferrals under the Plan shall continue to the extent that Compensation continues.

**2.12 Employer Contributions.** An Employer, in its discretion, may elect to make Contributions to the Plan in accordance with the procedures of the Administrator. Employer Contributions, (a) combined with Employee Contributions shall not exceed the lesser of the Applicable Dollar Amount or 100% of the Participant's Compensation, (b)

shall be available to all actively contributing Participants employed by the Employer or to all actively contributing Participants employed by the Employer for a specified period of time, (c) shall immediately vest and be considered part of the Participant's Account, and (d) shall be subject to the control of and investment direction of the receiving Participant.

### **ARTICLE III LIMITATIONS ON AMOUNTS DEFERRED**

**3.01 Basic Annual Limitation.** The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount or (ii) the Participant's Includable Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Section 457(e)(15) of the Code.

**3.02 Catch-up Annual Deferral Contributions.** A Participant may choose the Age 50 Catch-up or Special Section 457 Catch-up. Only one Catch-up provision may be utilized during any calendar year. In addition, a Participant may only have one Normal Retirement Age for all of the 457 plans sponsored by the Employer.

a. Age 50 Catch-up Annual Deferral Contributions. A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferrals for a year is the amount established under Section 414(v)(2)(c) of the Code.

b. Special Section 457 Catch-up Limitation. If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 3.02(b) exceeds the amount computed under Sections 3.01 and 3.02(a), then the Annual Deferral limit under this Article V shall be the lesser of:

- (i) An amount equal to two (2) times the Section 3.01 Applicable Dollar Amount for such year; or
- (ii) The sum of:
  - (1) An amount equal to (A) the aggregate Section 3.01 limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus (B) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus
  - (2) An amount equal to (A) the aggregate limit referred to in Section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the

Participant was an Employee (determined without regard to Sections 3.01 and 3.02(b)), minus (B) the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

**3.03 Special Rules.** For purposes of this Article III, the following rules shall apply:

a. Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other non-governmental eligible plans within the meaning of Section 457(b) of the Code, the Participant's maximum Deferral for the Plan may not exceed the Applicable Dollar Amount, without regard to the other plans in which he or she participates. If the Participant is or has been a participant in one or more other governmental eligible plans within the meaning of Section 457(b) of the Code, the Participant may not defer more than the Applicable Dollar Amount for all Section 457 plans per Plan Year. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, in accordance with West Virginia Code §18-25-1, the maximum amount deferred by Participants who are employees of county boards of education, Department of Education and Department of Education and the Arts may not exceed the amount excludable under §403(b) of the Code.

b. Pre-Participation Years. In applying Section 3.03, a year shall be taken into account only if (i) Participant was eligible to participate in the Plan during all or a portion of the year and (ii) Compensation deferred, if any, under the Plan during the year was subject to the Applicable Dollar Limit described in this Article III or any other plan ceiling required by Section 457(b) of the Code.

c. Pre-2002 Coordination Years. For purposes of Section 3.03, "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code Section 457(b) plan, or a salary reduction or elective contribution under any Code Section 401(k) qualified cash or deferred arrangement, Code Section 402(h)(1)(B) simplified employee pension (SARSEP), Code Section 403(b) annuity contract, and Code Section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Section 3.03 to the extent that the total of such contributions does not exceed the aggregate limit referred to in Section 457(b)(2) of the Code for that year.

d. Disregard Excess Deferral. For purposes of Sections 3.01, 3.02 and 3.03, an individual is treated as not having deferred Compensation under a plan for a prior taxable year to the extent Excess Deferrals under the Plan are distributed, as described in Section 3.04. To the extent that the combined deferrals for pre-2002 years exceeded the Applicable Dollar Amount, the amount is treated as an Excess Deferral for those prior years.

**3.04 Correction of Excess Deferrals.** If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any Plan Year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible Section 457 of the Code deferred compensation plan under Section 457(b) of the Code for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the Applicable Dollar Amount (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant as soon as administratively practicable after the excess is determined.

**3.05 Protection of Persons Who Serve in a Uniformed Service.** Notwithstanding any provision of this Plan to the contrary and in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u). A Participant whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer. The additional contribution shall be equal to the maximum amount that the Participant could have deferred during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave. The additional contribution shall be made no later than five years following the resumption of employment.

## **ARTICLE IV INVESTMENTS**

**4.01 Investment Product Selection.** The Administrator, in the Administrator's sole discretion, shall determine which Investment Products shall be offered under the Plan and shall screen, review and authorize each Investment Product offered by the Plan for use by the Participants and Beneficiaries.

**4.02 Direction by Participant or Beneficiary.** Deferrals under the Plan shall be invested as directed by the Participant or Beneficiary among the Investment Products offered under the Plan.

4.03 **QDIA:** The Administrator shall select the Investment Product to be used as the QDIA. For the 457(b) Plan, the QDIA shall be the target date Investment Product for the age of the Participant.

4.04 **Earnings and Losses.** Earnings and losses, including market valuation changes, attributable to the Investment Products designated by a Participant or Beneficiary shall be allocated to his or her Account.

4.05 **Valuation.** The Approved Institution shall value the balances and amounts allocated to each Investment Product and each Account each business day in accordance with accepted industry practices.

4.06 **Evaluation:** At least annually, the Administrator shall review and evaluate the offered Investment Products in accordance with the Investment Policy.

4.07 **Discontinued Investment Product:** In the event the Employer elects to discontinue an Investment Product, the Employer shall transfer the amounts invested in the discontinued Investment Product to a different Investment Product and notify the affected Participants or Beneficiaries. Participants or Beneficiaries may elect to use the different Investment Product selected by the Administrator or any other available Investment Product.

4.08 **Records and Reports:** The Approved Institution shall maintain a record of all actions taken in connection with each Participant, Beneficiary, Alternate Payee and Account.

## **ARTICLE V LOANS**

5.01 **No Loans:** No loans shall be available from the Plan.

## **ARTICLE VI DETERMINATION, DISTRIBUTION AND TRANSFER OF BENEFITS**

6.01 **Determination of Benefits Payable to a Participant.**

a. Upon attainment of a distributable event described in Section 5.02, but in no event later than the requirement to commence minimum distribution payments in

accordance with Code Section 401(a)(9), a Participant may elect a benefit distribution option to which benefits will be paid.

b. Upon receipt of an application In Good Order for benefits by a Participant upon Severance from Employment, the Approved Institution shall process the application and distribute the Account in accordance with this Plan.

c. A Participant may choose a benefit distribution option as selected by the Administrator. In the event a Participant fails to make an election as to a benefit distribution option, any benefit payable to such Participant shall be distributed as directed by the Administrator. The terms of any annuity contract purchased and distributed by the Plan to a Participant shall comply with the requirements of the Plan.

d. Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity contract, shall be made in accordance with the requirements of Code Section 401(a)(9) and the Regulations thereunder.

e. If permitted by the Administrator, a Participant or Beneficiary who made an irrevocable election pursuant to Code Section 457(e)(9) prior to the time such benefits first become payable or otherwise made available, may change their benefit election in accordance with procedures established by the Administrator, to the extent permitted under the Investment Product and applicable law.

f. Minimum distribution payments under Code Section 401(a)(9) to a Participant must begin by April 1 of the year following the later of:

- (i) the year in which the Participant attains age 70 1/2, or
- (ii) the year in which the Participant retires from employment with his or her Employer.

g. During a Participant's lifetime, the minimum amount to be distributed for each distribution calendar year consistent with Code Section 401(a)(9) and the Regulations thereunder is the lesser of:

- (i) the quotient obtained by dividing the Participant's Account balance as of the December 31<sup>st</sup> of the preceding distribution calendar year by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, A-2 of the Regulations, using the Participant's age of his birthday in the distribution calendar year; or
- (ii) the quotient determined based on who is the primary Beneficiary of the Participant as follows:
  - (1) if the Participant's primary designated Beneficiary is either a non-spouse Beneficiary or is a spousal Beneficiary who is less than ten (10) years the age of the Participant, the quotient obtained by dividing the Participant Account balance by the factor in the Uniform Lifetime Table set

forth in Section 1.401(a)(9)-9, A-2 of the Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's or former Participant's sole, primary designated Beneficiary is the Participant's spouse and such spouse is ten (10) or more years younger than the Participant for the distribution calendar year, the quotient obtained by dividing the Participant Account balance by the factor in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, A-3 of the Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

h. Required minimum distributions will be determined under this Section 5.01 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death. If the Participant dies before receiving the minimum distribution payable for the distribution calendar year in the year of the Participant's death, such amount shall be distributed to the Participant's Beneficiary.

i. For purposes of this Section 5.01, "distribution calendar year" means the calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. The required minimum distribution for the Participant's or former Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

## **6.02 Distributions.**

a. A Participant Account may not be distributed to a Participant (or, if applicable, the Beneficiary) until one of the following events has occurred:

- (i) upon the Participant's Severance from Employment;
- (ii) an Unforeseeable Emergency, within the meaning of and subject to Section 5.07;
- (iii) upon the Participant reaching the calendar year in which he or she reaches the Normal Retirement Age;
- (iv) upon the Participant reaching the age of 70  $\frac{1}{2}$ ; or
- (v) the election of a small balance distribution within the meaning of and subject to Section 5.08.



b. A Participant may choose to receive a distribution from his 457(b) rollover account and/or Participant non-457(b) rollover account at any time, regardless if he or she has a distributable event or not.

### **6.03 Determination of Benefits Upon Death**

a. The Administrator shall use his/her best efforts to notify the Approved Institution of the death of a Participant within a reasonable period of time following the death.

b. In the event no valid designation of Beneficiary exists at the time of the Participant's or Beneficiary's death, the death benefit shall be payable to the Participant's or Beneficiary's estate.

c. Upon receipt of an application In Good Order by a Beneficiary for death benefits, the Approved Institution shall process the application and distribute the Account in accordance with this Plan.

d. The Approved Institution may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Account of a deceased Participant or Beneficiary, as the Approved Institution may reasonably consider appropriate. In the event there are questions as to the legitimate Beneficiary or adequacy of proper proof of death, the application shall be referred to the Administrator. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

e. Death benefits payable to a Beneficiary shall be made in a form as selected by the Beneficiary in accordance with the available options as elected by the Administrator. In the event a Beneficiary fails to make an election as to a benefit distribution option, any benefit payable to such Beneficiary shall be distributed in a lump sum payment in accordance with Code Section 401(a)(9). The terms of any annuity contract purchased and distributed by the Plan to a Beneficiary shall comply with the requirements of the Plan.

f. Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall be made in accordance with the requirements of this Section 5.03 and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.

g. In accordance with the Beneficiary's election, if minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant and the designated Beneficiary is not the Participant's surviving spouse, death benefit payments must:

(i) begin to be distributed to the designated Beneficiary no later than the December 31 of the calendar year immediately following the calendar year of the Participant's death payable over a period not to exceed the life expectancy of the Beneficiary; or

(ii) be distributed no later than the December 31 of the calendar year containing the fifth anniversary of the Participant's death.

h. In accordance with the Beneficiary's election, if the designated Beneficiary is the Participant's surviving spouse and minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant, minimum payments to the surviving spouse as the designated Beneficiary must begin by the later of the:

(i) December 31 of the calendar year immediately following the calendar year in which the Participant dies, or

(ii) December 31 of the calendar year in which the Participant or former Participant would have attained age 70 1/2.

The payments to the surviving spouse as the designated Beneficiary must be made over a period not to exceed the surviving spouse's life expectancy.

i. If minimum distribution payments have not begun upon the death of a Participant and if there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

j. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, distributions shall be based on the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary.

k. Life expectancy calculations will be computed using the factors in the Single Life Table set forth in Section 1.401(a)(9)-9, A-1 of the Regulations, as follows:

(i) The Participant's or former Participant's remaining life expectancy is calculated using the age of the Participant or former Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's or former Participant's surviving spouse is the Participant's or former Participant's sole, primary designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's or former Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole, primary designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(iv) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

**6.04 Distribution to Minors and Others Adjudged Incapable of Giving Receipt.**

a. In the event a distribution is to be made to a minor, the Approved Institution shall pay such distribution to the legal guardian, or if none, to a parent or custodian for such Beneficiary under the Uniform Transfers to Minors Act, if such is permitted by the laws of the state in which the Beneficiary resides. Such a payment to the legal guardian, parent or guardian of a minor Beneficiary shall fully discharge the Administrator, Employer, Plan, Approved Institution any other providers of the Plan from further liability on account thereof.

b. In the event a distribution is to be made to an individual adjudged to be legally incapable of giving valid receipt and discharge for a distribution, or is deemed so by the Administrator, the Approved Institution shall pay such distribution to the duly appointed and currently acting conservator of the individual or to other such person who is legally responsible for the individual as permitted by the laws of the state in which the individual resides. Such a payment to the conservator or other such individual who is legally responsible for the individual shall fully discharge the Administrator, Employer, Plan, Approved Institution and any other providers of the Plan from further liability on account thereof.

**6.05 Locating Participant or Beneficiary upon Severance from Employment.** In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the Participant's Severance from Employment, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable shall be held within the Investment Product, with investment direction provided by the Administrator, under the Plan. In the event a Participant or Beneficiary is located subsequent to his benefit being held in such account, such benefit shall be restored, including any applicable interest, and paid, to the Participant or Beneficiary, in accordance with this Article VI.

**6.06 Procedure When Participant or Beneficiary Cannot be Located.** The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's, Administrator's or Approved Institution's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty

Corporation (under their program to identify persons under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust Fund shall continue to hold the benefits due such person until the abandonment period of the unclaimed property laws of the payee's state of residence have been met. At that time, the Approved Institution shall comply with the provisions of those unclaimed property laws.

#### **6.07 Unforeseeable Emergency Withdrawals.**

a. A Participant, Beneficiary or the spouse or dependent of a Participant or Beneficiary may request an Unforeseeable Emergency withdrawal subject to the following requirements:

- (i) The request for an Unforeseeable Emergency withdrawal will be determined by the Approved Institution, based on the Participant's relevant facts and circumstances.
- (ii) The request for an Unforeseeable Emergency may be made only to the extent that such emergency is or may not be relieved through:
  - (1) reimbursement or compensation from insurance or otherwise;
  - (2) liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
  - (3) cessation of the Participant's deferrals under the Plan.
- (iii) Distributions due to an Unforeseeable Emergency must be limited to the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

b. A Participant may request an Unforeseeable Emergency withdrawal by submitting that request in writing on the Plan's approved form to the Approved Institution. If the Approved Institution denies the request, a request for review of the determination may be made to the Administrator. If at any time a request of an Unforeseeable Emergency withdrawal is approved, the Employer may thereupon direct the Approved Institution to distribute so much of the Account as is necessary to provide the amount approved to meet the Unforeseeable Emergency, as determined by the Administrator.

#### **6.08 Small Balance Distribution.**

Upon written request, received by the Approved Institution In Good Order, a Participant may elect to receive a small balance distribution, payable in a lump sum, if the Participant Deferral Account value is \$5,000.00 or less, and the Participant has not deferred into the Plan for a period of two years prior to distribution. A Participant may take a small balance distribution under this Section 6.08 only once while a Participant under the Plan, unless otherwise permitted by law.

**6.09 Distributions from Governmental Plans for Health and Long Term Care for Public Safety Officers.** Annual distributions of up to \$3,000 from the Plan are excludable for income tax purposes if the distribution is used to pay for qualified health insurance premiums (accident, health insurance or long term care) for an eligible public safety officer if separated from service due to disability or attainment of the age which the Participant has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and if the distributions are paid directly to the insurer.

**6.10 Rollovers from the Plan.**

a. Notwithstanding any provision of the Plan to the contrary, a Participant shall be permitted to elect to have any eligible rollover distribution (as defined in Code Section 402(c)(4)) paid directly to an eligible retirement plan specified by the Participant. The Participant shall, in the time and manner prescribed by the Administrator, specify the amount to be rolled over and the eligible retirement plan to receive such rollover. Any portion of a distribution which is not rolled over shall be distributed directly to the Participant.

b. The election described in subsection (a) also applies to the surviving spouse who is the designated Beneficiary of the Participant, provided that such spouse directs the transfer of an eligible rollover distribution into an eligible retirement plan in which such spouse is a participant.

c. A non-spouse Beneficiary may elect to roll over death benefit amounts to a traditional or Roth IRA, subject to the conversion rules pertaining to income limits and taxation, or to any other investment permitted by law.

**6.11 Transfers to Other Section 457(b) Plans Upon Severance from Employment.**

a. Upon a Participant's Severance from Employment, a Participant or Beneficiary may elect to have all or a portion of the Account transferred to the Code Section 457(b) plan of an Employer. Such amounts shall be transferred at the Participant's or Beneficiary's election, provided:

- (i) The Code Section 457(b) plan to which the Participant's or Beneficiary's benefit is being transferred provides for the acceptance of such amounts;
- (ii) The Participant or Beneficiary has a benefit amount immediately after the transfer at least equal to the amount under the Plan immediately before the transfer; and
- (iii) In the case of a transfer made on behalf of a Participant, such individual has had a Severance from Employment with the Employer and is performing services for the Employer maintaining the receiving plan.

b. Upon the transfer of amounts under subsection (a), the Plan's liability to pay benefits to the Participant or Beneficiary under the Plan shall be discharged to the

extent of the amount so transferred on behalf of the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.11 or effectuate the transfer pursuant to Regulation Section 1.457-10(b).

**6.12 Permissive Service Credit.** A Participant may request the transfer of all or a portion of a Participant's Account to purchase permissive service credit in a qualified retirement plan. The transfer shall be in accordance with the Administrator's procedures.

**6.13 Recognition of QDROs and other Lawful Court Orders.** The Administrator shall recognize QDROs and other lawful court orders conforming to the procedures established by the Administrator. As specified in a conforming QDRO, the Approved Institution shall pay the amount specified to the Alternate Payees or create a separate Account for each Alternate Payee. Payments to Alternate Payees shall be made without regard to the whether or not the Participant is eligible for distribution of benefits under the Plan. When an Account has been established for an Alternate Payee, the Alternate Payee or the legal guardian of the Alternate Payee shall be entitled to make investment selections in the same manner as the Participant and shall select from among the forms of payment available to Participants when electing or when required to obtain a distribution from the Account.

## **ARTICLE VII ROLLOVERS TO THE PLAN**

### **7.01 Eligible Rollover Contributions to the Plan.**

A Participant or Beneficiary entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code.

b. For purposes of Section 6.01(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's or Beneficiary's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseen emergency or other distribution which is made upon hardship of the employee or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in Section

408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) or 403(b) of the Code, or an eligible governmental plan described in Section 457(b) of the Code, that accepts the eligible rollover distribution.

c. The Plan shall establish and maintain for the Participant or Beneficiary a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Section 457(b) of the Code. Distribution limitations on the non-457(b) plans remain in effect. In addition, the Plan shall establish and maintain for the Participant or Beneficiary a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under Section 457(b) of the Code.

**7.02 Plan-to-Plan Transfers to the Plan.** A Participant or a Beneficiary in another eligible plan may transfer assets to the Plan as provided in this Section 7.02. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's or Beneficiary's interest in the plan and if the amount deferred under the other plan immediately before the transfer be at least equal to the amount transferred. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer. If the transfer is from an eligible governmental plan, the amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article III.

## **ARTICLE VIII TRUST FUNDS**

**8.01 Trust Fund.** All amounts of Deferrals, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under the law of the State of West Virginia. The Trustee shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of the Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or

diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

## **ARTICLE IX DESIGNATED ROTH ACCOUNTS**

**9.01 Establishing a Designated Roth Account.** A Participant may request to establish a Designated Roth Account by electing to defer Compensation that has been included in gross income, subject to the income and distribution limitations set forth in the Code or by the Internal Revenue Service. The Designated Roth Account shall be a separate Account.

**9.02 Deferrals.** Deferrals to a Designated Roth Account are irrevocable and may be made after a Participant has attained the age of 70 ½.

**9.03 Automatic Enrollment.** A Political Subdivision Employer may authorize Automatic Enrollment in a Designated Roth Account for each of its Employees. Employees whose Political Subdivision Employer has authorized Automatic Enrollment for a Designated Roth Account may opt out without penalty for a period of thirty (30) days from the beginning date he or she is automatically enrolled, terminate his or her participation at any time, and may change the amount of Annual Deferral, Investment Products and Beneficiaries at any time upon submission of the appropriate forms or instructions to the Administrator or Approved Institution. Annual notice explaining the right to designate Investment Products and the QDIA shall be sent to automatically enrolled Employees that have not yet made an allocation of the assets in their Account.

**9.04 Qualified Rollovers.** Qualified rollover Contributions shall not be considered for purposes of the Applicable Dollar Limit. A qualified direct rollover from a Designated Roth Account will only be made under the Plan to another Designated Roth Account or to a Roth IRA. The Plan will accept a rollover contribution only from another Designated Roth Account.

**9.05 Distributions.** Distributions are excludable from gross income when occurring more than five (5) years after the initial contribution to the Designated Roth Account and Participant is age 59 ½ or older or dies or becomes disabled.

**9.06 Separate Accounting.** Contributions and withdrawals, earnings, losses and other credits and charges pertaining to a Designated Roth Account shall be separately allocated, recorded and reported by the Approved Institution from any other Account of the Participant.



**ARTICLE X  
ADOPTION AND WITHDRAWAL BY  
POLITICAL SUBDIVISION EMPLOYERS**

**10.01 Adoption Agreement.** A Political Subdivision Employer shall execute an Adoption Agreement and such other documents determined by the Administrator to be able to participate in the Plan.

**10.02 Effective Date.** The Political Subdivision Employer shall set the effective date for participation by its Employees.

**10.03 Timely Remittance of Contributions.** The Political Subdivision Employer shall ensure all deferred Compensation and other moneys to be deposited into an Employee Account are timely remitted as directed by the Administrator.

**10.04 Withdrawal from Plan.** Upon determining it desires to withdraw from the Plan, a Political Subdivision Employer will file with the Administrator a resolution or other document authorized by the Administrator stating a termination date for its participation in the Plan, which termination date shall be no earlier than at least 60 calendar days from the date notice is provided to the Administrator. All Participants who are employees of the withdrawing Employer shall receive no less than thirty days written notice of the withdrawal.

**10.05 Effect of Withdrawal.** Upon withdrawal by a Political Subdivision Employer, the Administrator shall not permit any further deferrals or contributions to the Accounts of the Employees of the Political Subdivision Employer. The rights of those Employees with Accounts in the Plan shall be unaffected by the withdrawal in connection with the continued administration of their Accounts and the Accounts shall continue under the Plan until closed.

**ARTICLE XI  
REPORTS AND RECORDS**

**11.01 Reports to Participants.** The Approved Institution shall send or make available through the Plan website to each Participant and Alternate Payee a quarterly report of all actions in regard to an Account, including, without limitation, all Deferrals, Contributions, earnings, losses, market valuations and any other information the Administrator may direct.

**11.02 Reports to Administrator.** The Approved Institution shall send or make available through the Plan website to the Administrator a quarterly report containing the

information specified by the Administrator and within the time frame specified by the Administrator. The Administrator shall use the reports provided by the Approved Institution and the Administrator's consultant to review and evaluate Investment Products and the Plan.

**11.03 Plan Records.** All Plan records in the possession of the Approved Institution are the exclusive property of the Administrator and shall be submitted to the Administrator in a useable and readable format at the end of any contract between the Approved Institution and the Administrator.

## **ARTICLE XII MISCELLANEOUS**

**12.01 Non-Assignability.** Except as provided in Section 8.02 and 8.03, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

**12.02 IRS Levy.** Notwithstanding Section 8.01, the Administrator may pay from a Participant's or Beneficiary's Account the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

**12.03 Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in Good Order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant.

**12.04 Limitation of Liability.** The State of West Virginia and the Employers are not liable for losses suffered or change in value of an investment product. Their financial liability is limited to the amounts paid over to the Trust but not invested.

**12.05 Fees, Deferred Compensation Administrative Account and the Plan Account.** The Administrator may charge such fees as the Administrator determines is necessary for the operation and maintenance of the Trust and the Plan and shall deposit such fees into the Deferred Compensation Administrative Account in the State Treasury, which the Administrator shall operate. Fees assessed against Plan Accounts and Plan assets and collected by the Approved Institution shall be deposited in the Plan

Account (also known as the Unallocated Plan Account or UPA). Moneys deposited into the Plan Account shall be transferred into the Deferred Compensation Administrative Account as determined by the Administrator.

**12.06 Termination of Accounts with Balances Under \$1,000.** The Administrator may elect to terminate Accounts with balances under \$1,000 upon giving the Participant no less than sixty days written notice of the intent to terminate the Account. The notice shall offer the options available to each affected Participant to rollover their Account balance or to receive the amount in cash by means of a check or ACH. The notice shall also include information that payment in cash will cause the Participant to incur a tax liability.

**12.07 Amendment or Termination of Plan.** The Administrator may terminate or amend the provisions of this Plan at any time; provided, however, no termination or amendment shall affect the rights of a Participant or a Beneficiary to the receipt of his or her Account funds or benefits with respect to any Compensation deferred before the time of the termination or amendment, as adjusted for the investment experience of the Investment Product of the Approved Institutions prior to or subsequent to the termination or amendment. The Participant or Beneficiary shall direct distribution of his or her Account funds.


**12.08 Interpretation; Severability.** The intention of the Employer is that the Plan shall comply with the provisions of Section 457 of the Code and the corresponding provisions of any subsequent laws. The provisions of the Plan shall be construed to effectuate such intention.

In the event any provision shall be determined to be illegal or invalid for any reason, the illegal or invalid provision shall not affect the remaining parts of the Plan and the Administrator may perform such alternative acts which most clearly carry out the intent and purpose of the Plan.

**12.09 Headings.** The headings of the Articles and Sections of this Plan are for reference only and shall have no substantive effect on the provisions of the Plan.

**12.10 Governing Law.** Except when preempted by federal law, the provisions of the Plan shall be construed under the laws of the State of West Virginia.

IN WITNESS WHEREOF, the West Virginia State Treasurer, acting on behalf of the State of West Virginia has caused this Plan to be signed and attested to on the 15<sup>th</sup> day of January, 2016.

By: 

Title: West Virginia State Treasurer

**EXHIBIT 2**

**Investment Policy Statement  
and  
Administrative Guidelines**

**STATE OF WEST VIRGINIA  
RETIREMENT PLUS PLAN**

October 2022

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# Introduction

The West Virginia State Treasurer's Office (WVSTO) hereby adopts this Investment Policy and Administrative Guidelines Statement (the Policy) for the State of West Virginia's Retirement Plus Plan (the Plan). A Glossary of Terms is Exhibit A in the Policy. The WVSTO shall conduct an annual review of this Policy and may amend the Policy in whole or in part as it determines appropriate. Deviation from the Policy is not permitted without the written approval of the WVSTO.

The Plan is a voluntary participant directed 457 deferred compensation plan. The Plan was created pursuant to West Virginia Code §§5-10B-1 *et seq.* and United States Code Title 26, known as the Internal Revenue Code. These provisions also govern the operations of the program. Additionally, the Plan shall be operated in accordance with the Plan Document. The West Virginia State Legislature transferred responsibility to the WVSTO on July 1, 2006.

This Statement sets forth the goals and objectives of the investment options available under the Plan. The purpose of the Statement is to guide the STO in effectively supervising, monitoring, and managing the investment options available under the Plan. The Statement is designed to allow the sufficient flexibility in the management oversight process, while also setting forth reasonable parameters to promote the exercise of reasonable prudence and care with respect to the investment options under the Plan. The Statement provides the framework for the selection of investment options, a procedure for the ongoing evaluation of the investment options available under the Plan, and guidelines for terminating and replacing investment options. This statement provides the guidelines; however, the Plan is not required to follow these guidelines if it is in the best interest of the participants to not follow them as they are general in nature and are to be used only as guidance.

As a fiduciary, the WVSTO will discharge its duties for the exclusive benefit of Participants and their Beneficiaries. The WVSTO shall deliberate the status of the Plan at least quarterly. The WVSTO will review the performance of each individual Investment Option as part of a formal review process and take appropriate action. In addition, the WVSTO will review the administrative services performed by the Service Provider as to its conformity to service administrative agreements, contracts, performance standards and this Policy.

# Objectives of the Policy

The Plan is a long-term retirement savings vehicle and is intended as a source of retirement income for eligible Participants. The Investment Options available from the Plan cover a broad range of investment risk and rewards appropriate for participant-directed deferred compensation employee retirement savings programs.

The WVSTO, the Investment Consultant and the Service Provider/Recordkeeper shall not be responsible for any financial loss that may be incurred by any participant because of the participant's investment direction or because of any action taken in accordance with the participant's investment direction.

The WVSTO and the Recordkeeper do not provide investment advice to any Participant or assist any Participant in deciding how to allocate contributions to the Participants' plan accounts unless the Participant has voluntarily elected to utilize a Managed Account/advice option with advice from a qualified investment advisor. Participants alone bear the risks of losses. Participants select their own investment options based on individual return objectives and risk tolerance.

This Statement of Investment Policy serves the following purposes:

- ensure that a broad range of investment options are offered to Plan participants;
- establish an investment program to allow Plan participants the opportunity to structure an investment strategy that meets their individual return objectives and risk tolerances;
- define the investment categories offered by the Plan;
- establish investment objectives and guidelines for each investment category offered within the Plan;
- establish benchmarks and performance standards for each investment and to evaluate each option's performance against appropriate benchmarks and standards;
- establish a procedure for reporting and monitoring of the various funds;
- define the procedures for investment fund selection, evaluation and formal fund review; and
- set guidelines and procedures for the freezing or withdrawal of an investment option, which in the opinion of the WVSTO does not or will not, fulfill the Plan's objectives for which it was selected and, if necessary, replace the option with an appropriate substitute.



# Investment Options

The Plan's authorized investments currently consist of options defined by investment objective as outlined in the list below. Not all authorized investments are required to be offered at all times.

- Stable Value Fund
- Bond Fund
- Balanced
- Large Cap Value Equity
- Large Cap Blend Equity (passive)
- Large Cap Blend Equity (active)
- Large Cap Growth Equity
- Mid Cap Value Equity
- Mid Cap Blend (passive)
- Mid Cap Growth Equity
- Small Cap Value Equity
- Small Cap Blend (passive)
- Small Cap Growth Equity
- International Equity
- Global Equity
- Life Cycle/Retirement Date Series
- Self-Directed Brokerage Account
- Managed Account

Each investment option offered under the Plan shall:

- operate in full accordance with its current published prospectus or “fact sheet”; and

- have its performance results measured against the applicable performance standards described herein.

If the WVSTO determines an investment option no longer meets the performance criteria, it may replace that option with a suitable alternative pursuant to the investment fund evaluation procedure outlined herein.

The WVSTO, in its discretion, may add investment options/categories to the current core options and the Investment Policy Statement will be modified to include these additions. The WVSTO, in partnership with the Plan's Investment Consultant, shall select investment options based upon administrative, pricing, historical performance, management style, and other mutually agreeable criteria in cooperation with the Recordkeeper.

## Investment Categories: Objectives, Guidelines & Performance Standards

The Plan may, but is not required to, offer at least one Investment Option within each of the following Investment Categories:

### Stable Value Fund:

<b>OBJECTIVE:</b>	The Stable Value Fund can be either a General Account or a Seperate Account Product. The objective of this fund option is to provide principal preservation, benefit responsiveness, liquidity, and current income at levels that typically are higher than those provided by money market funds over an interest rate cycle. The book value accounting feature of the Stable Value Fund investments is expected to produce relatively stable annual return on fund assets with little to no fluctuation in account values. The fund is to provide a competitive rate of interest consistent with the marketplace of similar products.
<b>PERFORMANCE STANDARDS:</b>	<ul style="list-style-type: none"> <li>• Provide a competitive rate of interest relative to the Hueler Stable Value Index;</li> <li>• Ensure this fund declares an annualized rate of interest at least quarterly and prior to the quarter; and</li> <li>• Review the book to market ratio of the portfolio on a quarterly basis.</li> </ul>
<b>INVESTMENT OBJECTIVE:</b>	<p>Within the parameters as stated below, the objectives of the fund are to:</p> <ol style="list-style-type: none"> <li>1. preserve principal</li> <li>2. provide sufficient liquidity to pay plan benefits</li> <li>3. provide stable and predictable returns</li> <li>4. earn a high level of return relative to other objectives of the fund</li> </ol>

<b>ISSUER CREDIT RATING/RISK AND RESERVES: For General Account Product</b>	The issuer shall have and maintain a rating that conveys significant financial strength as determined by nationally recognized statistical rating agencies such as A.M. Best, Standard & Poor's, Moody's, and Fitch and retain adequate reserves to meet liabilities as measured by maintaining a risk based capital ratio that is equal to or exceeds NIAC requirements. In the event of a ratings downgrade, the WVSTO will take necessary actions in accordance with its responsibilities as a fiduciary.
<b>PORTFOLIO MANAGEMENT:</b>	The insurance company shall invest the underlying assets in a diversified portfolio of securities and instruments to support the contractual guarantees and to provide the required liquidity to satisfy all participant and contractual obligations.
<b>LIQUIDITY</b>	The GeneralAccount product is to provide full liquidity at all times for participant directed benefit payments. Stable value will also offer full liquidity to fund participant-directed transfers to other investment options offered within the plan, except in the case where the plan offers a competing investment option. In the event of a competing option, a restriction such as an "equity wash-provision" may apply.

### Bond Fund:

<b>OBJECTIVE:</b>	The objective of this investment is to track the performance of a broad, market-weighted bond index.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Track the return of the Bloomberg Aggregate Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Track the median return of the fixed income fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Bloomberg Aggregate Index and fixed income universe.</li> </ul>

### Balanced:

<b>OBJECTIVE:</b>	The objective of this Category is to invest in stocks, bonds and cash to provide capital appreciation and income with less volatility than an all-stock fund. Investment returns are expected to be derived from a combination of capital appreciation and dividend and interest income.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or approximate the return of a composite index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• The composite index for funds with a core investment style in the equity segment of the portfolio will be 60% S&amp;P 500 Index and 40% Bloomberg Aggregate Bond Index;</li> <li>• To be in the top two quartiles, of the Morningstar balanced fund universe over a Market Cycle; and</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the composite index.</li> </ul>

### Large Cap Value Equity:

<b>OBJECTIVE:</b>	The objective of this investment category is to invest primarily in the common stock of large capitalization domestic companies considered by the fund manager to be undervalued relative to the market. Investment returns are expected to be derived primarily from capital appreciation and, to a lesser degree, dividend income. The market capitalization range for this investment category will be in line with the capitalization classification determined by mutual fund databases, such as Morningstar and Lipper.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or approximate the return of the Russell 1000 Value Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Meet or approximate the median return of the large cap value equity fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Russell 1000 Value Index and the large cap value equity fund universe.</li> </ul>

### Large Cap Blend Equity (passive):

<b>OBJECTIVE:</b>	The objective of this investment category is to track the performance of the Standard & Poor's 500 Index by investing in common stock of the large capitalization domestic companies comprising the Index. The S&P 500 Index is an equity composite of the 500 largest companies in the United States based on market capitalization. The fund manager targets to match the index rather than attempt to outperform the index. Investment returns are expected to be derived primarily from capital appreciation and, to a lesser degree, dividend income.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Approximate the performance of the S&amp;P 500 Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Perform in the median return of the large cap core equity fund universe over a full market cycle.</li> <li>• Tracking error is expected to be less than 1%.</li> </ul>

### Large Cap Blend Equity (active):

<b>OBJECTIVE:</b>	The objective of this investment category is to invest primarily in common stock of large capitalization domestic companies considered by the fund manager to be undervalued relative to the market or having above average potential for capital appreciation. Investment returns are expected to be derived primarily from capital appreciation and, to a lesser degree, dividend income.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the S&amp;P 500 Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the large cap core equity fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the S&amp;P 500 Index and the large cap core equity fund universe</li> </ul>

### Large Cap Growth Equity:

<b>OBJECTIVE:</b>	The objective of this investment category is to invest primarily in the common stock of large capitalization domestic companies considered by the fund manager to have above average potential for capital appreciation. Investment returns are
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	expected to be derived primarily from capital appreciation. The market capitalization range for this investment category will be in line with the capitalization classification determined by mutual fund databases, such as Morningstar and Lipper.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the Russell 1000 Growth Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the large cap growth equity fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Russell 1000 Growth Index and the large cap growth equity fund universe.</li> </ul>

### Mid Cap Value Equity:

<b>OBJECTIVE:</b>	The objective of this Category is to invest primarily in the common stocks of medium-sized companies considered by the Investment Option manager to be undervalued relative to the market. Investment returns are expected to be derived primarily from capital appreciation and, to a lesser degree, dividend income. The market capitalization range for this investment category will be in line with the capitalization classification determined by mutual fund databases, such as Morningstar and Lipper.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the Russell Midcap Value Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the mid cap value equity fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Russell Mid Cap Value Index and the mid cap value equity fund universe.</li> </ul>

### Mid Cap Blend (passive):

<b>OBJECTIVE:</b>	The objective of this investment category is to track the performance of the CRSP U.S. Mid Cap TR Index by investing in common stock of the mid-capitalization domestic companies comprising the Index. The fund manager targets to match the index rather than attempt to outperform the index. The market capitalization
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	range for this investment category will be in line with the capitalization classification determined by mutual fund databases, such as Morningstar and Lipper
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Approximate the performance of the CRSP U.S. Mid Cap TR Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Perform in the median return of the mid cap core equity fund universe over a full market cycle.</li> <li>• Tracking error is expected to be less than 1%.</li> </ul>

### Mid Cap Growth Equity:

<b>OBJECTIVE:</b>	The objective of this Category is to invest in the common stocks of medium-sized capitalization domestic companies considered by the Investment Option manager to have above average earnings potential for capital appreciation. Investment returns are expected to be derived primarily from capital appreciation. The market capitalization range for this investment category will be in line with the capitalization classification determined by mutual fund databases, such as Morningstar and Lipper.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the Russell Midcap Growth Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the mid cap growth equity fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Russell Mid Cap Growth Index and the mid cap growth equity fund universe.</li> </ul>

### Small Cap Value Equity:

<b>OBJECTIVE:</b>	The objective of this investment category is to invest primarily in the common stocks of small capitalization domestic companies considered by the fund manager to be undervalued relative to the market or with above average potential for capital appreciation. Investment returns are expected to be derived primarily from capital appreciation and, to a lesser extent, dividend income.
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<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the Russell 2000 Value Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the small cap value equity fund universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Russell 2000 Value Index and the small cap value equity fund universe.</li> </ul>
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#### Small Cap Blend (passive):

<b>OBJECTIVE:</b>	The objective of this investment category is to track the performance of the CRSP U.S. Small Cap TR Index by investing in common stock of the small capitalization domestic companies comprising the Index. The fund manager targets to match the index rather than attempt to outperform the index. Investment returns are expected to be derived primarily from capital appreciation and, to a lesser degree, dividend income.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Track the performance of the CRSP U.S. Small Cap TR Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Perform in the median return of the small cap core equity fund universe over a full market cycle</li> <li>• Tracking error is expected to be less than 1%.</li> </ul>

#### Small Cap Growth Equity:

<b>OBJECTIVE:</b>	The objective of this Category is to invest primarily in the common stocks of small capitalization domestic companies considered by the Investment Option manager to have above average potential for capital appreciation. Investment returns are expected to be derived primarily from capital appreciation. The market capitalization range for this investment category will be in line with the capitalization classification determined by mutual fund databases, such as Morningstar and Lipper.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the Russell 2000 Growth Index over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the small cap growth equity fund universe over a full market cycle.</li> </ul>



	<ul style="list-style-type: none"> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the Russell 2000 Growth Index and the small cap growth equity fund universe.</li> </ul>
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### International Equity:

<b>OBJECTIVE:</b>	The objective of this Category is to invest primarily in the common stock of companies located outside the United States. Investment returns are expected to be derived primarily from capital appreciation.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the MSCI EAFE Index (net dividends) over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• To be in the returns of the top two quartiles, of the international large cap core equity universe over a full Market Cycle; and</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the MSCI EAFE (net) and the Morningstar international equity fund universe.</li> </ul>

### Global Equity:

<b>OBJECTIVE:</b>	The objective of this Category is to invest primarily in the common stock of companies located within and outside the United States. Investment returns are expected to be derived primarily from capital appreciation.
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<ul style="list-style-type: none"> <li>• Meet or exceed the return of the MSCI World Index (net dividends) over a full market cycle, or generally a period of 3 to 5 years.</li> <li>• Exceed the median return of the global large cap equity universe over a full market cycle.</li> <li>• Risk, as measured by the standard deviation of quarterly returns, shall be consistent with that of the MSCI World Index (net) and the global equity fund universe.</li> </ul>

### Lifecycle/Retirement Date Series:

<b>OBJECTIVE:</b>	The objective of this investment category is to invest in a diversified portfolio of holdings that are systematically rebalanced during the various market cycles or stages of an investor's lifetime. Lifecycle Funds (also known as Retirement Date
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	<p>Series Funds) establishes a targeted “maturity date” and will automatically reallocate the investments over time from a more aggressive to a more conservative allocation. The funds are designed for the participant to select the fund that has its “maturity date” set similarly to his or her own investment horizon, often the participant’s retirement age. The underlying mutual fund investments that comprise each Lifecycle Fund will be either active or passively managed by the investment manager. The dynamic asset allocation applied to each target date fund will be determined and rebalanced, accordingly, by the investment manager.</p> <p>Lifecycle Funds provide a single, diversified alternative for retirement savings for participants in various stages of saving. The Funds allow the investor to take advantage of the diversification and asset allocation strategies that are in line with the date of retirement.</p>
<b>PERFORMANCE STANDARDS (NET OF FEES):</b>	<p>The composite index for each fund will be established by the fund manager to reflect the asset allocation of the portfolio. The composite indices for all the funds will consistently change allocation by gradually shifting its allocation to more conservative investments as the fund matures. Objective is to exceed the returns of the target date peer universe</p>

### Self-Directed Brokerage Option:

The Self-Directed Brokerage Option is offered to the Participants by the Service Provider as a supplemental mutual fund option to the core Investment Options. The Self-Directed Brokerage Option is intended for Participants that are interested in a wider array of investments and are willing to accept the additional risks associated with those investments.

The WVSTO has no responsibility for selecting, monitoring or evaluating the investments available through the Self-Directed Brokerage Option offered by the Service Provider. Participants will have sole discretion with regards to the investments they select using the Self-Directed Brokerage Option.

The Service Provider is responsible for providing Participants with enrollment and educational materials for Participants to decide whether or not a Self-Directed Brokerage Option is a suitable investment. The

Service Provider is to provide all necessary materials in connection with Participant inquiries regarding the establishment of the Self-Directed Brokerage Option.

If the Self-Directed Brokerage Option is utilized, the Participant will be responsible for the additional fees, on-going research, trading and risk management responsibilities associated with their specific investment choices. The maximum allowed cumulative transfer to the Self Directed Brokerage Option from a Participant's account is limited to 50% of a Participant's total account value in the Plan. The WVSTO acknowledges the Self-Directed Brokerage Option shall be administered according to the Service Provider's Self-Directed Brokerage Policies and Procedures, and that the initial investment minimum shall be \$2,500 and the subsequent transfer minimum shall be \$1,000, as described in the Self-Directed Brokerage Policies and Procedures. The Self-Directed Brokerage Policies and Procedures may be updated from time to time, as long as they remain compliant with West Virginia state law and any other applicable law. The Service Provider is required to disclose all brokerage transaction and any applicable fees.

### **Managed Account:**

The Recordkeeper currently offers this option and charges fees to the Participant account. The Managed Account option provides a Participant with a personalized and strategically developed retirement portfolio that is monitored quarterly by investment professionals, with investment changes made as necessary. The service includes automatic account rebalancing as a Participant transitions to retirement and a spend-down strategy designed to help maximize income in retirement.

## **Fees & Expenses Explained**

The WVSTO along with the Investment Consultant will review the fee structure of the investment options at least annually. Investment management fees for each of the investment options should be competitive versus assets in similarly managed funds within the peer universe. Where several share classes of an investment fund are available, the WVSTO will seek to offer the least costly share class available to support the recordkeeping and administration costs that are required, to administer and support the Program. Fund revenue sharing generated from the investment offerings will be used to pay Program expenses. The WVSTO will review all Program costs, including investment management fees and revenue sharing, at least annually.

Currently, individual investment manager advisory and administrative expenses are included in the mutual fund fees deducted from fund returns. Certain other Plan administrative expenses are currently paid from revenue sharing and wrap fees, including but not limited to consulting, audit and Program costs. At year-end, any surplus revenue sharing may be allocated to plan participants on a basis selected by the WVSTO.

WVSTO reserves the right to maintain a minimum balance of revenue sharing in reserve to fund program expenses. WVSTO reserves the right to change its Plan fee and expense policy at any time in its sole discretion. Plan participants are responsible for all fees in the Plan.

## Default Option:

The Qualified Default Investment Alternative (QDIA) will be the Target Date Funds investment options based upon a participants' normal retirement age. This election has been based upon guidelines under the Department of Labor rules and guidelines related to permissible default investment options.

## Reporting & Monitoring Procedures

The WVSTO will review the Plan at least annually, including review of the following:

- Review investment consultant and service provider services to determine if contract renewals will be exercised or if a new procurement process will be necessary for the future;
- Current trends and developments in the capital markets and investment management community (market review);
- Current level of diversification provided by the investment categories and options offered by the Plan under the current service providers core investment fund line-up (review of the correlation between investment categories and options);
- Changes in the investment management staff related to each investment option (organizational review);
- Continued consistency between the stated investment guidelines of each investment option and Plan policies (review of the guidelines of each investment option);
- Compliance of each investment option's risk and return characteristics with the expectations stated herein (performance review);

- Review of investment management, trustee and other professional services to facilitate and assist with the management of the Plan's investment options;
- If applicable, the Segal Scoring System, which is a proprietary mutual fund scoring system developed by the Segal Advisors' Research Team. The system utilizes quantitative and qualitative criteria to score the mutual funds. Detailed below are the scores and the actions that may be taken by the WVSTO:

<b>For Active Funds:</b>		
<b>Grade</b>		<b>Action</b>
<b>A</b>	Above Average	No Action
<b>B</b>	Above Average	No Action
<b>C</b>	Average	Closely Monitor
<b>D</b>	Watch list	Fund Alert
<b>F</b>	Immediate Action	Terminate
<b>NA</b>	< than 3 years of history	Check share class and inception date

<b>For Index Funds:</b>		
<b>Grade</b>		<b>Action</b>
<b>A</b>	Satisfactory	No Action
<b>B</b>	Satisfactory	No Action
<b>C</b>	Satisfactory	No Action
<b>D</b>	Immediate Action	Terminate
<b>F</b>	Immediate Action	Terminate
<b>NA</b>	< than 3 years of history	Check share class and inception date

- The Morningstar Rating, which is a quantitative proprietary scoring system developed by Morningstar. The system is a quantitative measure of risk-adjusted returns. This rating details how well the fund has balanced risk and return relative to other funds in a similar Morningstar category. The Morningstar Rating is calculated over a 3 and 5-year period with a scale from 1 to 5. A 3, 4 or 5 rating is considered above benchmark, while a 1 or 2 rating is considered "Below Benchmark."

## Investment Fund Evaluation

The WVSTO, in its discretion, may conduct an informal review and evaluation of an investment fund at any time.

The WVSTO may place a fund under formal fund review, terminate a fund, or “freeze” a fund to new contributions for any of the following reasons:

1. The fund has not met the performance standards under the Plan for the fund’s investment category;
2. The fund has changed investment manager, or such change appears imminent;
3. The fund has had a significant change in ownership or control;
4. The fund has changed investment focus or has experienced style drift, departing from the investment objectives or parameters in its prospectus or “fact sheet”;
5. The fund has violated a rule or regulation of the Securities Exchange Commission;
6. The fund has a significant decrease in assets under management or fees have become excessive; and/or
7. The fund is or has been involved in litigation which may have an inverse impact.

### Formal Review (Watchlist)

If the fund has not met the criteria outlined above, the WVSTO may place the fund on Formal Review (Watchlist). When a fund has been placed under formal review (Watchlist), the WVSTO shall conduct a detailed evaluation of the fund, its operations, and its performance. During the review, the WVSTO may:

1. suspend contributions to the fund from existing participants; and
2. close the fund to new enrollees.

Upon completion of the evaluation, the WVSTO may continue the fund under formal review status, remove the fund from formal review, or terminate the fund.

The fund may be reviewed for its continued ability to meet the performance criteria and investment constraints in the future. Upon this review, if it is determined the fund will be able to meet the requirements, no action will be taken. However, the WVSTO will revisit the performance issues within three months. If the review determines that the fund will not be able to meet the requirements in the future, the fund will be frozen and a termination of the fund will be triggered.

## Termination of Fund(s)

When the WVSTO terminates a fund, the following tasks must be completed:

1. The WVSTO will seek a new fund appropriate for the given asset class;
2. The WVSTO must promptly notify the Recordkeeper that the fund is being terminated;
3. In partnership with the Recordkeeper and upon identifying a fund, the WVSTO must promptly notify Plan participants who are currently investing in the fund that the the fund is being terminated as an investment option under the Plan effective on a designated date in the future (effective date) and that:
  - a) as of the effective date, new investment monies must be redirected to another fund option under the Plan prior to the termination date of the fund; and
  - b) participants having assets in the frozen fund may leave them in the fund for a period of up to six months after the effective date (also known as a “sunset” date), at which time assets in the frozen fund will be mapped to the new replacement fund, or a designated default fund option.

## Administrative Policies

The WVSTO has established Administrative Performance Standards for the Plan, which are provided as Exhibit B to this Policy.

## Responsibilities of the WVSTO

As a fiduciary of the Plan, the WVSTO shall comply with all Plan Documents and all applicable laws, rules and regulations. The WVSTO will comply with the Uniform Prudent Investor Act, as set forth in West Virginia Code §§44-6C-1 et seq., in its administration of the Plan and may rely on outside experts, such as consultants, actuaries, accountants, and attorneys. The WVSTO shall maintain and amend any Plan Documents as needed.

The WVSTO will refrain from any transactions that may be considered to be "prohibited transactions" and will review the performance of the Service Provider, Investment Options and communications to Participants quarterly.

At least every five years the WVSTO will perform an in-depth review of the administrative services of the Service Provider and determine if a change in the Service Provider, or the services as provided by the Service Provider, is warranted.

Upon written request, the WVSTO will provide a Participant or Beneficiary with a copy of the Plan's latest annual report (and other documents under which the Plan was established or is operated) and may provide the Plan Document. All of these documents will also be available, at all times, on the Plan's website.

## Responsibilities of the Participants

Each Participant shall manage their account, based upon their own investment preferences and risk tolerances using Investment Options available under the Plan. Participants are responsible for making all investment decisions relating to their account. Information and education will be made available so Participants may better understand the Investment Options. It will be the Participants' responsibility to examine this information and to seek out additional information, if necessary, to make their decisions. Participants shall avoid excessive short-term trading.

## Responsibilities of the Service Provider

The Service Provider is a fiduciary of the Plan, and shall act with the care, skill, prudence and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with such matters would use. The Service Provider shall comply with this Policy, the Plan Documents, any applicable agreement or other document establishing its responsibilities, and any applicable law, rule or regulation.

The Service Provider shall provide various information to Participants and Beneficiaries including, without limitation, providing Participants and Beneficiaries with sufficient information to manage their investments.

The Service Provider shall report the following events to the WVSTO, immediately or as soon as they become aware of them:

- a) Investment Option Manager changes;
- b) Regulatory issues affecting an Investment Option or the Service Provider;
- c) Accounting issues affecting an Investment Option or the Service Provider; and
- d) Any other significant occurrence that impacts an Investment Option, the Service Provider, the Participants, or the Plan.



The Service Provider will provide timely statements and reports directly to each Participant's home address or e-mailed to the Participant's e-mail address, at the discretion of the Participant, no later than 15 days after the end of each year, or have available on the Service Provider's customer-facing portal. Confirmations of transactions will be mailed directly to the Participant's home address or e-mailed to the Participant's e-mail address, at the discretion of the Participant, immediately after each transaction occurs. Each annual report shall provide valuations for each Investment Option and the market value of assets invested.

Annual reports will be mailed to the WVSTO no later than 20 days after the calendar year-end. These Plan level reports will include, at a minimum, discussion of Service Provider and Field Representative performance, composite Plan level information relative to the market value of each of the Plan's Investment Options, performance versus assigned benchmark for the most recent quarter and for the one, three, and five-year periods and disclosure of any pending investigations or actions pertaining to the Investment Option manager's and/or Service Provider's operations.

Financial asset statements at the Plan level are to be provided to the WVSTO Investment Consultant for reconciliation and Plan audit at the end of each quarter. Quarterly financial statements will be mailed to the WVSTO Investment Consultant no later than 15 days after the quarter end. These statements will include composite Plan information as well as individual Participant information. Performance information in any report provided by the Service Provider shall be reported net of fees.

The Service Provider shall provide its methodology and system alternatives for on-line enrollment to the WVSTO, which shall interface with the WVSTO's service portal, which approach shall be mutually agreed upon by the parties, for use by the employees eligible for the Plan.

The Service Provider shall provide accurate reported information. Information contained within Participant, Consultant, and WVSTO statements and reports shall meet any and all applicable Generally Accepted Accounting Principles. The pricing of securities and reporting of all dividend and capital gains distributions shall be consistent and up-to-date. Errors in reported information shall be researched and corrected by the Service Provider immediately upon discovery and new reports issued.

The Service Provider shall comply with any claims appeals procedures. If a Participant or Beneficiary makes a claim for benefits and the claim is denied, the Service Provider will perform and follow the specific claim and appeal procedures contained in Plan Document.

## Communications and Education

In order for Participants to enroll in the Plan and effectively exercise control over their assets, the Service Provider shall appoint properly authorized Field Representatives to make information available to the Participants as is deemed necessary for Participants to understand the Plan to enable them make informed investment decisions and enroll in the Plan.

Any educational and all other materials to be distributed for the Plan must be approved by the WVSTO before use. The quality and impact of these materials will be periodically evaluated in order to assess the impact and success of the Plan's overall communications and educational program. Field Representatives will be assigned to the Plan by the Service Provider will have the following qualifications/credentials:

- Series 6 or 7 NASD registration
- applicable state insurance licensing
- ongoing FINRA continuing education
- experience working with employees (with public sector experience preferred); and
- regular reporting requirements, including attending regular training meetings, to be held by the Service Provider annually including, but not limited to:
  - FINRA Firm Element; and
  - Service Provider's Privacy Policy and Code of Conduct training.

The Service Provider will encourage Field Representatives to further their education, both with internal and outside training programs.

Field Representative compensation will be salary-based, with no financial compensation connected to any Investment Option; and a minimum of two Field Representatives will be assigned to the Plan. Additional Field Reps may be added upon negotiation between the WVSTO and Service Provider as appropriate.

## Review of Plan's Administration Performance

The WVSTO is authorized to conduct periodic reviews of any individual or firm providing administrative services to the Plan to evaluate their performance, overall quality of the services provided, and their

adherence to terms and requirements of their respective service contracts, the Plan Document, and the Administrative Performance Standards.

## Investment Communications to Participants

Information about each Investment Option will be given or made available to Participants to help them to make informed investment choices. The Service Provider shall provide, at least annually, statements of Investment Option performance to each Participant.

Upon request, copies of Investment Option prospectuses or similar equivalent information will be provided to Participants by the Service Provider, which includes, but is not limited to, a list of underlying investments for a given Investment Option, past performance of the Investment Option and the Morningstar rating of the Investment Option.

## Participant Investment Education

Participants shall be provided with an ongoing investment education program in partnership between the WVSTO, Service Provider, and Recordkeeper,. The purpose of the investment education program is to provide information and tools to assist in the development of personal investment strategies for the Participants, and to facilitate the achievement of their savings and retirement goals.

The Service Provider will assist the WVSTO in developing an investment education program, and will develop and provide supporting materials with consideration for the following:

- educating Plan Participants on the features and benefits of the Plan and on how to determine if participating in the Plan is right for them;
- teaching Plan Participants how they can tailor their use of the Plan to best meet their individual retirement planning goals; and
- keeping Participants abreast of the new developments and features of the Plan as they are made available.

On an ongoing basis, the Service Provider will provide continuous education programs to all Participants. Topics for programs shall include, but are not limited to the list below:

- overview of investment basics;
- identification of investment objectives;

- risk tolerance;
- asset classes;
- risk/reward spectrum;
- diversification;
- model portfolios and asset allocation; and
- how to make investment choices/changes.

## Participant Investment Advisory Services

The Plan provides investment advisory services to Participants through the Service Provider. The service provider uses Morningstar applications providing Participants with non discretionary investment guidance designed to assess their individual situations, offer asset allocations alternatives and retirement counseling, based on Participants inputs using the core investment options of the Plan. The Service Provider also offers a managed account program that provides participants who elect the service, complete outsourcing of their investment decision making process through an independent organization of the service provider.

The WVSTO has no fiduciary oversight responsibilities related to the managed account program of the service provider.

## WVSTO Responsibilities Relating to Investment Advisory Services

The WVSTO will provide accurate and timely data to the Service Provider/Recordkeeper, including, but not limited to:

- necessary Participant census data and updates as reasonably required by Morningstar in order to provide investment advisory services;
- Plan information and rules to the Service Provider and update information if changes are made; and
- any changes to Plan Investment Options or transaction rules of the Plan

## Excessive Trading Policy

The WVSTO has adopted the Excessive Trading Policy of its Service Provider. This trading policy is used to protect the interest of the Participants from potential adverse impact of excessive trading.

The purpose of the Excessive Trading Policy is to eliminate excessive trading as well as warn Participants who might engage in frequent trading that such activity may be detrimental to them and the Plan.

The Service Provider and Investment Option managers will work together to identify any Participants who are exceeding mutual fund prospectus guidelines and after the issuance of formal written communications, will subject the accounts of these Participants to proposed restrictions.

The Service Provider will send an announcement to all Participants regarding the Excessive Trading Policy of the Plan along with information on how to obtain mutual fund prospectus rules. The Service Provider Trading Policy can be found on the following website: <https://www.empower.com/market-timing-and-trading>.

## Investment Policy Changes

The WVSTO is authorized to modify the above investment policy as necessary to meet its fiduciary responsibility for the Plan and to the Participants.

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This is the Statement of Investment Policy of the State of West Virginia 457 Plan, the Retirement Plus Plan.



West Virginia State Treasurer

10-13-22

Date

## EXHIBIT A: Glossary of Terms

**Beneficiary** – The designated person or persons (or, if none, the Participant's estate) who is entitled to receive benefits under the Plan after the death of the Participant.

**Field Representative** – Employees or representatives assigned by the Service Provider to service the Plan and its Participants.

**Investment Category or Category** – One or a group of Investment Options, which are categorized based upon an investment style as measured by the options underlying portfolio holdings.

**Investment Consultant** – Consultant to the Plan, and provides investment and administrative monitoring services, quarterly and annual Plan reviews, research, market information and other as needed services.

**Investment Options or Options** – Individual funds or investments available to Participants to invest their account in.

**Market Cycle** – Generally a period of three to five years, which includes both a rising and declining leg. A rising leg is defined as a period of at least two consecutive quarters of rising stock prices. A declining leg is defined as a period of at least two consecutive quarters of declining stock prices.

**Morningstar** – Investment research company that provides benchmarking universes and rating services for the Plan, and investment advice to the Participants.

**Participant** – Any eligible individual who is currently deferring compensation, or who has previously deferred compensation under the Plan by salary reduction and who has not received a distribution of his or her entire benefit under the Plan.

**Plan** – The State of West Virginia Amended and Restated Deferred Compensation Plan pursuant to Section 457(b) of the Internal Revenue Code.

**Plan Documents** – Includes the State of West Virginia 457(b) Deferred Compensation Plan Document, this Policy, and any other document that governs the Plan.

**Plan Sponsor** – The State of West Virginia, which has adopted the Plan for the exclusive benefit of the Participants and Beneficiaries.

**Policy** – This Investment Policy Statement and Administrative Guidelines adopted August 2022.

**Recordkeeper** – Currently, the recordkeeper and service provider are the same entity for the Plan. Recordkeeper is the term traditionally used for the plan's investment platform and often the custodian of the plan's assets.

**S&P (Standard & Poor's)** – An investment research and ratings company which provides investment indexes, benchmark universes, and rating services.

**WVSTO** – WVSTO means the West Virginia State Treasurer's Office.

**Service Provider** – The administrative service agent for providing recordkeeping, marketing, education, and administrative and investment services to the Plan.

## EXHIBIT B: Administrative Performance Standards

These Administrative Standards are provided by the current Service Provider and Recordkeeper, Empower Retirement:

Empower Retirement agrees to provide services in accordance with the performance standards stated herein. In the event Empower does not meet the performance standards listed below, Empower will be given an opportunity to cure such failure. If Empower fails to meet the performance standard in the subsequent quarter, Empower agrees to forfeit revenue for each performance standard not met pursuant to the “Fees at Risk” column below. In no event, however, shall the total amount forfeited by Empower in any given calendar year exceed: 1) 10% of Empower’s annualized per Participant/Recordholder fees determined as of the beginning of each calendar year; and 2) 2.50% of Empower’s annualized per Participant/Recordholder fees determined as of the end of each calendar quarter based upon the number of Participants/Recordholders with a balance in the Plan as of the last day in any given quarter. The amount of Empower annualized per Participant/Recordholder fees shall equal the number of Participants/Recordholders with a balance in the Plan as of each December 31 multiplied by the Plan’s annual per Participant/ Recordholder fee.

For illustrative purposes, the calculation for quarterly revenue placed at risk would be:  $[(A*B) *C]$ , in which:

- “A” is the quarterly per Participant/Recordholder fee of for Defined Contribution Plan(s) and;
- “B” is the number of Participants/Recordholders in the Plan with an account balance as of the last day of each calendar quarter; and
- “C” equals the lesser of the sum of the percentages attributed to each performance standard not met by Empower for a calendar quarter or 2.50%.



<b>Plan Sponsor &amp; Participant Service</b>	<b>Minimum Service Standard</b>	<b>Performance Measurement</b>	<b>Fees at Risk</b>
Participant contact center hours of availability	Retirement Representatives available 99% of time during regular hours of service. (8 a.m. to 10 p.m. EST, Monday through Friday and 9 a.m. to 5:30 p.m. EST, Saturdays) except for closings of NYSE, holidays and shortened hours associated with early market close or holiday eves	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
IVR / Internet Availability	99% of the time IVR/Internet available excluding regularly scheduled maintenance	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Call Abandon Rate	Less than 3% of participant calls abandoned (Empower complex wide)	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Call Answering Speed	80% of participants calls answered within 20 seconds (Empower complex wide)	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
First Call Resolution for Participants	90% of participant questions resolved during first call	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Participant and Plan Level Reporting for Plan Sponsor via the Plan Sponsor Website	99% of the time reports available online-updated monthly and nightly excluding regularly scheduled maintenance	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Distribution of Form 1099R or 1099-MISC	Available by January 31 of each calendar year, excluding correction 1099Rs/1099-MISC	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees

<b>Plan Sponsor &amp; Participant Service</b>	<b>Minimum Service Standard</b>	<b>Performance Measurement</b>	<b>Fees at Risk</b>
Participant Statement Mailing/Availability	Participant statements mailed/made electronically available within 15 business days of quarter-end. Initial quarter following conversion is 20 business days	Metric provided as part of the quarterly Empower Client Service Report	1% of quarterly fees
Disbursements	99% of participant disbursement requests processed accurately within two business days of completed requests received in good order. Transactions must be entered by 4 p.m. EST or close of market due to shortened hours associated with early market close/holiday eves	Metric provided as part of the quarterly Empower Service Level Report	1% of quarterly fees
Contribution and Loan Repayment Processing	Contribution and loan repayment processing completed the same business following confirmation of totals provided in funding request to the plan sponsor and wire received by 4 p.m. EST. Wires received after 4 p.m. EST will receive the following days trade date	Metric provided on the quarterly Empower Client Service Report	1% of quarterly fees

Investment Transfers	99% of investment transfers processed accurately on the same business day if participant direction received in good order by Empower by 4 p.m. EST, early close time of investment, or close of market due to shortened hours associated with early market close or holiday eves	Executed as part of automated processes. Accuracy will be consistent with minimum service standard unless otherwise disclosed.	1% of quarterly fees
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<b>Plan Sponsor &amp; Participant Service</b>	<b>Minimum Service Standard</b>	<b>Performance Measurement</b>	<b>Fees at risk</b>
Participant Confirmation Statement	Mailed or available online on within two business days following completion of transaction processing	Executed as part of automated processes. Accuracy consistent with minimum service standard unless otherwise disclosed	1% of quarterly fees
Distribution Upon Request of Generic and/or Participant Specific Documents Including Administrative Forms, Enrollment and Termination Materials, and Participant Statement Copies	99% of documents distributed within one business day of participant request.(Excludes enrollment material delays directly related to quarterly performance information updates required by FINRA)	Executed as part of automated processes. Accuracy consistent with minimum service standard unless otherwise disclosed	1% of quarterly fees

In no event shall such agreed upon performance standards or revenue at risk exceed the performance standards or annual and quarterly revenue at risk specified herein.

The Service Provider shall not be liable for the performance standards and the revenue at risk stated herein for failure to meet any of the performance standards as a result of an interruption of any service provided under the Agreement or delayed or defective performance of such service arising out of war, natural disasters, acts of terrorism, loss of utilities, government restrictions, trading halts, exchange or market rulings, extraordinary market volatility or exchange conditions, disabling strikes or any other causes beyond its reasonable control. Empower shall maintain a reasonable disaster recovery plan and shall use its best efforts to resume services on a normal basis as soon as practicable.

The Service Provider shall provide as part of the Quarterly Plan Sponsor Report to the WVSTO a certification of their compliance in satisfying all of the above performance standards no later than 20 days after the close of each calendar quarter.