CITY AND COUNTY OF SAN FRANCISCO
EMPLOYEES’ RETIREMENT SYSTEM

REQUEST FOR PROPOSALS FOR

ACTUARIAL CONSULTING SERVICES
FOR THE CITY AND COUNTY OF SAN FRANCISCO EMPLOYEES’ RETIREMENT SYSTEM

DATE: NOVEMBER 14, 2019

DEADLINE FOR SUBMISSION: DECEMBER 19, 2019, 5:00 P.M. PACIFIC TIME
City and County of San Francisco Employees’ Retirement System

Request for Proposals for

ACTUARIAL CONSULTING SERVICES FOR THE CITY AND COUNTY OF SAN FRANCISCO EMPLOYEES’ RETIREMENT SYSTEM

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Request for Proposals for

Actuarial Consulting Services for the City and County of San Francisco Employees’ Retirement System

I. Introduction

The City and County of San Francisco Employees’ Retirement System (“SFERS” or “Retirement System”) is soliciting proposals from qualified professional actuarial consulting firms to provide actuarial consulting services as described in Section II of this Request for Proposals (“RFP”). The Retirement System serves more than 73,000 active, vested, and retired employees of the City and County of San Francisco, San Francisco Unified School District, City College of San Francisco, and the Superior Court for the County of San Francisco. The SFERS pension plan had a total market value of assets of approximately $24.6 billion as of June 30, 2018.

The initial term of the contract under this RFP will be for five years.

II. Scope of Services

The firm awarded the resulting contract will provide various actuarial services which include consulting and advisory services, valuation services, experience analyses, and other general duties. The consulting actuary will perform tasks which include, but shall not be limited to, the following:

A. Consulting and Advisory Services

1. Provide actuarial consulting and advisory services. The consulting actuary will provide ongoing actuarial consulting and advisory services on any technical, policy or administrative issues related to the benefit program or funding structure which may arise during the course of operation of the Retirement System. These services may be delivered in meetings or by telephone calls and written correspondence at SFERS’ discretion. The Retirement System expects these services may include public testimony to the Retirement Board or committee of the Board on any technical, policy, compliance, or administrative issues arising during the course of operation of the Retirement System. The consulting actuary will be readily accessible to the SFERS Executive Director and Actuarial Services Coordinator by telephone within one working day and available for meetings within five (5) working days of a request. The consulting actuary will respond to all e-mail correspondence from the System within two working days. SFERS expects the consulting actuary to attend in person a minimum of four (4) Retirement Board meetings per contract year, including one meeting to review the annual actuarial valuation and one meeting to present the annual economic experience analysis. SFERS also expects the consulting actuary to be available for in person educational discussions with the Retirement Board, committees of the Board, and/or SFERS staff.

2. Prepare various actuarial operating tables and factors. The consulting actuary will prepare operating tables and factors as may be required for operation of the System. These tables and factors include, but are not limited to, mortality tables, option tables for annuitants, present value factors and survivor benefit factors.
3. Assist System staff in analysis, including cost analysis and measuring impacts on assets and liabilities of proposed changes to existing retirement laws which govern the System. Furthermore, the consulting actuary will assist SFERS (upon request by SFERS) to develop strategies for resolving any policy or administrative issues associated with implementing new legislation.

4. Keep SFERS informed of any new developments or changes in federal or state legislation, tax regulations, or accounting requirements regarding financing, benefits, vesting, or disclosure. SFERS also expects the consulting actuary to assist SFERS in implementing new laws, rules/regulations, and requirements appropriately.

5. Assist in establishing actuarial specifications for SFERS data files. The consulting actuary will provide feedback, at the System’s request, on the proposed form and content of the data files and if necessary, make suggestions for modifications to ensure that the full range of data needed for costing proposed benefits amendments, performing actuarial valuations, and reviewing experience studies is maintained.

6. Provide advice on special benefit cases. The consulting actuary will review certain benefit applications and perform complex computations related to special cases as may be requested from time to time by the System.

7. IRS 415 limits calculation and tracking. The consulting actuary will provide support to identify and track the plan’s compliance with IRC Section 415, including calculation of excess benefits.

8. Provide annual Supplemental COLA analysis and assist SFERS staff in determining the Credited Interest Rate

9. Web-based Benefits Modeler. The consulting actuary will provide and support a retirement benefits modeler that integrates with the online member portal.

B. Valuation Services

1. Perform annual actuarial funding valuations for the pension plan. The resulting valuation reports must contain detailed member data as well as explanations of any significant changes in actuarial losses or gains because of deviations from expected experience. SFERS will provide member data by September 15th of each year and the consulting actuary must finalize the resulting valuations no later than January 15th. The consulting actuary will attend a minimum of one (1) Retirement Board meeting each year for presentation of the annual actuarial funding valuation report.

2. Perform annual actuarial valuations to meet GASB Statements 67 and 68 accounting and financial reporting requirements for the pension plan. The consulting actuary must provide plan disclosure requirements by August 31st of each year or within two weeks of receiving June 30th year-end financial information.

3. Prepare annual 20-year employer contribution rate projections. The consulting actuary will provide these projections in conjunction with the funding valuation results.
C. Economic Experience Analysis and Demographic Studies

1. Prepare an annual economic experience analysis and report. The consulting actuary will attend a minimum of one (1) Retirement Board meeting each year for presentation of the annual economic experience analysis and report.


D. Asset Liability Study

1. Assist with the preparation of asset liability studies. In conjunction with the System’s investment consultant, an asset liability study will be prepared at least one time during the term of the contract.

E. General Duties:

1. Treat all member and financial information as confidential. The consulting actuary will maintain the confidentiality of all member and financial information as it applies to all data created, gathered, generated or acquired in performing the services under this contract.

2. Seek written consent prior to public release of information resulting from the engagement. With respect to any publicity given to the actuarial services provided under terms of the resulting contract, the consulting actuary will identify SFERS as the sponsoring agency and will not release any information without prior approval of the SFERS Executive Director or appointed designee. This information includes, but is not limited to, press releases, research and reports.

3. Communicate directly with the Actuarial Services Coordinator, Executive Director, or designee. The consulting actuary is expected to route all requests, reports, and all other communication in connection with this contract through the Actuarial Services Coordinator, Executive Director, or designee.

4. Perform all service within the scope of the contract under the direct supervision of a qualified actuary. An approved actuary must be regularly engaged in the business of providing actuarial services and have at least 10 years of experience with major public employee retirement systems and designation as a Fellow or Associate in the Society of Actuaries. The System reserves the right to reject the firm’s choice of a consulting actuary and may terminate the contract if a consulting actuary, acceptable to SFERS cannot be made available by the firm.

F. Special Projects

1. The consulting actuary shall provide services on special projects as requested by SFERS.
III. Submission Requirements

A. Blackout Period

For the duration of the RFP process, the SFERS Retirement Board and assigned Staff (Jay Huish, Caryn Bortnick, and Janet Brazelton) will enter into a “blackout” period during which communications and meetings between parties interested in or actually responding to the RFP (“Proposers”) and assigned SFERS staff and Board members is prohibited. This blackout period is effective upon approval of this RFP by the Board, which occurred November 13, 2019, and continues until either the review and evaluation process is completed, and a contract executed with the selected Proposer(s) or the search process is otherwise ended by the Board.

This blackout period will enable the Board and assigned SFERS staff to treat all Proposers fairly during the RFP selection process and permit the review and evaluation of the responses to be fair and unbiased.

Blackout conditions are outlined below:

1. Proposers are to refrain from communications with the Board and assigned SFERS staff. Communications include meetings, telephone conversations, letters, and email.
2. The following communications are permitted during the blackout period: written inquiries submitted as provided in Section V(B)(3) of this RFP; interviews scheduled by SFERS as part of the RFP evaluation process; and presentations scheduled before the Board for interviewing one or more Proposers as part of the RFP evaluation and selection process.
3. Proposers may meet with assigned SFERS staff or a Board member only if (a) the meeting is limited to discussions that are unrelated to this RFP, the Proposer’s services that are covered by this RFP, or the Proposer’s response to the RFP, and (b) both the employee/Board member and the Proposer provide advance written notice of the meeting and the subject of the meeting to the SFERS Executive Director. The Executive Director will retain the written notices regarding any such meetings and may request written confirmation after the meeting regarding the subjects discussed.
4. Nothing in this blackout period shall limit a Proposer who is currently engaged by SFERS or SFERS as a service provider from participating in meetings and communications with SFERS staff, including assigned SFERS staff, and SFERS Board members required to effectively conduct the business and services under the existing engagement.

If you have any questions regarding the blackout period, please submit your question in writing as provided by Section V(B)(3) of this RFP.

B. Time and Place for Submission of Proposals

The deadline for submission of responses is December 18, 2019 at 5:00 p.m. Pacific Time. Submissions must include five (5) completed paper copies of the response and one full and complete electronic copy of the response by the deadline date and time to:
Late submissions will not be considered. Postmarks will not be considered in judging the timeliness of submissions. Proposals that are submitted by fax will not be considered. Timely submission of only an electronic version of the proposal is insufficient to timely submit the proposal.

C. Transmittal Letter

An individual who is authorized to bind the Proposer contractually must sign a transmittal letter, which is an integral part of the response. This transmittal letter must indicate the signer is so authorized. A response with an unsigned cover letter will be rejected. This transmittal letter must include the following:

1. The Proposer’s name, address, telephone, and website address.
2. The Proposer’s Federal Employer Identification Number and Corporate Identification Number, if applicable.
3. The name, title or position, and telephone number of the individual signing the transmittal letter.
4. The name, title or position, and telephone number of Proposer’s primary contact for the RFP, if different from the individual signing the transmittal letter.
5. A statement expressing the Proposer’s willingness to perform the services as described in this RFP.
6. A statement expressing the Proposer’s availability of staff and other required resources for performing all services and providing all deliverables.
7. A certification that all fees and conditions stated in the proposal are firm for a period of 180 days from the deadline for submission of proposals and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.
8. A statement that Proposer has reviewed the RFP schedule in Section V(A) of this RFP and will ensure that all of Proposer’s key personnel are available for interviews, site visits, and Board meetings.
9. A certification that no officer, employee or agent of SFERS and no SFERS Retirement Board member has any known personal or pecuniary interest, direct or indirect, in this contract or the proceeds thereof.
10. A statement that identifies any personal, professional or financial relationships between Proposer and its officers and employees and any SFERS Retirement Board member or SFERS staff.
11. A statement that Proposer acknowledges that materials submitted pursuant to this RFP are public records. See Section VI(J) of this RFP.
12. A description of Proposer’s professional relationships involving SFERS, the State of California and any of its political subdivisions for the past five (5) years from the date of the RFP response, together with a statement explaining why such relationships do not constitute a conflict of interest.
D. Format and Content of Proposals

Proposer’s response to this RFP must be organized in the format listed below:

1. Transmittal Letter;
2. Required Proposal Contents as detailed in Appendix A; and
3. Additional information or attachments including sample reports intended to satisfy Selection Criteria of Section IV(B) of this RFP.

Completeness, brevity, and clarity are important. Proposers should submit all information requested in this RFP and do so in the specified format. Responses not meeting format requirements or that are incomplete may be rejected. Providing incomplete or misleading data may lead to disqualification of the response.

IV. Evaluation and Selection Criteria

A. Minimum Qualifications - Unless otherwise indicated, all qualifications must be met as of December 31, 2019.

The Proposer must meet all of the following minimum qualifications, to SFERS’ satisfaction, to be given further consideration for a contract award. The Proposer within the response to this RFP must establish minimum qualifications. Failure to satisfy all of the minimum qualifications, based on SFERS’ sole judgment, will result in the rejection of the proposal.

1. The firm must provide a supervising actuary who meets or exceeds the following standards:
   a) Fellow or Associate of the Society of Actuaries and/or Fellow of the Conference of Consulting Actuaries and/or Member of the American Academy of Actuaries and/or meet standards of a qualified actuary under the provisions of the Employee Retirement Income Security Act of 1974;
   b) Minimum of five (5) years of experience as a supervising actuary including consulting services, experience analyses and valuations assignments for major defined benefit retirement plans, including specific reference to involvement with public retirement systems;
   c) Experience in testifying before boards of trustees and administrative committees in support of actuarial positions and/or the principles used in valuing a plan or pricing benefit changes; and
   d) Ability to discuss actuarial theory, basis for assumptions and other actuarial matters in layperson’s terms.

2. The proposer must be directly responsible for the management of the consulting services, and all personnel responsible for the consulting services must be employees of the firm.

3. The firm must carry Errors and Omissions Insurance coverage in the amount of $10,000,000 or must have applied for such coverage by the submission date of the RFP. E&O insurance will be required throughout the duration of the contract.

B. Selection Criteria
A selection committee will evaluate the proposals relative to each other generally in accordance with the criteria and maximum points for each component below:

- Technical expertise and systems capability (40% weight)
- Written communication skills as demonstrated in sample reports (30% weight)
- Plan amendment proposal analysis/alternative design (10% weight)
- Other (15% weight)
  - Web-based benefits calculator capability
  - Stochastic modeling capability
  - Ability to provide 415(b) limit calculations
  - Client service
  - Location/availability of Consulting Team
  - Responsiveness to RFP
- Fees (5% weight)

V. Schedule

A. Schedule of Events

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP is advertised and issued</td>
<td>November 14, 2019</td>
</tr>
<tr>
<td>Deadline to submit written questions and requests for interpretation</td>
<td>December 3, 2019</td>
</tr>
<tr>
<td>Response to written questions to be provided to all participants</td>
<td>December 6, 2019</td>
</tr>
</tbody>
</table>

**Deadline for Submission of Proposal**

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review of proposals &amp; selection of Successful Proposer</td>
<td>December 20, 2019 – January 2, 2020</td>
</tr>
<tr>
<td>Retirement Board approval of Successful Proposer</td>
<td>January 8, 2020 (tentative)</td>
</tr>
<tr>
<td>Contract Negotiations</td>
<td>TBD</td>
</tr>
<tr>
<td>New contract takes effect</td>
<td>March 1, 2020</td>
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</tbody>
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B. Explanation of Events

1. Release of RFP – the RFP will be advertised and posted on SFERS’ website: [https://mysfers.org/about-sfers/request-for-proposal/](https://mysfers.org/about-sfers/request-for-proposal/)

2. In addition, the RFP will be released to a list of potentially qualified firms as determined by SFERS. All firms meeting minimum qualifications, as stated in Section IV of this RFP, are welcome to participate.
3. Any requests for information concerning the RFP must be in writing, and any substantive replies will be issued as written addenda to all parties who have requested and received a copy of the RFP from SFERS. No questions or requests for interpretation will be accepted after December 3, 2019. In preparing their responses, candidates should rely only on written material concerning this RFP issued by SFERS.

4. SFERS will respond to all candidates’ written questions by December 6, 2019.

   **Deadline for submission of the RFP response is**
   5:00 PM, Pacific Time, December 19, 2019.
   **No exceptions to this deadline will be granted.**

5. SFERS reserves the right to interview final candidates at SFERS’ offices in San Francisco on January 8, 2020 or on other dates to be determined.

6. All proposals submitted will be considered public documents. Any material that the candidate considers “Business-Confidential” should be so marked on the proposal.

C. Contract Award

To be considered, all proposals must comply with the requirements and specifications outlined in this RFP.

During contract negotiations, if SFERS or its agent is unable to agree to contract terms with the Proposer receiving the highest evaluation in this RFP process, SFERS reserves the right to terminate contract negotiations with that Proposer without undertaking another RFP process, and to negotiate with the Proposer receiving the next highest evaluation.

1. Termination – This RFP in no manner obligates SFERS or any of its agencies to the eventual procurement of services described, implied or which may be proposed, until confirmed by a written contract. Progress toward this end is solely at the discretion of SFERS and may terminate at any time prior to the signing of a contract.

   SFERS reserves the right to cancel this RFP at any time and to reject any and all proposals submitted in response to this RFP, if SFERS determines such action or actions are in its best interest.

2. Proposal Applicability – To allow sufficient time for contract negotiation, all fees and conditions stated in the proposal must be firm for a period of 180 days from the deadline for submission of proposals.

3. Negotiation Requirements – SFERS reserves the right to negotiate a change in terms if, in its sole opinion, the representatives assigned by the contractor are not adequately meeting SFERS’ needs for this contract.

4. Legal Review – SFERS expects that all candidates will agree to be bound by the terms and conditions articulated in this RFP. For this reason, it is strongly recommended that Proposers
have the terms and conditions contained herein reviewed with corporate counsel and that concerns be brought to the attention of SFERS staff in a timely manner.

5. Governing Law – This procurement and any agreement with Proposers that may result shall be governed by the laws of the State of California and the City and County of San Francisco. Submission of a proposal constitutes acceptance of this condition.

6. Basis for Proposal – Only information supplied by the SFERS staff in writing or in this RFP should be used in the preparation of proposals.

7. Proposal Preparation Cost – Any cost incurred by the Proposer in the preparation, transmittal or presentation of any proposal or material submitted in response to this RFP will be borne solely by the Proposer.

8. Proposer Qualification – SFERS may take such investigations as necessary to determine the ability of the Proposer to fulfill the terms of this RFP. SFERS reserves the right to reject the proposal of any Proposer who, in SFERS’ opinion, is not a responsible candidate as defined below:

“Responsible candidate” means a candidate who submits a complete proposal and who has furnished, when required, information and data to prove that its financial resources, production and service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in the proposal.

9. Non-Discrimination in Contracts - All contracts are subject to the non-discrimination ordinance of the City and County of San Francisco. Contractors should note the provision prohibiting discrimination by contractors in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees.

VI. Terms and Conditions for Receipt of Proposals

A. Errors and Omissions in RFP

Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the SFERS, in writing, if the Proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to SFERS promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals. Modifications and clarifications will be made by addenda as provided below.
B. Inquiries Regarding RFP

Inquiries regarding the RFP and all requests for written modification or clarification of the RFP, must be directed in writing to:

Janet Brazelton  
Actuarial Services Coordinator  
City and County of San Francisco Employees’ Retirement System  
Attn: Actuarial Review Proposal  
1145 Market Street, 5th Floor  
San Francisco, CA 94103  
E-mail: janet.brazelton@sfgov.org

C. Addenda to RFP

SFERS may modify the RFP, prior to the proposal due date, by issuing written addenda. Addenda will be sent via regular, first class U.S. mail to the last known business address or by electronic means to the last provided email address of each firm listed with SFERS as having received a copy of the RFP for proposal purposes. SFERS will also post to its website (https://mysfers.org) any written addenda. SFERS will make reasonable efforts to notify Proposers in a timely manner of modifications to the RFP. Notwithstanding this provision, the Proposer shall be responsible for ensuring that its proposal reflects any and all addenda issued by SFERS prior to the proposal due date regardless of when the proposal is submitted. Therefore, the SFERS recommends that the Proposer e-mail SFERS before submitting its proposal to determine if the Proposer has received all addenda.

D. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 120 calendar days from the proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

E. Revision of Proposal

A Proposer may revise a proposal on the Proposer’s own initiative at any time before the deadline for submission of proposals. The Proposer must submit the revised proposal in the same manner as the original. A revised proposal must be received on or before the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any Proposer.

At any time during the proposal evaluation process, SFERS may require a Proposer to provide oral or written clarification of its proposal. SFERS reserves the right to make an award without further clarifications of proposals received.

F. Errors and Omissions in Proposal
Failure by SFERS to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the vendor from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

G. **Financial Responsibility**

SFERS accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Submissions of the RFP and associated materials will become the property of SFERS and may be used by SFERS in any way deemed appropriate.

H. **Proposer’s Obligations Under the Campaign Reform Ordinance**

Proposers must comply with Section 1.126 of the S.F. Campaign and Government Conduct Code, which states:

No person who contracts with the City and County of San Francisco, for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the Retirement System or the board on which a City elective officer serves.

If a Proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the Proposer is prohibited from making contributions to:

- the officer’s re-election campaign
- a candidate for that officer’s office
- a committee controlled by the officer or candidate

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (i) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (ii) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil or administrative penalties:

(a) Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to $5,000 and a jail term of not more than six months, or both.

(b) Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to $5,000.
Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to $5,000 for each violation.

For further information, Proposers should contact the San Francisco Ethics Commission at (415) 252-3100.

I. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), contractors’ bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

J. Public Access to Meetings and Records

If a Proposer is a non-profit entity that receives a cumulative total per year of at least $250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the Proposer must comply with the reporting requirements of that Chapter. The Proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to Proposer’s meetings and records, and (2) a summary of all complaints concerning the Proposer’s compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the Proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in Proposer’s Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

K. Reservations of Rights by SFERS

The issuance of this RFP does not constitute an agreement by SFERS that any contract will actually be entered into by SFERS. SFERS expressly reserves the right at any time to:

1) Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2) Reject any or all proposals;
3) Cancel the pending RFP at any point in the process;
4) Reissue a Request for Proposals;
5) Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
6) Procure any materials, equipment or services specified in this RFP by any other means; or

7) Determine that no project or consultant retention will be pursued.

L. No Waiver

No waiver by SFERS of any provision of this RFP shall be implied from any failure by SFERS to recognize or take action on account of any failure by a Proposer to observe any provision of this RFP.

M. Local Business Enterprise Participation

SFERS strongly encourages proposals from qualified Local Business Enterprises (LBEs) as defined in Chapter 14.B of the San Francisco Administrative Code. If you desire to participate in the City’s Local Business Enterprise Program, which helps certain financially disadvantaged businesses increase their ability to compete effectively for City contracts, go to the “Qualify to do Business” tab under Vendor Information on the Office of Contract Administration website at [http://sfgov.org/oca/](http://sfgov.org/oca/) for details and required forms.

N. Chapter 12B and 12C: Nondiscrimination in Employment and Benefits

Chapter 12B and 12C of the San Francisco Administrative Code are incorporated by reference as though fully set forth herein. Chapters 12B and 12C prohibit discrimination by City contractors in employment, the use of property, the provision of public accommodations and in the provision of benefits to employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees.

Please refer to Appendix B regarding the requirements of San Francisco Administrative Code Chapters 12B and 12C.

O. Conflicts of Interest

The successful proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City’s Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten calendar days of the City notifying the successful proposer that the City has selected the proposer.
VII. City Contract Requirements


The successful Proposer will be required to enter into a contract substantially in the form of the Agreement for Professional Services, attached hereto as Appendix C. Failure to timely execute the contract, or to furnish any and all certificates, bonds or other materials required in the contract, shall be deemed an abandonment of a contract offer. The City, in its sole discretion, may select another firm and may proceed against the original selectee for damages. Full text of all referenced San Francisco municipal codes can be viewed online at sfcityattorney.org under the Good Government menu.

B. Required Vendor Forms

Before the City can award any contract to Proposer, the Proposer must become a “Registered Bidder” with the City and then complete certain forms online at the SF City Partner website to become an “Approved Supplier”:

1. Business Registration Certificate;

2. Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits; and

3. IRS Form W-9 – Request for Taxpayer Identification Number and Certification.

Complete descriptions of these required forms are available at the Office of Contract Administration website at sfgov.org/oca/ under “Vendor Information: Qualify to do Business” or in Appendix B of this RFP.
Appendix A
Required Proposal Contents

Introduction and Executive Summary

Submit a letter of introduction and executive summary of the proposal. A person authorized by your firm to obligate your firm to perform the commitments contained in the proposal must sign the letter. Submission of the letter will constitute a representation by your firm that your firm is willing and able to perform the commitments contained in the proposal.

Firm Organization, Personnel, Clients, Other Proposal Contents

1. Provide your company’s name and address, and the primary RFP contact’s name, phone number, fax number and e-mail address. Provide the address of the offices that will service this account for all senior team members.

2. Give a brief history of your firm’s involvement in the actuarial consulting business, including the year of organization, current ownership, and affiliations. Are ownership changes planned or anticipated at this time?

3. How many years has your firm provided actuarial consulting services to public pension plans?

4. What do you consider to be your firm’s consulting specialties, strengths, and limitations? What services, if any, does your firm offer clients in addition to actuarial consulting services?

5. Within the last five years, have you or your organization, employees, officers, or principals been involved in any business litigation or other legal proceeding relating to your actuarial consulting activities? In addition, in the last five years, has your organization been investigated by any regulatory authorities? If so, provide an explanation and indicate the current status.

6. How many full service actuarial accounts does your firm have? How many are public employee retirement systems? How many relationships have been added in the last five years?

7. How many actuarial services accounts were lost in each of the last five years? What was the reason(s) for each account lost?

8. Provide levels of coverage for fidelity bonds, errors and omissions coverage, and other fiduciary coverage that your firm carries; include the name and address of the coverage provider and a copy of proof of coverage.

9. Describe your plans for managing the future growth of your firm in terms of:

   A. Total number of accounts that will be accepted.
B. Plans for additions to professional staff and approximate timing in relation to anticipated growth in the number of accounts.

Minimum Qualifications

10. Describe how your company meets the Minimum Qualifications of Section IV of this RFP.

Personnel

11. List the name and location of the primary individual(s) who would be responsible for our account and provide brief biographies including titles, functions, academic credentials, and relevant experience. Identify and explain the role of back-up personnel. How many clients are assigned to each person named above?

12. What policies are in effect to control the workload as it relates to the number of clients serviced by each consultant? Is there a limit on the number of accounts that a consultant may handle?

13. What incentives are provided to attract and retain top quality employees at your firm?

14. Describe the turnover in key professional personnel in each of the last five years. Indicate the number of people lost in the following areas: (a) actuaries, and (b) key technical personnel.

Services Provided and Client List

15. List all services provided in a typical pension plan full service actuarial consulting relationship. Include a description of the research and other technical resources, including on-line databases and computer based analytical tools that you make available to your clients, and a description of any IRC Section 415 systems applications that you provide to other public clients. Please also include a description of any web-based benefits modelers that you provide to other public clients.

16. Your firm will be required to recommend economic assumptions such as investment yield, wage inflation, etc. Please describe your methodology to develop these assumptions. Further, please explain your process for validating the appropriateness of said assumptions.

17. Describe the services of your organization that distinguish your firm from your competitors. Briefly explain why your firm is the most qualified for this engagement.

18. Briefly summarize your philosophy relating to the consultant’s relationship with boards, staff, and plan sponsors.

19. Provide a list of representative current clients, noting the public pension funds included on the list.

20. List references for three public pension funds with assets each in excess of one billion dollars for whom the primary consultant and principal assistant to be assigned to the SFERS
account have provided actuarial consulting. For each reference include client name, address, telephone number, and name of contact person.

21. Provide an example of a cost analysis and report regarding a plan amendment proposal.

22. Include as an addendum item a sample of your firm’s actuarial reports. If available, include a sample of an economic and/or demographic experience study report.

23. Describe your present understanding of the status of SFERS. The discussion should be no more than three pages and could include issues faced by retirement systems of our size and comments on funding outlook, statutory constraints, etc. Please describe any current concerns you would have for SFERS and comment how your firm might assist in addressing such concerns.

24. Include any other information that you believe to be pertinent but is not specifically requested elsewhere in this Request for Proposal.

Conflicts

25. How does your firm identify and manage conflicts of interest?

26. Please provide a copy of your firm’s conflict of interest policy. Who monitors compliance with these guidelines?

27. Please describe any actual or potential conflict of interest that your firm would have in servicing SFERS.

28. Have you or anyone in your firm provided any gifts, travel and room expenses, entertainment or meals to any SFERS Board member or staff member during the past twelve months. If yes, please identify the SFERS Board or staff member, the amount of the expense, when it was incurred, and what it was for.

29. List and describe all professional, business and personal relationships between you and anyone in your firm and any SFERS Board or staff members in the past three years.

Fees

30. Provide your fee schedule, bundled and unbundled. Break out the fee structure to reflect separate pricing for:

   A. Annual actuarial valuations and reports for funding and GASB disclosure purposes, annual economic experience analysis and 20-year employer contribution rate projections report for each year of the five-year contract period.

   B. One demographic experience study plus any necessary changes in operational tables as a result of adopting new actuarial assumptions recommended by the plan experience study.
C. Hourly rates for consulting actuary, and key professionals for additional consulting services.
Appendix B

Required Vendor Forms

All vendors must register with the City and complete at least three forms before the City can do business with them:

1. **IRS Form W-9:** Request for Taxpayer Identification Number used to become a “Registered Bidder”

2. **San Francisco Business Registration:** San Francisco’s Business and Tax Regulations Code requires that every person engaging in business within the City must register within 15 days after commencing business. A “Registered Bidder” must complete this form to become an “Approved Supplier”.

3. **12B Equal Benefits Declaration:** Chapter 12B of the Administrative Code requires that all Suppliers to the City and County of San Francisco administer benefits equally to employees with domestic partners and employees with spouses.

Information for City Suppliers and Bidders may be found here: [https://sfcitypartner.sfgov.org/](https://sfcitypartner.sfgov.org/)

Self-service training may be found here:
[https://sfcitypartnersupport.sfgov.org/support/solutions](https://sfcitypartnerssupport.sfgov.org/support/solutions)

Information about business registration can be found here:
[https://newbusiness.sfgov.org/vendor/](https://newbusiness.sfgov.org/vendor/)

For help and support:
[https://sfcitypartnersupport.sfgov.org/support/home](https://sfcitypartnerssupport.sfgov.org/support/home)

or call (415) 944-2442.

Approved suppliers who are not yet using the supplier portal should email [sfcitypartnersupport@sfgov.org](mailto:sfcitypartnersupport@sfgov.org) or call (415)-944-2442 to get your username and password to the supplier portal.
Appendix C
Sample Agreement for Professional Services

GENERAL INVESTMENT CONSULTING AGREEMENT
BETWEEN
SAN FRANCISCO CITY AND COUNTY EMPLOYEES’ RETIREMENT SYSTEM
AND
[________________________]

THIS General Investment Consulting Agreement (this “Agreement”) is made this ____ day of __________, 2019 in the City and County of San Francisco (the “City”), State of California, by and between: [____________________] (“Consultant”) and the San Francisco City and County Employees' Retirement System (the “Retirement System”).

RECITALS

WHEREAS, the Retirement System is a duly established and existing public retirement system created under the Charter of the City;

WHEREAS, the board of the Retirement System (the “Retirement Board”) has plenary authority and fiduciary responsibility for investment of monies and administration of the Retirement System;

WHEREAS, the Retirement Board, through the Retirement System, seeks to retain non-discretionary general investment consulting services for the Retirement System’s investment portfolio (the “Proposed Services”);

WHEREAS, the Retirement System issued a request for proposal with respect to the Proposed Services (“RFP”), and as a result of the competitive selection process in connection with that RFP (the “RFP Process”), the Retirement System recommended, and the Retirement Board approved, selection of Consultant to provide the Proposed Services based on Consultant’s representations during the RFP Process; and

WHEREAS, Consultant represents and warrants that it is qualified to perform the services required by the Retirement System under this Agreement;

Now, THEREFORE, in consideration of the promises and mutual covenants herein contained, Consultant and the Retirement System do hereby agree as follows:

1. **Term of the Agreement.** Subject to Section 8 of this Agreement, the term of this Agreement shall be from [__________, 2019 to ____________, 20__]; provided, however, that the Retirement System shall have two (2) options to extend the term of the Agreement for a period of one (1) year each option, which the Retirement System may exercise in its sole, absolute discretion.
2. **Engagement.** The Retirement System hereby engages Consultant, and Consultant hereby accepts such engagement, to provide non-discretionary investment consulting services to the Retirement System for its investment portfolio in accordance with the terms and conditions of this Agreement, the Investment Policy, Objectives and Guidelines for the Retirement System attached hereto as Exhibit A (the “Investment Policy Statement”), and applicable federal, state and local laws.

3. **Services.** Consultant agrees to perform the non-discretionary investment consulting services for the Retirement System’s investment portfolio as described in the Schedule of Services attached hereto as Exhibit B and incorporated by reference as though fully set forth herein (the “Described Services”). Additional services will be provided only upon and in accordance with a written request by the Executive Director of the Retirement System (the “Executive Director”) or designee acting on behalf of the Retirement System (the “Additional Services,” together with the Described Services, the “Services”).

4. **Compensation.**
   
   (a) **Fees.** For the full performance and the completion of the Services, Consultant shall be compensated as set forth in the Fee Schedule attached hereto as Exhibit C and incorporated by reference as though fully set forth herein (the “Fees”). The Fees include the compensation for professional services as well as travel and other out-of-pocket expenses, printing, delivery, secretarial and clerical support services and any other costs incurred as may be necessary to perform the Services in a professional manner. No charges shall be incurred under this Agreement nor shall any payments become due to Consultant until reports, services, or both, required under this Agreement are received from Consultant and approved by the Retirement System as being in accordance with this Agreement. The Retirement System may withhold payment to Consultant in any instance in which Consultant has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall the Retirement System be liable for interest or late charges for any late payments.

   (b) **Fee Ceiling.** In no event shall the annual compensation amount under this Agreement exceed __________________ Dollars [________________].

   (c) **Payment Does Not Imply Acceptance of Services.** The granting of any payment by the Retirement System, or the receipt thereof by Consultant, shall in no way lessen the liability of Consultant to replace unsatisfactory Services, although the unsatisfactory character of such Services may not have been apparent or detected at the time such payment was made. Services that do not conform to the requirements of this Agreement may be rejected by the Retirement System and in such case must be replaced by Consultant without delay.

5. **Fiduciary Responsibility.** Consultant represents and warrants that it is duly registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the “Advisers
Consultant represents and warrants that it has delivered to the Retirement System, at least five (5) business days prior to the date of this Agreement, Parts 1A and 2 of Consultant’s Form ADV (the “Disclosure Statement”). Consultant further represents and warrants that it will deliver to the Retirement System: (a) a copy of the Disclosure Statement it files with the Securities and Exchange Commission annually, within thirty (30) days of filing and (b) copies of any amendments to the Disclosure Statement it files with the Securities and Exchange Commission, within thirty (30) days of filing. Consultant acknowledges that this Agreement places it in a fiduciary relationship with the Retirement System. As a fiduciary, Consultant shall discharge each of its duties and exercise each of its powers (as those duties and powers are defined herein) with the competence, care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the course of any enterprise of like character and with like aims, in conformance with the California Constitution, Article XVI, Section 17, California Government Code Sections 31594 and 31595, San Francisco Charter Section 12.100 and with the customary standard of care of a professional investment consultant providing services to a United States employee pension trust (the “Standard of Care”). Consultant shall cause any and all of its employees, agents and representatives providing services in connection with this Agreement to exercise the same Standard of Care.

Consultant acknowledges that, to comply with the above-described fiduciary duties, it must maintain independence from all interests other than the interests of the Retirement System members and beneficiaries, as those interests are expressed by the Retirement Board. Consultant further acknowledges that the Retirement System staff acts as the agent for the Retirement Board in its relationship with the Consultant but is subordinate to the Retirement Board and cannot direct Consultant to consider interests contrary to those expressed by the Retirement Board. Consultant warrants that it will not delegate its fiduciary responsibilities under this Agreement.

Within the context of providing the Services, Consultant’s analysis may address tax, legal or other considerations related to various investment strategies or investments; provided, however, that Consultant shall not provide or otherwise be responsible for the provision of tax advice or legal counsel. Consultant shall act in an investment advisor capacity only.

6. Disclosures.

(a) **RFP.** Consultant represents and warrants that its statements, dated [_______], in its response to the RFP, are true and correct.

(b) **Disclosure of Interest.** Consultant shall fully and promptly disclose to the Retirement System: (i) its direct or indirect financial interests in any investment opportunity that it may recommend to the Retirement System in providing the Services; (ii) with respect to any potentially oversubscribed investment opportunity that Consultant recommends to the Retirement System, whether Consultant is also recommending such investment opportunity to other clients of Consultant (and the
amounts thereof) or otherwise assisting other clients of Consultant in such investment opportunity, regardless of whether such other clients proceed with the investment opportunity; and (iii) any other fact or relationship which would compromise or materially affect its ability to faithfully perform its duties under this Agreement.

(c) **Intellectual Property.** The Services and deliverables that Consultant provides under this Agreement shall not infringe upon any patent rights, copyright, trade secret or any other proprietary right or trademark, or any other intellectual property rights of any other third party.

7. **Personnel.**

(a) **Qualified Personnel.** Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Consultant. Consultant will comply with the Retirement System’s reasonable requests regarding assignment of personnel, but all personnel, including those assigned at the Retirement System’s request, must be supervised by Consultant. Consultant shall commit adequate resources to complete the services within the schedule specified in this Agreement.

(b) **Key Personnel.** The Retirement System may designate in writing, from time to time, that certain personnel of Consultant are “key personnel.” Consultant shall immediately notify the Retirement System in writing of any changes in key personnel within its organization.

8. **Budget Authorization.** This Agreement is subject to the budget and fiscal provisions of the City’s Charter. Charges will accrue only after prior written authorization certified by the City Controller, and any amount of the Retirement System’s obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to the Retirement System at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. The Retirement System has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Mayor and the City Board of Supervisors. Consultant’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

This Section 8 controls against any and all other provisions of this Agreement.

9. **Invoices.** Consultant shall submit invoices for the Services in a form acceptable to the Retirement System, along with an itemized statement of Services, at the end of each quarter. Consultant shall send invoices to:
Name
Title
San Francisco Employees' Retirement System
1145 Market Street, 7th Floor
San Francisco, CA 94103-1561
name@sfgov.org

Consultant shall also send electronic copies of such invoices to:
name@sfgov.org.

From time to time, the Retirement System may specify another recipient or address for invoices by written notice to Consultant in accordance with Section 21 of this Agreement.

10. **False Claims.** The full text of San Francisco Administrative Code Chapter 21, Section 21.35 (the “False Claims Ordinance”), including the enforcement and penalty provisions, is incorporated into this Agreement. Consultant acknowledges that Consultant is subject to the False Claims Ordinance, which provides that any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in the False Claims Ordinance. Under the False Claims Ordinance, a contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the Retirement System a false claim or request for payment or approval; (b) knowingly makes or uses or causes to be made or used a false record or statement to get a false claim paid or approved by the Retirement System; (c) conspires to defraud the Retirement System by getting a false claim allowed or paid by the Retirement System; (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the Retirement System; or (e) is a beneficiary of an inadvertent submission of a false claim to the Retirement System, subsequently discovers the falsity of the claim and fails to disclose the false claim to the Retirement System within a reasonable time after discovery of the false claim.

11. **Taxes.** Consultant shall have the sole obligation to pay any taxes, including without limitation payroll taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant under this Agreement.

12. **Independent Contractor.**

(a) **Independent Contractor Status.** In performing the Services, Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work under this Agreement. Consultant or any agent or employee of Consultant shall not have employee status with the Retirement System, nor be entitled to participate in any plans, arrangements, or distributions by the Retirement System pertaining to or in connection with any retirement, health or other benefits that the Retirement System may offer its employees. Consultant or any agent or
employee of Consultant is liable for the acts and omissions of itself, its employees and its agents. Consultant shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Consultant’s performing services and work, or any agent or employee of Consultant providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the Retirement System and Consultant or any agent or employee of Consultant.

(b) **Payment of Taxes.** If any governmental authority should, nevertheless, determine that Consultant is an employee for purposes of collection of any employment taxes, then the Retirement System’s payment obligations hereunder shall be reduced so that the aggregate amount of payments directly to the Consultant and to the applicable governmental authority does not exceed the maximum amount specified in Section 4 of this Agreement. Consultant shall refund any amounts necessary to affect that reduction.

13. **Insurance.**

(a) Without in any way limiting Consultant’s liability pursuant to Section 14 of this Agreement, Consultant must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

1. worker’s compensation, in statutory amounts, with employers’ liability limits not less than $[_________] each accident;

2. commercial general liability insurance with limits not less than $[_________] each occurrence, including without limitation combined single limit for bodily injury and property damage, including contractual liability, personal injury, products, completed operations and hired and non-owned automobiles;

3. professional or fiduciary indemnity (errors and omissions) insurance in the aggregate minimum of $[__________]; and

4. technology errors and omissions liability with limits of not less than $[_________] each claim with respect to failure against programming errors, software performance, failure to perform work as agreed, and errors and omissions in connection with the products and services provided.

(b) Commercial general liability insurance policy must be endorsed to: (i) name as additional insured the Retirement System and its officers, agents, and employees; and (ii) provide that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this
Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(c) All policies shall be endorsed to provide thirty (30) days' advance written notice to the Retirement System of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the Retirement System in accordance with Section 21 hereof.

(d) Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of five (5) years beyond the expiration or earlier termination of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration or earlier termination of the Agreement, such claims shall be covered by such claims-made policies.

(e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified in this section.

(f) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the Retirement System receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the Retirement System may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

(g) Before commencing any services under this Agreement, Consultant shall furnish to the Retirement System certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to the Retirement System, in form evidencing all coverages set forth herein. Consultant shall also furnish to the Retirement System such certificates and endorsements on an annual basis.

(h) If Consultant will use any subcontractor(s) to provide services under this Agreement, Consultant shall require the subcontractor(s) to provide all necessary insurance and to name the Retirement System, its officers, agents and employees and the Consultant as additional insureds.

(i) Approval of the insurance by the Retirement System shall not relieve or decrease the liability of Consultant hereunder.
14. **Indemnification.** Consultant shall indemnify and save harmless the Retirement System and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof (a) arising directly or indirectly from any breach of any representation or warranty made by Consultant in this Agreement, (b) arising directly or indirectly from any breach of any covenant, agreement or obligation of Consultant contained in this Agreement, including without limitation breach of fiduciary duty, breach of the Standard of Care, breach of trust or breach of confidentiality, (c) arising directly or indirectly from any (i) bad faith, (ii) negligence, (iii) willful misconduct or (iv) improper or unethical practice in violation of law by Consultant or its agents or (d) for injury to or death of a person, including employees of Consultant or loss of or damage to property, arising directly or indirectly from Consultant’s performance of this Agreement, including, but not limited to, Consultant’s use of facilities or equipment provided by the Retirement System or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on the Retirement System, except, in the case of each of subsection (c) and subsection (d) of this Section 14, to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except, in the case of subsection (d) of this Section 14, where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of the Retirement System and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Consultant, its subcontractors or either’s agent or employee. The foregoing indemnities shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and the Retirement System’s costs of investigating any claims against the Retirement System. In addition to Consultant’s obligation to indemnify the Retirement System, Consultant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the Retirement System from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Consultant by the Retirement System and continues at all times thereafter. Consultant shall indemnify and hold the Retirement System harmless from all loss and liability, including attorneys’ fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by the Retirement System, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

15. **Limitation on Liability of the Retirement System.** The Retirement System’s payment obligations under this Agreement shall be limited to the payment of the compensation provided for in Section 4 of this Agreement. Notwithstanding any other provision of this Agreement, in no event shall the Retirement System be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

16. **Default; Remedies.**
(a) Each of the following shall constitute an event of default (“Event of Default”) under this Agreement:

(1) Consultant fails or refuses to perform or observe any term, covenant or condition contained in any of the following sections of this Agreement:

(A) Section 10 (False Claims);
(B) Section 11 (Taxes);
(C) Section 13 (Insurance);
(D) Section 20 (Proprietary or Confidential Information);
(E) Section 25 (No Assignment or Subcontracting);
(F) Section 31 (Alcohol and Drug-Free Workplace); and
(G) Section 44 (Compliance with Laws).

(2) Consultant fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten (10) days after written notice thereof from the Retirement System to the Consultant;

(3) Consultant (A) is generally not paying its debts as they become due, (B) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors’ relief law of any jurisdiction, (C) makes an assignment for the benefit of its creditors, (D) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Consultant or of any substantial part of Consultant’s property or (E) takes action for the purpose of any of the foregoing; or

(4) a court or government authority enters an order (A) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Consultant or with respect to any substantial part of Consultant’s property, (B) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors’ relief law of any jurisdiction or (C) ordering the dissolution, winding-up or liquidation of Consultant.

(b) On and after any Event of Default, the Retirement System shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, the Retirement System shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Consultant any Event of Default; Consultant shall pay to the Retirement System on demand all costs and expenses incurred by the Retirement System in effecting such cure, with interest.
thereon from the date of incurrence at the maximum rate then permitted by law. The Retirement System shall have the right to offset from any amounts due to Consultant under this Agreement or any other agreement between the Retirement System and Consultant all damages, losses, costs or expenses incurred by the Retirement System as a result of such Event of Default and any liquidated damages due from Consultant pursuant to the terms of this Agreement or any other agreement.

(c) All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

17. **Termination for Convenience.** The Retirement System shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. The Retirement System shall exercise this option by giving Consultant written notice of termination (the “Termination Notice”). The Termination Notice shall specify the date on which termination shall become effective.

Upon receipt of the Termination Notice, Consultant shall commence and perform, with diligence, all actions necessary on the part of Consultant to affect the termination of this Agreement on the date specified by the Retirement System and to minimize the liability of Consultant and the Retirement System to third parties as a result of termination. All such actions shall be subject to the prior approval of the Retirement System. Such actions shall include, without limitation, the cessation of performance of all services under this Agreement on the date(s) and in the manner specified by the Retirement System, the completion of performance of any service that the Retirement System designates to be completed prior to the date of termination specified by the Retirement System or such other actions as directed by the Retirement System. Consultant agrees to cooperate with the Retirement System to ensure an orderly termination process.

Within thirty (30) days following the termination date specified by the Retirement System, Consultant shall submit to the Retirement System an invoice, which shall provide details of all activities and services rendered through the date of termination.

18. **Rights and Duties upon Termination.** This Section 18 and the following sections of this Agreement shall survive termination of this Agreement:

(a) Section 4(c) (Payment Does Not Imply Acceptance of Services);
(b) Section 10 (False Claims);
(c) Section 11 (Taxes);
(d) Section 12 (Independent Contractor);
(e) Section 13 (Insurance);
(f) Section 14 (Indemnification);
(g) Section 15 (Limitation on Liability of the Retirement System);
(h) Section 20 (Proprietary or Confidential Information);
Subject to the immediately preceding sentence, upon termination of this Agreement, this Agreement shall terminate and be of no further force or effect. Consultant shall transfer title to the Retirement System, and deliver in the manner, at the times, and to the extent, if any, directed by the Retirement System, any work in progress, completed work and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to the Retirement System.

19. Prohibited Activities.

(a) Consultant represents and warrants that it does not and shall not knowingly employ, retain or compensate in any capacity: any employee, fiduciary, agent, consultant or other service provider of the Retirement System, or any member of the Retirement Board, who either could influence the award of this Agreement or any competing agreement, or who does or will have any direct or indirect financial interest in this Agreement ("Interested Person"), and any spouse or economic dependent of any Interested Person.

(b) By executing this Agreement, Consultant certifies that it does not know of any fact which constitutes a violation of: (i) Section 15.103 of the Charter, (ii) Article III, Chapter 2 of the San Francisco Campaign and Governmental Conduct Code, as amended, (iii) Section 87100 et seq. of the Government Code or (iv) Section 1090 et seq. of the Government Code, and further agrees promptly to notify the Retirement System if it becomes aware of any such fact during the term of this Agreement. Consultant further acknowledges that individuals who will provide services under this Agreement may be deemed consultants under state and local conflict of interest laws. Consultant agrees to use its best efforts to require that such individuals submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the Retirement System within ten (10) calendar days of the Retirement System’s written request.

(c) Consultant further acknowledges that it is familiar with Section 3.216 of the San Francisco Campaign and Governmental Conduct Code, as amended (the “Gifts Ordinance”), which prohibits an officer or employee of the Retirement System from soliciting or accepting any gift from a person who the officer or employee knows or has reason to know is a restricted source. The Gifts Ordinance defines “restricted source” to mean: (i) a person doing business with or seeking to do business with the
department of the officer or employee; or (ii) any person who during the prior twelve (12) months knowingly attempted to influence the officer or employee in any legislative or administrative action. Consultant certifies that it does not know of any facts that constitute a violation of those provisions and agrees that it will immediately notify the Retirement System if it becomes aware of any such fact during the term of this Agreement.

20. **Proprietary or Confidential Information.** Consultant understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by the Retirement System and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the Retirement System. Consultant agrees that all information disclosed by the Retirement System to Consultant shall be held in confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent consultant would use to protect its own proprietary data.

21. **Notices.** Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail (with confirmation of receipt) or by fax (with confirmation of receipt), and shall be addressed as follows (or to such other recipient or address as either party from time to time may specify in writing to the other party in accordance with this notice provision):

To the Retirement System:

Name  
Title  
San Francisco Employees' Retirement System  
1145 Market Street, 7th Floor  
San Francisco, CA 94103-1561  
Name@sfgov.org

To Consultant: [__________]

22. **Ownership of Results.** Any interest of Consultant or its subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Consultant or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to the Retirement System in a useable format (including electronic format) upon demand by the Retirement System; provided, however, Consultant may retain and use copies for reference and as documentation of its experience and capabilities. The Retirement System shall have the unrestricted authority to publish, disclose, distribute or otherwise use in whole or in part any reports, data or other materials prepared under this Agreement, crediting Consultant as the source.
23. **Works for Hire.** If, in connection with services performed under this Agreement, Consultant or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the Retirement System. If it is ever determined that any works created by Consultant or its subcontractors under this Agreement are not works for hire under U.S. law, Consultant hereby assigns all copyrights to such works to the Retirement System, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the prior written approval of the Retirement System, Consultant may retain and use copies of such works for reference and as documentation of its experience and capabilities.

24. **Audit and Inspection of Records.** Consultant agrees to maintain and make available to the Retirement System, during regular business hours, accurate books and accounting records relating to its work under this Agreement, including copies of all invoices. Consultant will permit the Retirement System to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Consultant shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon the Retirement System by this Section 24.

25. **No Assignment or Subcontracting.** The services to be performed by Consultant under this Agreement are personal in character and Consultant shall perform the work contemplated with resources available within its own organization. Neither this Agreement nor any duties or obligations hereunder may be assigned, subcontracted or delegated by Consultant without prior written consent of the Retirement System.

26. **Non-Waiver of Rights.** The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

27. **Local Business Enterprise Utilization.** Consultant shall comply with all applicable provisions of San Francisco Administrative Code Chapter 14B. Consultant is subject to the enforcement and penalty provisions in San Francisco Administrative Code Chapter 14B.

28. **Nondiscrimination; Penalties.**

   (a) **Non Discrimination in Contracts.** Consultant shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code, as amended, which
are incorporated herein by reference. Consultant shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Consultant is subject to the enforcement and penalty provisions in such chapters.

(b) **Nondiscrimination in the Provision of Employee Benefits.** Consultant shall comply with the provisions of San Francisco Administrative Code Section 12B.2. Consultant does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by the City, or where work is being performed for the Retirement System elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

(c) **Condition to Agreement.** As a condition to this Agreement, Consultant shall execute and submit the “S.F. Administrative Code Chapters 12B and 12C Declaration: Nondiscrimination in Contracts and Benefits” form (form CMD-12B-101) with supporting documentation to the Retirement System.

29. **MacBride Principles – Northern Ireland.** The provisions of San Francisco Administrative Code Section 12F, as amended, are incorporated herein by this reference and made part of this Agreement. By executing this Agreement, Consultant confirms that Consultant has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

30. **Tropical Hardwood and Virgin Redwood Ban.** Pursuant to San Francisco Environment Code Section 804(b), as amended, the City urges Consultant not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood wood product.

31. **Alcohol and Drug-Free Workplace.** The Retirement System reserves the right to deny access to, or require Consultant to remove from, the Retirement System’s or the City’s facilities agents of Consultant who the Retirement System has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the Retirement System’s ability to maintain safe work facilities or to protect the health and well-being of the Retirement System’s employees and the general public. The Retirement System shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, the Retirement System’s or the City’s facilities. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription.
32. **Compliance with Americans with Disabilities Act.** Consultant shall provide the services under this Agreement in a manner that complies with the Americans with Disabilities Act of 1990, as amended, including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

33. **Sunshine Ordinance.** Consultant acknowledges that under Section 67.24(e) of San Francisco Administrative Code, contracts, contractors’ bids, responses to requests for proposals and all other records of communications between the Retirement System and persons or firms seeking contracts, shall be open to public inspection immediately after a contract has been awarded. All information provided by Consultant that is covered by that ordinance (as it may be amended) will be made available to the public upon request.

34. **Limitations on Contributions.** By executing this Agreement, Consultant acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Consultant’s board of directors; Consultant’s chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Consultant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Consultant. Consultant certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 of the San Francisco Campaign and Governmental Conduct Code by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the Retirement System.

35. **Minimum Compensation Ordinance.** If applicable, Consultant shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Consultant is subject to the enforcement and penalty provisions in San Francisco Administrative Code Chapter 12P. By signing and executing this Agreement, Consultant certifies that it is in compliance with San Francisco Administrative Code Chapter 12P.

36. **Health Care Accountability Ordinance.** If applicable, Consultant shall comply with San Francisco Administrative Code Chapter 12Q. Consultant shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Consultant is subject to the enforcement and penalty provisions in Chapter 12Q.
37. **Prohibition on Use of Public Funds for Political Activity.** In performing the services under this Agreement, Consultant shall comply with San Francisco Administrative Code Chapter 12G, as amended, which prohibits funds appropriated for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Consultant is subject to the enforcement and penalty provisions in such chapter.

38. **First Source Hiring Program.** Consultant must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Consultant is subject to the enforcement and penalty provisions in Chapter 83 of the San Francisco Administrative Code.

39. **Modifications.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

40. **Administrative Remedy.** All disputes, controversies or claims arising under or relating to this Agreement shall be settled by the Executive Director. The Executive Director’s decision shall be deemed an exhaustion of all administrative remedies. However, the Executive Director’s decision shall not preclude resorting to judicial remedy.

41. **California Law; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

42. **Construction.** All section headings in this Agreement are for reference only and shall not be considered in construing this Agreement. Terms such as “hereunder” or “herein” refer to this Agreement as a whole. Terms such as “include” or “including” shall be deemed followed by the words “without limitation.” References to consents, approvals, determinations or other decisions of the Retirement System shall refer to the sole judgment of the Retirement System.

43. **Entire Agreement.** This Agreement contains the entire agreement between the parties, and supersedes all other oral or written provisions. The attached Exhibits A, B and C are a part of this Agreement.

44. **Compliance with Laws.** Consultant shall keep itself fully informed of the City’s Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

45. **Services Provided by Attorneys.** Any services to be provided by a law firm or attorney on behalf of the Retirement System must be reviewed and approved in writing in advance by the Office of the City Attorney of the City (the “City Attorney”). No invoices for services provided by law firms or attorneys, including without limitation, as subcontractors of
Consultant, will be paid unless the provider received advance written approval from the City Attorney.

46. **Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

47. **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

48. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which counterparts shall together constitute one and the same instrument.

[Signature Page Follows]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first referenced above.

SAN FRANCISCO CITY AND COUNTY EMPLOYEES’ RETIREMENT SYSTEM

By: ______________________
    JAY HUI SH
    Executive Director

By: ______________________
    [______________________]
    Name: ______________________
    Title: ______________________

Approved as to Form:

DENNIS J. HERRERA
City Attorney

By: ______________________
    Robert Bryan
    Deputy City Attorney