

ADMINISTRATIVE SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF BEXAR

This **ADMINISTRATIVE SERVICES CONTRACT** (hereinafter “Contract”) is entered into by and between the City of San Antonio (hereinafter “**CITY**”), a Texas Municipal Corporation, acting by and through its City Manager or her designee, and the Board of Trustees of the Fire and Police Pension Fund, San Antonio (hereinafter “**FUND**”), acting by and through its Executive Director.

I. PURPOSE

The Purpose of this Contract is to state the terms and conditions under which **CITY** will provide administrative services to the **FUND**.

II. DEFINITIONS

- 2.1 “**Board**” or “**Board of Trustees**,” as used herein, shall refer to the Board established pursuant to Article 6243o of the Texas Revised Civil Statutes, which governs the Fire and Police Pension Fund, San Antonio.
- 2.2 The term “**CITY**,” as used herein, shall refer to the City of San Antonio.
- 2.3 The term “**FUND**,” as used herein, shall refer to the Fire and Police Pension Fund, San Antonio, created pursuant to Article 6243o of the Texas Revised Civil Statutes.
- 2.4 The term “**Pension Office**,” as used herein, shall refer to the administrative offices created by the Board and located at 11603 W. Coker Loop, Suite 201, San Antonio, Texas.

III. SCOPE OF SERVICES

- 3.1 **CITY** agrees to provide the following administrative services to **FUND**:
 - 3.1.1 process bi-weekly payroll for Pension Office staff;
 - 3.1.2 perform all payroll tax reporting for Pension Office staff, as well as process transactions for personnel changes to Pension Office;
 - 3.1.3 utilize **CITY**’s financial system to process Pension Office payrolls and payroll edits, if necessary;
 - 3.1.4 provide access to Pension Office staff to utilize Employee Self Service (ESS) to process their individual leave requests, view their individual remuneration statements, make their individual employee benefit elections, and view their individual W-2 filings;
 - 3.1.5 prepare, annually, IRS Form W-2 and Affordable Care Act Forms 1095-B and C for Pension Office staff;
 - 3.1.6 permit all active member **FUND** Trustees to use such administrative leave as necessary to attend to the affairs of **FUND** in further of their fiduciary duties;
- 3.2 **FUND** agrees to pay or reimburse **CITY**, for the following, to the extent payment is not required or expected from the **FUND** employee directly or via payroll deduction:
 - 3.2.1 for participation by **FUND** employees and their dependents/beneficiaries in **CITY**’s

Employee Benefit Program provided by the **CITY** in the same manner as civilian **CITY** employees::

- a. Flexible benefits, including health and disability insurance coverage (invoiced as "Flexible Benefits Contribution" or "Insurance Charges") based on assessed premium without any further contribution or reimbursement by Fund or its employees;
 - b. Life insurance coverage based on assessed premium without any further contribution or reimbursement by Fund or its employees;
 - c. TMRS retirement (invoiced as "Retirement Expense Civilian") based on actuarial determined contribution rates;
 - d. Salaries, FICA and Medicare based on actual cost; and
 - e. Personal leave buy back based on actual cost.
- 3.2.2 participation by **FUND** employees, in **CITY**'s Worker's Compensation Program based on actual costs;
- 3.2.3 processing time for payroll, benefit enrollment, regulatory filing (W-2, 1095, etc), specific requests and system integration based on a flat annual fee as indicated in Section V, subsection 5.1 below. Specific Requests by **FUND** will be treated and negotiated on an individual basis by **CITY** and **FUND**; and
- 3.3 **FUND** agrees to abide by and be bound by the conditions, terms and requirements of the SAP Agreement, which requires executing and signing Exhibit A, "Authorized Affiliate Agreement" attached hereto, and delivering it to SAP.

IV. TERM AND RENEWAL

- 4.1 This Contract shall commence on October 1, 2015, and shall terminate September 30, 2016.
- 4.2 This Contract may be renewed for four (4) additional one-year periods upon agreement of the parties hereto. Any such agreement shall be evidenced in writing, executed by the parties. If no material provisions of the Contract are changed in connection with either renewal, the writing may be executed on behalf of **CITY** by the City Manager or her designee. In the event of any conflict between the provisions of this Contract and the provisions contained in a renewal, the provisions contained in the renewal shall govern.
- 4.3 Notwithstanding the foregoing and section 9.5, in the event this Contract is not renewed or is terminated other than for default by the **FUND**, **CITY** agrees that this Contract shall be extended by a reasonable period of time of up to 180 days, to allow **FUND** to transition services.

V. CONSIDERATION

- 5.1 For and during the initial term and each extended period, if any, in consideration for services provided by **CITY**, as listed in Section III, subsection 3.1 above, **FUND** agrees to pay **CITY** a fee of sixteen thousand and no cents (\$16,000.00) for the first year and each year thereafter to be paid in equal monthly installments.
- 5.2 In addition, **FUND** agrees to reimburse **CITY** for each of the items listed in Section III, subsections 3.2 above, based on actual costs or assessed premium, as applicable.

VI. RESERVATION OF RIGHTS

- 6.1 **CITY** shall have the right, at its option and sole discretion, to enter into one or more contracts with individuals or entities to perform any of the services herein listed required of **CITY**.

VII. RETENTION AND ACCESSIBILITY OF RECORDS

- 7.1 Records related to this Contract, produced by **CITY** pursuant to the provision of services hereunder, will be maintained by **CITY** in accordance with its applicable record retention policy.
- 7.2 **FUND** agrees to make available to **CITY**, and its designated representatives, any documents pertaining to **FUND** and the functions of the Board for the purpose of examining, inspecting, auditing and/or copying same. Copies of said documents shall be provided to **CITY**, at the **CITY's** request and at no cost to **CITY**.

VIII. INDEPENDENT AUDIT

- 8.1 **FUND** agrees to procure and utilize the services of an independent auditor to conduct an annual financial audit of **FUND** at its sole cost and expense.
- 8.2 **FUND** will provide a copy of such annual audit(s) to **CITY** no later than January 31st, following the close of the previous fiscal year.

IX. TERMINATION

- 9.1 For purposes of this Contract, "termination" of this Contract shall mean termination by expiration of the Contract term or earlier termination pursuant to any of the provisions hereof.
- 9.2 Termination by Notice. This Contract or any part hereof may be canceled by either party upon written notice, provided such notice specifies an effective date of termination, which shall be not less than 30 calendar days or more than 90 calendar days prior to the date of termination. The effective date of termination shall be the date specified in the written notice in accordance with the foregoing.
- 9.3 Termination for Cause. Should either party default in the performance of any of the terms or conditions of this Contract, the other party shall deliver to the defaulting party written notice thereof specifying the matters in default. The defaulting party shall have ten (10) calendar days after its receipt of the written notice to cure such default. If the defaulting party fails to cure the default within such ten (10) day period, this Contract shall terminate at 11:59:59p.m., Central Standard Time, on the tenth (10th) day after the receipt of the notice by the defaulting party.
- 9.4 Termination by Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein or if any law is interpreted to prohibit such performance, this Contract shall automatically terminate as of the effective date of such prohibition.
- 9.5 Effect of Termination. The period between notice of termination and the effective date of termination shall be used to affect an orderly transfer of records and funds, if any, from **FUND** to **CITY** or to such person(s) or firm(s) as the **CITY** may designate. Any records transfer shall be complete within 15 calendar days of the termination date. Any such transfer of records or funds shall be completed at **FUND's** sole cost and expense. All files that are the property of the **CITY** will, at the **CITY's** request, be delivered at no cost to the **CITY** or its designated escrow account(s) shall be returned to the **CITY** within 30 calendar days after the effective termination date.

X. AMENDMENTS

- 10.1 Except where the terms of this Contract expressly provide otherwise, any revisions, alterations, additions, or deletions to the terms of this Contract shall be effected by

amendment, in writing, executed by **CITY** and **FUND**.

- 10.2 It is understood and agreed by the parties hereto that changes in local, state, and federal rules, regulations and laws applicable hereto may occur during the term of this Contract, and that any such changes automatically shall be incorporated herein and become part of this Contract as of the effective date of such rule, regulation or law, without any written amendment or further approval.

XI. RIGHTS AND BENEFITS

- 11.1 This Contract shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.
- 11.2 No provision within this Contract is intended to create any right or interest in any third party.
- 11.3 This Contract is not intended to enlarge or limit any right, duties, or obligations of **CITY** or **FUND** under any applicable law, rule, regulation or other contractual document.

XII. INDEPENDENT CONTRACTOR

- 12.1 The parties hereto understand and agree that they are independent contractors, that neither party is, nor shall be considered to be an agent, employee or representative of the other and neither party hereto shall act or represent itself, directly or indirectly or by implication, as an agent or employee of the other or in any matter assume or create any obligations on behalf of or in the name of the other. The doctrine of *respondent superior* shall not apply as between **CITY** and **FUND**, its officers, agents, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between **FUND** and **CITY**.
- 12.2 No Third Party Beneficiaries: For purposes of this Contract, including its intended operation and effect, the parties specifically agree and contract that (1) this Contract only affects matters/disputes between the parties to this Contract and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entity may benefit incidentally by this Contract; and (2) the terms of this Contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either **CITY** or **FUND**.

XIII. NOTICES

- 13.1 Notices to **CITY** required or appropriate under this Contract shall be deemed sufficient if in writing and mailed, certified mail, return receipt requested, postage prepaid, addressed to:

City of San Antonio
Attn: Troy Elliott, CPA, Department of Finance
P.O. Box 839966
San Antonio, TX 78283-3966

AND

City of San Antonio
Attn: Melanie Seale, CPA, Department of Finance
P.O. Box 839966
San Antonio, TX 78283-3966

or to such other address as may have been designated in writing by **CITY**, from time to time. Notices to **FUND** shall be deemed sufficient if in writing and mailed, certified mail,

return receipt requested, postage prepaid, addressed to **FUND** at:

Fire and Pension Fund, San Antonio
Attn: Warren Schott, Executive Director
11603 W. Coker Loop, Suite 201
San Antonio, TX 78216

or such other address as may have been designated in writing by **FUND**, from time to time.

XIV. LEGAL AUTHORITY

- 14.1 The signer of this Contract for **FUND** represents, warrants assures and guarantees that he has full legal authority to execute this Contract on behalf of **FUND** and to bind **FUND** to all of the terms, conditions, provisions and obligations herein contained.

XV. VENUE AND GOVERNING LAW

- 15.1 Venue of any court action brought directly or indirectly by reason of this Contract shall be in Bexar County, Texas. This Contract shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are to be performed in Bexar County, Texas.

XVI. GENDER

- 16.1 Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XVII. CAPTIONS

- 17.1 The captions contained in this Contract are for convenience or reference purposes only and shall in no way limit, enlarge or alter the terms and/or conditions of this Contract.

XVIII. ENTIRE AGREEMENT

- 18.1 This Contract, its exhibits and the authorizing ordinance constitute the final and entire agreement between the parties hereto, superseding all verbal or written agreements, previous and/or contemporaneous agreements between the parties and relating to matters in this Contract. No other agreements, oral or otherwise, regarding the matters of this Contract shall be deemed to exist or to bind the parties hereto unless same is in writing, dated subsequent to the date hereto and duly executed by the parties hereto.

XIX. SEVERABILITY

- 19.1 If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future federal, state or local laws, including, but not limited to the City Charter, City Code or Ordinances of the City of San Antonio, Texas, then, and in that event, it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Contract shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein. It is also the intention of the parties to this Contract that, in lieu of each clause or provision of this Contract that is illegal, invalid or unenforceable, there be added as part of this Contract a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

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XX. ACKNOWLEDGMENT

20.1 Each of the parties acknowledges that it has read this Contract, understands its contents and executes this Contract voluntarily.

EXECUTED this the ____ day of _____, 2015.

CITY

CITY OF SAN ANTONIO

FUND

**BOARD OF TRUSTEES
Fire and Police Pension Fund, San Antonio**

Ben Gorzell, Jr.
Chief Financial Officer

Warren Schott
Executive Director

APPROVED AS TO FORM:

Robert Nordhaus
Assistant City Attorney