

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 designee, and the Board of Trustees of the Fire and Police Pension Fund, San Antonio (hereinafter "**FUND**"), acting by and through its Executive Director. **CITY** and **FUND** are sometimes hereafter referred to as the Parties.

I. PURPOSE

The Purpose of this Contract is to state the terms and conditions under which **CITY** will provide administrative services to the **FUND**, establish provisions for the use of administrative leave by active member **FUND** trustees ("Active Trustees" or "Active Trustee"), and to establish provisions for **CITY** access to information regarding 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 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 provide administrative leave for out-of-town travel: subject to each of the provisions set

out below, permit all Active Trustees to use administrative leave as necessary to attend to the affairs of FUND to travel to and attend (a) out-of-town events and/or (b) in-town investment manager meetings, due diligence site visits or investment meetings, and one (1) annual educational conference on behalf of the FUND in the performance of their fiduciary duties to the FUND. Active Trustees will have access to a pool of 480 hours ("Pool"), or the equivalent of 120 hours per Active Trustee. To the extent possible, any administrative leave from the Pool used by an Active Trustee should align with the estimated 120 hours per Active Trustee. Further provisions regarding use of the Pool are set out below.

1. The Pool will be available beginning each October 1st for use by Active Trustees for the FUND for the purposes set out above;
2. Any remaining leave in the Pool as of September 30th of each year will be forfeited;
3. When requesting to be absent from work for the purposes set out above, each Active Trustee shall follow the applicable City Fire or Police Department process and procedure.
4. **Exception Process:**

For good cause shown, the Executive Director of FUND may submit a prior written request for additional hours of administrative leave for out-of-town travel that is needed above and beyond the Pool. These may include, but are not limited to, events such as an Active Trustee newly elected to the Board of Trustees of FUND requiring training, or unanticipated market events. The request shall be directed and submitted to the Police Chief or the Fire Chief, as appropriate, and shall be subject to the prior written approval of CITY's City Manager or designee, in her sole discretion.

3.1.7 account for administrative leave used by Active Trustees from the Pool and prepare an invoice to the FUND quarterly for payment (payment to be remitted by FUND within 30 days of receipt) detailing the name of the Active Trustee, date of administrative leave taken, hours deducted from the Pool and reimbursement amount due to CITY. The amount of administrative leave reimbursed to CITY will be based on the regular rate of pay/FLSA rate for each hour of leave taken by the Active Trustee plus, when the Active Trustee's position is backfilled by the CITY, one-half (1/2) hour of overtime for the backfilling employee for each hour of leave taken by the Active Trustee. Through this reimbursement the Active Trustee will be acting solely on behalf of the FUND and will not be representing the CITY;

3.1.8 provide administrative leave for Board and Committee Meetings: permit all Active Trustees to use administrative leave as necessary to attend FUND Board and Committee Meetings. FUND agrees that the Pool referenced in 3.1.6 will not be used for Active Trustees to attend FUND Board and Committee Meetings. When requesting to be absent from work to attend FUND Board and Committee Meetings, each Active Trustee shall follow the applicable City Fire or Police Department process and procedure.

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 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 reimburse CITY for the administrative leave used by Active Trustees from the Pool as set out in 3.1.7 above;
 - 3.4 Except as may otherwise be agreed by the Parties, FUND agrees that neither the Pool nor the use of administrative leave will be permitted for Active Trustees to attend out-of-town legislative meetings or lobbying activities on behalf of FUND.
- For good cause shown, the Executive Director of FUND may submit a prior written request for the use of administrative leave from the Pool to permit Active Trustees to attend out-of-town legislative meetings or lobbying activities that are deemed by the Parties to be mutually agreeable and beneficial. The request shall be directed and submitted to the Police Chief or the Fire Chief, as appropriate, and shall be subject to the prior written approval of CITY's City Manager or designee, in her sole discretion.
- 3.5 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.
 - 3.6 Upon receipt of written request from CITY accompanied by a non-disclosure agreement executed by the CITY Consultants (defined below), FUND agrees to provide CITY'S external audit firm and/or external actuarial firm ("CITY Consultants") access to all of FUND's data, information and records ("Data") required by the CITY Consultants to confirm actuarial studies and assumptions and/or to perform all necessary test work to validate Governmental Accounting Standards Board ("GASB") determined liabilities, expenses and related accounts and to accurately report the Pension Liability and Fund financial information in CITY's Consolidated Annual Financial Report ("CAFR"). Such access may be provided by FUND through the City Consultants reviewing of the Data in FUND's offices and/or by FUND and/or its actuaries, consultants, and investment managers providing copies of the Data to the CITY Consultants.
 - 3.7 To the extent permitted by law, FUND agrees to provide CITY with FUND related data ("Data") upon written request by CITY. FUND will provide such Data in a reasonable time period. Should the CITY seek to use Data provided to CITY by the FUND in a public forum or seek to release Data received from the FUND in an unaltered or substantially similar form, CITY shall first notify the FUND and either 1) seek concurrence in releasing such Data; or 2) provide the FUND with sufficient notice to seek a declaratory judgment on the confidentiality of such Data in accordance with applicable state or federal law. CITY may use Data for its own internal purposes and may create its own documents or presentations from such Data so long as such Data is not attributed to the FUND.

FUND and **CITY** shall ensure compliance with Section 552.0038(c) of the Public Information Act. **FUND** shall redact employee/member names, addresses, telephone number(s), SSNs, SAP or other employee numbers, and date of birth of employees/members, spouses or beneficiaries (collectively, the "Personally Identifiable Information") prior to providing the requested Data to **CITY**. Should the **FUND** fail to redact Personally Identifiable Information, the **CITY** agrees to withhold such Personally Identifiable Information or otherwise ensure the Data is not in a form identifiable to a specific individual in any public report or presentation. Should the Data be requested by a third-party, the **CITY** shall notify the **FUND** for its determination on the applicability of Section 552.0038(c) of the Public Information Act to the requested Data.

IV. TERM AND RENEWAL

- 4.1 This Contract shall commence on October 1, 2018, and shall terminate September 30, 2019.
- 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 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 and to provide payment for the invoiced amount referenced in Section 3.1.7 above.
- 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, and subsection 3.3 above.

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 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.

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** agrees to procure and utilize the services of an independent actuary to conduct an annual actuarial study of **FUND** at its sole cost and expense.
- 8.3 **FUND** will provide a copy of such annual audit(s) and actuarial study to **CITY** no later than July 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 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, subject to the provisions of 9.5 and the transition period specified in 4.3.
- 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. Notwithstanding the foregoing, in the event this Contract 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. The period set forth in any notice pursuant to Section 9.2 above shall be included in the transition period provided for in this Section. Upon notice of termination, there shall be 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 a reasonable time. 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 a reasonable time.

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 charges 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 Keeton, 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.

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 _____, 2018.

CITY

CITY OF SAN ANTONIO

Ben Gorzell, Jr.
Chief Financial Officer

FUND

BOARD OF TRUSTEES
Fire and Police Pension Fund, San Antonio



Warren Schott
Executive Director

APPROVED AS TO FORM:

Robert Nordhaus
Assistant City Attorney