

STATE OF TEXAS §
COUNTY OF TRAVIS §

Division Number:	110	Program Name:	Permanent School Fund
Org. Code:	701	Legal/Funding Authority:	Texas Constitution, Article VII
Payee Name:	BlackRock Investment Management, LLC	Payee ID:	205319476
ISAS Contract #:	2196	PO #:	30003

Amendment No. 1

**AMENDMENT TO
STANDARD CONTRACT
BETWEEN
TEXAS EDUCATION AGENCY
AND**

BlackRock Investment Management, LLC
NAME OF CONTRACTOR

800 Scudders Mill Rd. Plainsboro, NJ 08536
MAILING ADDRESS INCLUDING ZIP CODE

It is mutually understood and agreed by and between the undersigned contracting parties of the above numbered contract to amend said contract effective 09/01/2011 as follows:

- 1). TEA shall pay Contractor in connection with the Contract Project during the period beginning September 1, 2011 and ending August 31, 2015 at the rates, terms, and conditions as specified in the original Contract with no changes, except the matters addressed in the Items that follow.
- 2). Options to be selected by TEA: At any time during this renewal term, the SBOE may select from two options for the international portfolio mandate at the fee rate stated. Such fee rate will become effective on the first day of the month following the implementation of the changed mandate:
 - Option A. In addition to the existing portfolio, the SBOE may add a Developed Small Mid-Cap International Equity portfolio to the contract for an additional fee of \$ 4.0 bps, per year paid quarterly in arrears. The additional benchmark will be determined at the time this option is selected. An additional separate account for Developed Small Mid-Cap would be subject to a minimum annual fee of \$150,000.00.
 - Option B. The SBOE may convert the existing portfolio to an All Country World (Ex US) plus Developed Small Mid-Cap International Equity portfolio, for a fee of \$ 2.5 bps, per year paid quarterly in arrears. The benchmark will be determined at the time this option is selected.

In addition, at any time during the contract, TEA may elect from the following options in addition to changing the nature of the mandate as described in Options A or B.

- Option C. Convert the fee payment process to a quarterly authorized release of fees from the investment assets.
- Option D. Eliminate the separate account structure and establish a separate legal entity to manage the assets, naming the Contractor as the investment and administrative manager of the entity.

3). Revision to the General Terms and Conditions to add the following provisions:

S. **IRS Withholding:** Certain payments by some governmental entities to contractors after December 31, 2012 are subject to a 3% federal withholding requirement. The Internal Revenue Service (IRS) has proposed regulations regarding the 3% withholding requirement. Contractors and potential contracts should review this website for more information <http://www.irs.gov/govt/fslq/article/0,,id=239542,00.html>

If the TEA determines that any payments due under this contract are subject to the 3% withholding requirement, the TEA shall withhold such amounts consistent with the statute. It is the Contractor's sole responsibility to assert and establish to the satisfaction of the TEA the availability of any applicable exemption from withholding.

T. **Records Retention:** Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract.

U. **Public Information:** The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be excepted from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.

V. **Venue and Jurisdiction:** Subject to and without waiving any of the Agency's rights, including sovereign immunity, this Contract is governed by and construed under and in accordance with the laws of the State of Texas. Venue for any suit concerning this solicitation and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.

W. **Severability:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, the invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein. The remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

X. **Suspension and Debarment:** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal, state or local government entity. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.

Y. **Proprietary or Confidential Information:** Contractor will not disclose any information to which it is privy under this Contract without the prior consent of the Agency. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its contractors of information held by the State of Texas.

- Z. **Independent Contractor:** Contractor shall serve as an independent contractor in providing services under this Contract. Contractor's employees are not and shall not be construed as employees or agents of the State of Texas.
- AA. **Force Majeure:** Except as otherwise provided, neither Contractor nor TEA nor any agency of the State of Texas, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this Contract caused by *force majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. *Force majeure* is defined as acts of God, war, strike, fires, explosions, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such *force majeure* or otherwise waive this right as a defense.
- BB. **Abandonment or Default:** If the Contractor defaults on the Contract, TEA reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible respondent. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.

Pursuant to Section 2252.901 of the Texas Government Code, Contractor certifies that it is not a former employee of TEA or that Contractor has not been an employee of TEA for twelve (12) months prior to the beginning date of this Contract.

Contractor must make full disclosure of intent to employ or subcontract with an individual who is a former employee/retiree of TEA. Within the first twelve months of leaving employment at TEA, a former employee/retiree selected by the Contractor for employment or subcontracting, shall not perform services on a project or fill a position that the former employee/retiree worked on while employed at TEA.

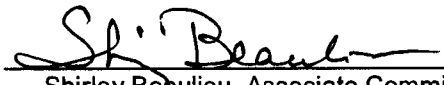
Excluded Parties List System: The Texas Education Agency is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contractor certifies that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Contractor is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>. This clause is applicable to all contract renewals.

All other terms and conditions of the original Contract remain the same and are incorporated herein as if specifically written.

It is agreed and accepted by a person authorized to bind Contractor that all terms and conditions of this amendment are effective commencing on the above date.

Typed Name: Kate Jonas
Typed Title: Managing Director


Authorized Signature

This section reserved for Agency use. I, an authorized official of Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above. AGREED and accepted on behalf of Agency this <u>13th</u> day of <u>September 2011</u> (month/year) by a person authorized to bind Agency.	
Return three (3) copies with original signature via express delivery to: Catherine A. Civiletto Texas Permanent School Fund Texas Education Agency 400 West 15 th Street, Suite 1100 Austin, TX 78701 512.463.9169	 Shirley Beaulieu, Associate Commissioner Finance/ CFO