

Controller's Office

To the Honorable Mayor and City Council of the City of Houston, Texas:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- Funds have been encumbered out of funds previously appropriated for such purpose.
- Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated herein by this reference.
- Other - Grant Funds Available

J. B. Brown
J. B. Brown

Date: 9-15, 2020

City Controller of the City of Houston, Texas

net

FUND REF: 1000-9900-522430 AMOUNT: 450,000.00

SAO 45-332-719
ENCUMB. NO.:

DC OA 46-16257

City of Houston, Texas Ordinance No. 2020-795

Q

AN ORDINANCE APPROVING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL SERVICES FOR PENSION ACTUARIAL CONSULTING AND ADVISORY SERVICES BETWEEN THE CITY AND RETIREMENT HORIZONS INC.; PROVIDING A MAXIMUM CONTRACT AMOUNT; CONTAINING PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. The City Council hereby approves and authorizes the contract, agreement, amendment or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements, amendment or other undertaking described in the title of this ordinance, in the event of changed circumstances.

Section 3. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 4. The total allocation for the contract, agreement or other undertaking approved and authorized hereby shall never exceed \$ 2,050,000.00, unless and until this sum is increased by ordinance of City Council.


Section 5. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 16th day of September, 2020.

APPROVED this _____ day of _____, 2020.

Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is SEP 22 2020.



 City Secretary

DocuSigned by:

 (Prepared by Legal Dept. _____)
 (LPN:ln 9-2-2020) Sr. Assistant City Attorney
 (Requested by Tantri Emo, Director, Finance Department)
 L.D. File No. 034-20-00119-001)
 G:\CONTRACT\LPN\Ordinances\Retirement Horizons_Pension Actuarial Consulting Serv.doc

AYE	NO	
✓		MAYOR TURNER
....	COUNCIL MEMBERS
✓		PECK
✓		DAVIS
✓		KAMIN
✓		EVANS-SHABAZZ
✓		MARTIN
✓		THOMAS
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		POLLARD
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		PLUMMER
✓		ALCORN
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: SEP 22 2020

AGREEMENT FOR PROFESSIONAL SERVICES

FOR

PENSION ACTUARIAL CONSULTING AND ADVISORY SERVICES

ARTICLE 1.

PARTIES

THIS AGREEMENT FOR PROFESSIONAL SERVICES FOR PENSION ACTUARIAL CONSULTING AND ADVISORY SERVICES (this "Agreement") is made between the **CITY OF HOUSTON, TEXAS** (the "City"), a home-rule city of the State of Texas principally situated in Harris County and **RETIREMENT HORIZONS INC.** ("Contractor"), a Texas corporation doing business in Texas.

1.01 **ADDRESS**

1.01.1 The initial addresses of the Parties, which one Party may change by giving written notice to the other Party, are as follows:

City

Director or Designee
Finance Department
City of Houston
P. O. Box 1562
Houston, Texas 77251

Contractor

Retirement Horizons Inc.
2201 Timberloch Place – Suite 150
The Woodlands, Texas 77380
Attention: Sonyia McNeil
CFO

The Parties agree as follows:

1.02 **TABLE OF CONTENTS**

1.02.1 This Agreement consists of the following sections:

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EXHIBITS:

- “A” SCOPE OF SERVICES
- “B” DRUG POLICY COMPLIANCE AGREEMENT
- “C” CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- “D” DRUG POLICY COMPLIANCE DECLARATION
- “E” FEE STRUCTURE

1.03 **PARTS INCORPORATED**

1.03.1 The above-described sections and exhibits are incorporated into this Agreement.

1.04 **CONTROLLING PARTS**

1.04.1 If a conflict between the sections or exhibits arises, the sections control over the exhibits.

[SIGNATURE PAGE FOLLOWS]

1.05 **SIGNATURES**

The Parties have executed this Agreement in multiple copies, each of which is an original. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms. The Parties hereby agree that each Party may sign and deliver this Agreement electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

**ATTEST/SEAL (if a corporation):
WITNESS (if not a corporation):**

DocuSigned by:
Raymond J. Waymel
7007AD36D997479...
Name: Raymond J. Waymel
Title: President

**CONTRACTOR:
RETIREMENT HORIZONS INC.**

DocuSigned by:
Sonyia McNeill
2007B19A920E4AE...
By: Name: Sonyia McNeill
Title: CFO
Federal Tax ID Number: 76-0551734

ATTEST/SEAL:

City Secretary

CITY OF HOUSTON, TEXAS
Signed by:

Mayor

APPROVED:

DocuSigned by:
Tartri Emo
E73A5FD3483F487...
Director, Finance Department
DocuSigned by:
Jerry Adams
00D350139A6E4C8...
Chief Procurement Officer

COUNTERSIGNED BY:

City Controller

APPROVED AS TO FORM:

DocuSigned by:
Lan Nguyen
80ACA659197C41D...
Sr. Assistant City Attorney
L.D. File No. 0342000119001

ARTICLE 2.

DEFINITIONS

- 2.01 In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural. The word “shall” is always mandatory and not merely permissive.
- 2.01.1 “Agreement” means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.
- 2.01.2 “Business Day” means any calendar day except Saturdays, Sundays and full-day holidays for employees of the City (as designated by City Council).
- 2.01.3 “Chief Procurement Officer” (“CPO”) means the Chief Procurement Officer of the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.
- 2.01.4 “City” is defined in the preamble of this Agreement and includes its successors and permitted assigns.
- 2.01.5 “Contractor” is defined in the preamble of this Agreement and includes its successors and assigns.
- 2.01.6 “Countersignature Date” means the date shown as the date countersigned on the signature page of this Agreement.
- 2.01.7 “Director” means the Director of the City of Houston Finance Department or such other person as he or she designates.
- 2.01.8 “Documents” mean notes, manuals, notebooks, plans, computations, computer databases and diskettes, software, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, the original tracings of all drawings and plans, and other work products (and any modifications or improvements to them) to the extent, and only to the extent, that Contractor prepares or provides them under this Agreement as deliverables in connection with the Services described in Exhibit “A”.
- 2.01.9 “Effective Date” means the date as set out under Section 5.01 of this Agreement.
- 2.01.10 “Fiscal Year” means the City’s Fiscal Year which runs from July 1 through June 30.

- 2.01.11 "Notice to Proceed" means a written communication from the Director or the CPO to Contractor instructing Contractor to begin performance.
- 2.01.12 "Party" or "Parties" means one or all of the entities set out in the Preamble who are bound by this Agreement.
- 2.01.13 "Pension Systems" mean the Houston Municipal Employees Pension System ("HMEPS"), the Houston Police Officers Pension System ("HPOPS"), and the Houston Firefighters Relief and Retirement Fund ("HFRRF").

ARTICLE 3.

DUTIES OF CONTRACTOR

3.01 SCOPE OF SERVICES

3.01.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, material, and supplies necessary to perform the services (the "Services") described in Exhibit "A".

3.02 COORDINATE PERFORMANCE

3.02.1 Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

3.03 TIME EXTENSIONS

3.03.1 If Contractor requests an extension of time to complete its performance, then the Director, in consultation with the CPO, may, in his or her sole discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for such delay(s) regardless of the cause of the delay(s).

3.03.2 If the Director requests an extension of time to complete Contractor's performance, then the CPO may, upon consultation with the Director involved, extend the time so long as the extension does not exceed 90 calendar days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for such delay(s) regardless of the cause of the delay(s).

3.04 **REPORTS**

3.04.1 Contractor shall submit all reports and progress updates required in connection with the Services to the Director or CPO.

3.05 **PAYMENT OF SUBCONTRACTORS**

3.05.1 **IN ACCORDANCE WITH THE TEXAS PROMPT PAYMENT ACT, CONTRACTOR SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES THAT CONTRACTOR HAS HIRED TO SUPPLY LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS REGARDLESS OF WHETHER THE FAILURE TO PAY IS CAUSED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), OR STRICT LIABILITY, INTENTIONAL ACTS, OR OTHER CONDUCT OR LIABILITY, BUT NOT OF GROSS NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT) OF THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES.**

3.05.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this Agreement, for which Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.

3.06 **RELEASE**

3.06.1 **CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY. CONTRACTOR HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS**

COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS AGREEMENT.

3.07 INDEMNIFICATION

As the services relating to the Pensions Systems will or may involve disclosure of information and data by each Pension System and/or its actuaries to the City and/or Contractor, and Contractor will or may continue to enter into confidentiality and/or nondisclosure agreements or letter agreements with each Pension System to protect the information and data disclosed by the Pension System and/or its actuaries to Contractor, (collectively, the "CN Agreements"), the parties agree as follows with regard to the CN Agreements:

3.07.1 CONTRACTOR INDEMNITY – CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, PRINCIPALS, REPRESENTATIVES AND AGENTS, FROM ALL CLAIMS ASSERTED AGAINST THE CITY ARISING OUT OF ANY FORMER, CURRENT, OR FUTURE CN AGREEMENTS WITH THE PENSION BOARDS, TO THE EXTENT THAT SUCH CLAIMS ARE CAUSED BY CONTRACTOR'S INTENTIONAL, GROSSLY NEGLIGENT OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CONTRACTOR'S OBLIGATION TO INDEMNIFY THE CITY SHALL BE LIMITED TO AND SHALL NOT EXCEED THE MAXIMUM AGGREGATE AMOUNT OF \$50,000 UNDER ALL CN AGREEMENTS, AND SHALL EXPIRE THREE YEARS FROM THE DATE OF TERMINATION OR EXPIRATION OF THIS AGREEMENT, OR CONTRACTOR'S PAYMENT OF \$50,000 HEREUNDER, WHICHEVER OCCURS FIRST. THE FOREGOING SETS FORTH CONTRACTOR'S EXCLUSIVE LIABILITY TO THE CITY AND OBLIGATION TO INDEMNIFY THE CITY FOR ANY AND ALL CLAIMS ARISING UNDER, IN CONNECTION WITH, OR INCIDENTAL TO THE PERFORMANCE OF THE CN AGREEMENTS.

3.07.2 CITY'S INDEMNITY – THE CITY SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS CONTRACTOR, INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, PRINCIPALS, REPRESENTATIVES AND AGENTS, FROM ALL CLAIMS, ACTIONS, OBLIGATIONS, DAMAGES, LIABILITIES, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, BUT EXCLUDING INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES (COLLECTIVELY, "CLAIMS") INCURRED BY OR ASSERTED AGAINST CONTRACTOR IN CONNECTION WITH, OR ARISING OUT OF OR RELATING TO: (I) A BREACH OF ANY CN AGREEMENT CAUSED BY THE CITY, AND (II) THE PERFORMANCE BY CONTRACTOR UNDER ANY CN AGREEMENTS EXCEPT TO THE

EXTENT THAT SUCH CLAIMS ARE CAUSED BY CONTRACTOR'S INTENTIONAL, GROSSLY NEGLIGENT OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, THE CITY'S OBLIGATION TO INDEMNIFY CONTRACTOR SHALL BE LIMITED TO AND SHALL NOT EXCEED THE AGGREGATE AMOUNT OF \$50,000 AND SHALL EXPIRE THREE YEARS FROM THE DATE OF TERMINATION OR EXPIRATION OF THIS AGREEMENT, OR THE CITY'S PAYMENT OF \$50,000 HEREUNDER, WHICHEVER OCCURS FIRST. THE FOREGOING SETS FORTH THE CITY'S EXCLUSIVE LIABILITY TO CONTRACTOR AND OBLIGATION TO INDEMNIFY CONTRACTOR FOR ANY AND ALL CLAIMS ARISING UNDER, IN CONNECTION WITH, OR INCIDENTAL TO THE PERFORMANCE OF THE CN AGREEMENTS. THE CITY HAS ALLOCATED ONLY \$50,000 FOR THIS AGREEMENT WITH REGARD TO PERFORMANCE UNDER THE CN AGREEMENTS AND THE CITY'S OBLIGATION TO INDEMNIFY CONTRACTOR UNDER THIS AGREEMENT IN CONNECTION WITH TH CN AGREEMENTS MUST NEVER EXCEED \$50,000.

3.08 SUBCONTRACTOR'S INDEMNITY

3.08.1 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

3.09 INDEMNIFICATION PROCEDURES

3.09.1 Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving Party shall give written notice to the other Party within 30 days. The notice must include the following:

3.09.1.1 a description of the indemnification event in reasonable detail;

3.09.1.2 the basis on which indemnification may be due; and

3.09.1.3 the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City or Contractor from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City or Contractor does not provide this notice within the 30-day period, such delay shall not result in a loss of any right to indemnification except to the extent that indemnified Party is prejudiced, suffers loss, or incurs expense because of the delay.

3.09.2 Defense of Claims

3.09.2.1 Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney. Contractor shall then control the defense and any negotiations to settle the claim, subject to the City Attorney's consent or agreement to the settlement, which consent or agreement shall not unreasonably be withheld. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

3.09.2.2 Continued Participation. If Contractor elects to defend the claim, the City may, at City's sole expense, retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations.

3.10 INSURANCE

3.10.1 Risks and Limits of Liability. Contractor shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	<ul style="list-style-type: none">• Bodily Injury by Accident \$500,000 (each accident)• Bodily Injury by Disease \$500,000 (policy limit)• Bodily Injury by Disease \$500,000 (each employee)
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit for: (i) Any Auto; or (ii) All Owned, Hired, and Non-Owned Autos
Professional Liability (if applicable)	\$1,000,000 per occurrence; \$2,000,000 aggregate
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability	\$1,000,000

and Automobile Liability	
Aggregate Limits are per 12-month policy period unless otherwise indicated.	

3.10.2 **Insurance Coverage.** At all times during the term of this Agreement and any extensions or renewals, Contractor shall provide and maintain insurance coverage that meets the Agreement requirements described in the preceding section. Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Contractor shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing such coverage. Contractor shall be responsible for and pay: (i) all premiums; and (ii) any claims or losses to the extent of any deductible amounts. Contractor waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Contractor shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except as to amount, but the amount of insurance required of such subcontractors must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

3.10.3 **Form of insurance.** The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never: (i) excuse non-compliance with the terms of this Section; or (ii) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall: (i) have a Certificate of Authority to transact insurance business in Texas; or (ii) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.

3.10.4 **Required Coverage.** The City shall be an Additional Insured under this Agreement, and all policies, except Professional Liability and Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Agreement provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor's insurance policies, except Professional Liability, must contain language waiving such right of subrogation. Each policy, except Workers' Compensation and Professional Liability, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement. If Professional Liability coverage is written on a "claims made" basis, Contractor shall also provide proof of renewal each year for two years after substantial completion of the Project, or in the alternative, evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the Project

covered by this Agreement with a duration of two years after substantial completion. All certificates of insurance submitted by Contractor shall be accompanied by endorsements for: (i) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and (ii) Waivers of Subrogation in favor of the City for Commercial General Liability, Automobile Liability and Workers' Compensation/Employers' Liability policies. The Director will consider all other forms on a case-by-case basis.

3.10.5 **Notice. CONTRACTOR SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED.** Within the 30-day period, Contractor shall provide other suitable policies in order to maintain the required coverage. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.

3.10.6 **Other Insurance.** If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

3.11 WARRANTIES

3.11.1 Contractor's performance shall conform to the professional standards prevailing in Harris County, Texas with respect to the scope, quality, due diligence, and care of the services and products Contractor provides under this Agreement, using trained and skilled persons having substantial experience performing the work required under this Agreement.

3.12 CONFIDENTIALITY

3.12.1 Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in confidence, using the same reasonable degree of care that Contractor uses to protect its own confidential information. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing or except as otherwise set forth herein. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section. It is understood that normal communications with rating agencies and bond insurance companies of financial data of the City are permitted. The Contractor shall comply with regulatory records requests and, except as prohibited by law, provide notice of a response to a request. The terms and conditions of Confidentiality section shall survive the expiration or termination of the Agreement for any reason.

3.13 **USE OF WORK PRODUCTS**

3.13.1 The City may use all Documents that Contractor prepares or obtains under this Agreement. In addition, during the Term of this Agreement, Contractor shall provide the Director with supporting schedules, flow charts or other analysis necessary to understand the reported findings and recommendations. Generally, this information is attached as exhibits to the final report; however, if requested by the Director, Contractor shall provide this information from its work paper files.

3.13.2 Contractor warrants that it owns the copyright to the Documents.

3.13.3 The Contractor shall keep copies of all pertinent documents as required by regulatory bodies. Contractor shall return the original Information received from the City to the Director within fifteen (15) days after the Director's written request at any time up to three years after termination of this Agreement.

3.14 **LICENSES AND PERMITS**

3.14.1 Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation for the performance under this Agreement. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against its license.

3.15 **COMPLIANCE WITH LAWS**

3.15.1 Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances in its performance under this Agreement.

3.16 **COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY ORDINANCE**

3.16.1 Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in in Section 15-17 of the Code of Ordinances.

3.17 **DRUG ABUSE DETECTION AND DETERRENCE**

3.17.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No.

1-31 (the "Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

3.17.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

3.17.2.1 a copy of its drug-free workplace policy;

3.17.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "B", together with a written designation of all safety impact positions; and

3.17.2.3 if applicable (*e.g.*, no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "C".

3.17.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "D". Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or, if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

3.17.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

3.17.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

3.18 **CONFLICTS OF INTEREST**

3.18.1 If an actual or potential conflict arises between the City's interests and the interests of other clients Contractor represents, Contractor shall immediately notify the Director by fax transmission or telephone. If the Director consents to Contractor's continued representation of the other clients, he or she shall notify Contractor in writing. If the Director does not issue written consent within 3 business days after receipt of Contractor's notice, Contractor shall immediately terminate its representation of the other client whose interests are or may be in conflict with those of the City.

3.19 **PAY OR PLAY**

3.19.1 The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7, as revised, and shall comply with its terms and conditions.

3.20 **ADDITIONS AND DELETIONS**

3.20.1 **Additional Products and Services.** Subject to the allocation of funds, the Director or CPO may add similar supplies, services, or locations, within the scope of this Agreement, to the list of supplies, services, or locations to be performed or provided by giving written notification to Contractor, subject to Contractor's written agreement to undertake to provide such additional supplies, services or locations. For purposes of this Section, the "Effective Date" means the date specified in the notification from the Director or CPO, assuming Contractor has agreed in writing thereto. As of the Effective Date, each item added is subject to this Agreement, as if it had originally been a part, but the charge for each item starts to accrue only on the Effective Date.

3.20.2 **Exclusion of Products and Services.** If the Director or CPO determines that a deliverable or service is no longer needed, the Director or CPO may exclude it from the operation of this Agreement by notifying Contractor in writing. The notice takes effect immediately on its receipt by Contractor. More than one notice may be given. When a notice is received, Contractor shall delete the charge for work that has not yet been performed in connection with the excluded deliverable or service from the sum(s) otherwise due under this Agreement, but Contractor shall be entitled to payment for work performed in connection with the excluded deliverable or service up through the date of its exclusion from operation of this Agreement.

3.21 **ANTI-BOYCOTT OF ISRAEL**

3.21.1 Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

3.22 **ZERO TOLERANCE POLICY FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES**

3.22.1 The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all

purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of the Countersignature Date. Contractor shall notify the CPO, City Attorney, and the Director of any information regarding possible violation by Contractor or its subcontractors providing services or goods under this Agreement within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

3.23 **PRESERVATION OF CONTRACTING INFORMATION**

3.23.1 The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Contractor agrees that this Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. If the requirements of Subchapter J, Chapter 552, Texas Government Code, apply to this Agreement, then for the duration of this Agreement (including the initial term, any renewal terms, and any extensions), Contractor shall preserve all Contracting Information, as defined by Section 552.003 of the Texas Government Code, related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or city policy, which record retention requirements include but are not limited to those set forth in Chapters 201 and 205 of the Texas Local Government Code and Texas Administrative Code Title 13, Chapter 7. Within five business days after receiving a request from the Director, Contractor shall provide any Contracting Information related to this Agreement that is in the custody or possession of Contractor. Upon the expiration or termination of this Agreement, Contractor shall, at the Director's election, either (a) provide, at no cost to the City, all Contracting Information related to this Agreement that is in the custody or possession of Contractor, or (b) preserve the Contracting Information related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or City policy.

3.23.2 If Contractor fails to comply with any one or more of the requirements of this Section, Preservation of Contracting Information, or Subchapter J, Chapter 552, Texas Government Code, then, in accordance with and pursuant to the processes and procedures set forth in Sections 552.373 and 552.374 of the Texas Government Code, the Director shall provide notice to the Contractor and may terminate this Agreement. To effect final termination, the Director must notify Contractor in writing with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

3.24 **PERSONNEL OF CONTRACTOR**

3.24.1 Contractor shall provide a certified Lead Actuary and support actuary staff dedicated and familiarized with this Agreement, and shall ensure that the level of service will remain the same and not interrupted or disrupted should the level of command change for whatever reason.

ARTICLE 4.

DUTIES OF CITY

4.01 **PAYMENT TERMS**

4.01.1 Subject to all terms and conditions of this Agreement, the City shall pay fees to Contractor and Contractor agrees to accept fees for services actually performed under the tasks detailed in Exhibit "A". Contractor further acknowledges that the hourly rates set forth in Exhibit "E" represent the maximum rates to be received by Contractor for performing the Services throughout the Agreement Term, including the Renewals terms, even in the event the Director agrees, in writing, to expand the scope of the Services and simultaneously provide additional funding for the expanded scope and Consultant accepts, in writing, such expansion of scope. City's payments to Contractor for services are subject to the allocation of funds and all fees and expenses may only be paid from the Allocated Funds, as provided in Section 4.04 below.

4.02 **TAXES**

4.02.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

4.03 **METHOD OF PAYMENT**

4.03.1 Subject to all terms and conditions of this Agreement, the City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director showing (1) a description of the services performed during the period covered by the invoice and (2) the amount the Contractor requests for payment. The City shall make payments to Contractor at its address for notices within 30 days of receipt of an approved invoice. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following Business Day. All fees due to Contractor under this Agreement shall only be

payable from certain Allocated Funds, as provided in Section 4.04.

4.03.2 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify the Contractor of the dispute and request clarification and/or remedial action. After the dispute is settled, the Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

4.04 **LIMIT OF APPROPRIATION**

4.04.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

4.04.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of **\$450,000.00** to pay money due under this Agreement during the City's current fiscal year (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds (each a "Supplemental Allocation" and collectively, the "Supplemental Allocations") for this Agreement, but they are not obligated to do so. Therefore, the Parties have agreed to the following procedures and remedies:

4.04.2.1 The City has not allocated supplemental funds or made a Supplemental Allocation for this Agreement unless the City has issued to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

By the signature below, the City Controller certifies that, upon the request of the Director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This Supplemental Allocation has been charged to such appropriation.

\$ _____

4.04.2.2 The Original Allocation plus all Supplemental Allocations are the "Allocated Funds." The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must

assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

4.05 **ACCESS TO SITE**

4.05.1 Contractor may enter and leave the premises at all reasonable times without charge. Contractor and its employees may use the common areas and roadways of the premises where it is to perform the services together with all facilities, equipment, improvements, and services provided in connection with the premises for common use. This excludes parking for Contractor's personnel. Contractor shall repair any damage caused by it or its employees as a result of its use of the common areas.

4.06 **ACCESS TO DATA**

4.06.1 The City shall, to the extent permitted by law, allow Contractor to access and make copies of documents and data in the possession or control of the City or available to it that are reasonably necessary for Contractor to perform under this Agreement.

4.06.2 The City does not, however, represent that all existing conditions are fully documented, nor is the City obligated to develop new documentation for Contractor's use. Notwithstanding the foregoing, the City represents and assures that all documents and data provided by the City to the Contractor are and will be true and correct for the purpose of the Services provided hereunder by Contractor.

4.06.3 For any raw data created, assembled, used, maintained, collected, or stored by Contractor and received from the City, Contractor shall provide the City either the raw data itself or the ability to extract the raw data in a format mutually agreed upon by both Parties at no additional cost to the City

ARTICLE 5. TERM AND TERMINATION

5.01 **AGREEMENT TERM**

5.01.1 This Agreement is effective on September 24, 2020 and shall remain in effect for three (3) years thereafter, unless sooner terminated under this Agreement (the "Initial Term").

5.02 **NOTICE TO PROCEED**

5.02.1 Contractor shall begin performance under this Agreement on the date specified in

a Notice to Proceed from the CPO or Director.

5.03 **RENEWALS**

5.03.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two (2) successive one-year terms on the same terms and conditions. If the Director chooses not to renew this Agreement, he or she shall notify Contractor and the CPO of non-renewal at least 30 days before the expiration of the then-current term.

5.04 **TERMINATION FOR CONVENIENCE BY CITY**

5.04.1 The Director may terminate this Agreement at any time by giving 30 days' written notice to Contractor, with a copy of the notice to the CPO. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

5.04.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in this Agreement unless the fees exceed the allocated funds remaining under this Agreement.

5.04.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

5.05 **TERMINATION FOR CAUSE BY CITY**

5.05.1 If Contractor defaults under this Agreement, the Director may terminate this Agreement after providing Contractor written notice and an opportunity to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies that exist now or in the future. Default by Contractor occurs if:

5.05.1.1 Contractor fails to perform any of its material duties under this

Agreement;

5.05.1.2 Contractor becomes insolvent;

5.05.1.3 all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

5.05.1.4 a receiver or trustee is appointed for Contractor.

5.05.2 If a default occurs and the Director determines that the City wishes to terminate the Agreement, then the Director must deliver a written notice to Contractor describing the default and the proposed termination date, with a copy of the notice to the CPO. The date must be at least 30 days after Contractor receives notice. The Director, at his or her sole option, may extend the termination date to a later date. If Contractor cures the default before the proposed termination date, then the proposed termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City other than to pay for all Services provided by Consultant up to and including the effective date of such termination.

5.05.3 To effect final termination, the Director must notify Contractor in writing, with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and promptly cancel all orders or subcontracts chargeable to this Agreement.

5.06 **TERMINATION FOR CAUSE BY CONTRACTOR**

5.06.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 30 days after the Director receives the notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date

ARTICLE 6.

MISCELLANEOUS

6.01 INDEPENDENT CONTRACTOR

6.01.1 Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

6.02 FORCE MAJEURE

6.02.1 Timely performance by both Parties is essential to this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor, provided, however, that Force Majeure does not apply and shall not extend to the obligation of City to pay Consultant as described elsewhere in this Agreement. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a Party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected Party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn, or other factors of general application, or an event that merely makes performance more difficult, expensive, or impractical. Force Majeure does not entitle Contractor to extra reimbursable expenses or payment.

6.02.2 This relief is not applicable unless the affected Party does the following:

6.02.2.1 uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

6.02.2.2 provides the other Party with prompt written notice of the cause and its anticipated effect.

6.02.3 The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the Director is final. If Contractor disagrees with the Director's decision, then the Contractor is permitted to pursue any alleged breach of this Agreement in accordance with its remedies available at law.

6.02.4 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

6.02.5 If the Force Majeure continues for more than 15 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

6.03 **SEVERABILITY**

6.03.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either Party.

6.04 **ENTIRE AGREEMENT**

6.04.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties with respect to this subject matter hereof. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

6.05 **WRITTEN AMENDMENT**

6.05.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.06 **GOVERNING LAW AND VENUE**

6.06.1 This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston. Venue for any disputes relating in any way to this Agreement shall lie exclusively in Harris County, Texas.

6.07 **NOTICES**

6.07.1 All notices to either Party to the Agreement must be in writing and must be

delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, UPS, or any other national overnight express delivery service. The notice must be addressed to the Party to whom the notice is given at its address set out in Article 1 of this Agreement or other address the receiving Party has designated previously by proper notice to the sending Party. Postage or delivery charges must be paid by the Party giving the notice. Notices are effective upon delivery to the Party to whom the notice is addressed as evidenced by written proof of delivery thereto.

6.08 CAPTIONS

6.08.1 Captions contained in this Agreement are for reference only and therefore have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

6.09 NON-WAIVER

6.09.1 If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the Party from later enforcing that term and all other terms. If either Party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

6.09.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

6.10 INSPECTIONS AND AUDITS

6.10.1 City representatives may perform, or have performed: (i) audits of Contractor's books and records; and (ii) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least three years after this Agreement terminates. If the books and records are located outside of Harris County, Texas, Contractor agrees to make them available in Harris County, Texas. This provision does not affect the applicable statute of limitations.

6.11 ENFORCEMENT

6.11.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement,

with the exception of those documents made confidential by federal or State law or regulation.

6.12 **AMBIGUITIES**

6.12.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

6.13 **SURVIVAL**

6.13.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including, but not limited to, the indemnity provisions.

6.14 **PUBLICITY**

6.14.1 Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

6.15 **PARTIES IN INTEREST**

6.15.1 This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

6.16 **SUCCESSORS AND ASSIGNS**

6.16.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

6.17 **BUSINESS STRUCTURE AND ASSIGNMENTS**

6.17.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the Director and CPO with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

6.17.2 Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

6.18 **REMEDIES CUMULATIVE**

6.18.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies that exist now or in the future. Neither Party may terminate its duties under this Agreement except in accordance with its provisions.

6.19 **CONTRACTOR DEBT**

6.19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE OR SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR. CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

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EXHIBIT "A"

SCOPE OF SERVICES

The City maintains three pension systems for full-time firefighters ("HFRRF"), police ("HPOPS") and municipal employees ("HMEPS"). Each pension plan maintains its own staff and is governed by a board of trustees consisting of elected and appointed members.

Contractor shall provide actuarial consulting and/or advisory services for the City's above-mentioned existing three pension systems to the Finance Department.

Background: On July 1, 2017, Senate Bill 2190 ("Pension Reform Legislation"), passed by the Texas Legislature earlier that year, took effect. Under the Pension Reform Legislation, the City will pay off the unfunded liability over a fixed maximum 30-year amortization period ending in 2047. Beginning in Fiscal Year 2015, changes in the Governmental Accounting Standards Board's ("GASB") pension accounting rules resulted in significant changes to the presentation of the City's liabilities for each Pension System in its financial statements. Under new GASB standards 67 and 68, the financial statements now reflect a calculation of the City's Net Pension Liability to describe the City's funding obligation to the Pension Systems. GASB 67 and 68 do not affect the City's pension contribution or contribution rates, both of which are dictated by the Pension Reform Legislation.

The annual contributions to each system, in percentage terms and total dollars are shown below, along with the assets in each system.

	FY19 Effective City Contribution (%)	FY19 City Contribution (\$)	Assets ¹
Fire (HFRRF)	32.99%	\$89.9 Million	\$4.36 Billion
Police (HPOPS)	31.85%	\$142.4 Million	\$5.75 Billion
Municipal (HMEPS)	28.94%	\$176.3 Million	\$3.17 Billion

¹Data for Assets is from the most recent (Fiscal Year 2019) Comprehensive Annual Financial Reports.

Contractor shall provide pension actuarial consulting services in connection with the City's role as Plan Sponsor of the retirement systems covering its employees. Contractor must have in-depth institutional knowledge of the past pension challenges faced by the City as well as the Pension Reform Legislation and its effects along with ongoing efforts by the City to better manage the City's Net Pension Liability.

Contractor should have an actuarial modeling system that could be tailored to the data from the City's Pension Systems.

Scope of Services

The following list includes but is not limited of services that Contractor will provide:

- Annually recurring Risk Sharing Valuation Studies (RSVS) for the City's three Pension Systems;
- Actuarial review of any Experience Studies performed by the three Pension Systems;
- Actuarial consulting for the City's Legal Department associated with pension-related litigation matters;
- Annual updates to the confidentiality agreements with the three Pension Systems;
- Actuarial reports estimating the impact of proposed union agreements;
- Attendance at meetings and conferences requested by the City;
- Consulting on GASB Standards 67 and 68;
- Independent actuarial audits as required by the City;
- Advising on actuarial trends;
- Recommending alternative funding methods;
- Assisting in developing comparisons in benefit structures;
- Assisting in developing comparisons in asset allocations;
- Assisting in determining cost estimates of changes to benefit levels and changes to actuarial assumptions (e.g. mortality tables); and
- Other services as requested by the City's Finance Director, provided funds have been appropriated and allocated to pay for those services.

EXHIBIT "B"

DRUG POLICY COMPLIANCE AGREEMENT

I, _____, _____,
(Name) (Title)

as an owner or officer of _____ (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

Date

Contractor Name

Signature

Title

EXHIBIT "C"

**CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, _____, _____,
(Name) (Title)

as an owner or officer of _____ (Contractor)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved in performing _____
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Finance if any safety impact positions are established to provide services in performing this City Contract.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "D"

DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of _____ (Contractor)
 (Name) (Print/Type) (Title) (Name of Company)
 have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20____.

_____ Initials A written Drug Free Workplace Policy has been implemented and employees notified.
 The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

_____ Initials Written drug testing procedures have been implemented in conformity with the Mayor's
 Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31.
 Employees have been notified of such procedures.

_____ Initials Collection/testing has been conducted in compliance with federal Health and Human
 Services (HHS) guidelines.

_____ Initials Appropriate safety impact positions have been designated for employee positions
 performing on the City of Houston contract. The number of employees in safety impact positions
 during this reporting period is _____.

From _____ to _____ the following test has occurred
 (Start date) (End date)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested	_____	_____	_____	_____
Number Employees Positive	_____	_____	_____	_____
Percent Employees Positive	_____	_____	_____	_____

_____ Initials Any employee who tested positive was immediately removed from the City worksite
 consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ Initials I affirm that falsification or failure to submit this declaration timely in accordance
 with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration
 are within my personal knowledge and are true and correct.

 (Date)

 (Typed or Printed Name)

 (Signature)

 (Title)

EXHIBIT "E"

FEE STRUCTURE

Staff Position	Name of Staff Member	Quantity of Staff for Position	Hourly Rate	Estimated Annual Total Hours
Perform Annual Risk Sharing Valuation Studies				272
Consulting Actuary	David Sawyer	1	\$ 360.00	57
Support Actuary	David Kent	1	\$ 300.00	41
Project Manager	Barry Anderson	1	\$ 220.00	119
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	55
Actuarial review of Experience Study performed by pension system				33
Consulting Actuary	David Sawyer	1	\$ 360.00	15
Support Actuary	David Kent	1	\$ 300.00	8
Project Manager	Barry Anderson	1	\$ 220.00	10
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	0
Actuarial consulting for pension-related litigation matters				10
Consulting Actuary	David Sawyer	1	\$ 360.00	8
Support Actuary	David Kent	1	\$ 300.00	2
Project Manager	Barry Anderson	1	\$ 220.00	0
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	0
Annual updates to confidentiality agreements				4
Consulting Actuary	David Sawyer	1	\$ 360.00	3
Support Actuary	David Kent	1	\$ 300.00	1
Project Manager	Barry Anderson	1	\$ 220.00	0
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	0
Actuarial reports estimating the impact of proposed union agreements				37
Consulting Actuary	David Sawyer	1	\$ 360.00	12
Support Actuary	David Kent	1	\$ 300.00	5
Project Manager	Barry Anderson	1	\$ 220.00	15
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	5
Independent Actuarial Audits per Texas Government Code § 802.1012				145
	David Sawyer	1	\$ 360.00	45
Support Actuary	David Kent	1	\$ 300.00	25
Project Manager	Barry Anderson	1	\$ 220.00	54
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	21
Consulting on other services mentioned under Scope of Services				12
Consulting Actuary	David Sawyer	1	\$ 360.00	10
Support Actuary	David Kent	1	\$ 300.00	2
Project Manager	Barry Anderson	1	\$ 220.00	0
Actuarial Analyst	Elizabeth Schulln	1	\$ 200.00	0

Certificate Of Completion

Envelope Id: B6E4598A65B84B9CAF833D2C5735945C

Subject: Please DocuSign: 20581_Retirement Horizons RHI_Pension Actuarial Services_Final.pdf

Source Envelope:

Document Pages: 33

Certificate Pages: 5

AutoNav: Enabled

EnvelopeId Stamping: Disabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:

Conley Jackson

611 Walker St.

HITS

Houston, TX 77002

Conley.Jackson@houstontx.gov

IP Address: 98.200.122.82

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Conley.Jackson@houstontx.gov

Pool: FedRamp

Pool: City of Houston IT Services

Location: DocuSign

Location: DocuSign

Signer Events

Raymond J. Waymel

rwaymel@rhi-texas.com

President

Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:

Raymond J. Waymel
7907AD0350290747B...

Signature Adoption: Pre-selected Style

Using IP Address: 99.32.77.49

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Signed: 9/4/2020 11:28:29 AM

Electronic Record and Signature Disclosure:

Accepted: 9/4/2020 9:41:24 AM

ID: aa142e0f-b224-4910-aeb1-40d8cd380eec

Sonyia McNeill

sonyia.mcneill@groupphi.com

CFO

Merit Benefits Group LLC

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Sonyia McNeill
2697B19A926E4AE...

Signature Adoption: Pre-selected Style

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Electronic Record and Signature Disclosure:

Accepted: 9/4/2020 11:57:01 AM

ID: 3c0cba7e-d408-4930-b55b-515410d687b1

Jerry Adams

Jerry.Adams@houstontx.gov

City of Houston IT Services

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Jerry Adams
0DD350130A6F4C8...

Signature Adoption: Pre-selected Style

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Signed using mobile

Sent: 9/4/2020 11:57:17 AM

Viewed: 9/4/2020 12:52:59 PM

Signed: 9/4/2020 12:53:32 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Tartri Emo

tantri.emo@houstontx.gov

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Tartri Emo
E73A5FD3483F487...

Signature Adoption: Pre-selected Style

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Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
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Lan Nyugen lan.nyugen@houstontx.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		Sent: 9/4/2020 12:56:10 PM

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
David Sawyer dsawyer@rhi-texas.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 9/4/2020 9:01:46 AM ID: 53a9c61e-ebbf-4d47-91c9-b3fc265ee7be	VIEWED	Sent: 9/4/2020 8:47:03 AM Viewed: 9/4/2020 9:01:46 AM
	Using IP Address: 73.136.12.195	

Carbon Copy Events	Status	Timestamp
Fahad Gulzar Fahad.Gulzar@houstontx.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Melissa Dubowski Melissa.Dubowski@houstontx.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/4/2020 12:56:10 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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Getting paper copies

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Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

Controller's Office

To the Honorable Mayor and City Council of the City of Houston, Texas:

I hereby certify, with respect to the money required for the contract, agreement, obligation or expenditure contemplated by the ordinance set out below that:

- Funds have been encumbered out of funds previously appropriated for such purpose.
- Funds have been certified and designated to be appropriated by separate ordinance to be approved prior to the approval of the ordinance set out below.
- Funds will be available out of current or general revenue prior to the maturity of any such obligation.
- No pecuniary obligation is to be incurred as a result of approving the ordinance set out below.
- The money required for the expenditure or expenditures specified below is in the treasury, in the fund or funds specified below, and is not appropriated for any other purposes.
- A certificate with respect to the money required for the expenditure or expenditures specified below is attached hereto and incorporated herein by this reference.
- Other - Grant Funds Available

[Handwritten Signature]
Jerald Brown

Date: 9-15, 2020

City Controller of the City of Houston, Texas

msb

FUND REF: 1000-9900-522430 AMOUNT: 450,000.00

SAO 45-332719
ENCUMB. NO.:

DC OA 46-16257

City of Houston, Texas Ordinance No. 2020-795

[Handwritten Mark]

AN ORDINANCE APPROVING AND AUTHORIZING AN AGREEMENT FOR PROFESSIONAL SERVICES FOR PENSION ACTUARIAL CONSULTING AND ADVISORY SERVICES BETWEEN THE CITY AND RETIREMENT HORIZONS INC.; PROVIDING A MAXIMUM CONTRACT AMOUNT; CONTAINING PROVISIONS RELATING TO THE SUBJECT; AND DECLARING AN EMERGENCY.

* * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. The City Council hereby approves and authorizes the contract, agreement, amendment or other undertaking described in the title of this Ordinance, in substantially the form as shown in the document which is attached hereto and incorporated herein by this reference. The Mayor is hereby authorized to execute such document and all related documents on behalf of the City of Houston. The City Secretary is hereby authorized to attest to all such signatures and to affix the seal of the City to all such documents.

Section 2. The Mayor is hereby authorized to take all actions necessary to effectuate the City's intent and objectives in approving such agreement, agreements, amendment or other undertaking described in the title of this ordinance, in the event of changed circumstances.

Section 3. The City Attorney is hereby authorized to take all action necessary to enforce all legal obligations under said contract without further authorization from Council.

Section 4. The total allocation for the contract, agreement or other undertaking approved and authorized hereby shall never exceed \$ 2,050,000.00, unless and until this sum is increased by ordinance of City Council.

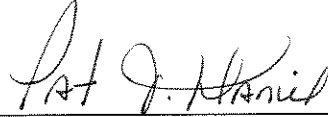
Section 5. There exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 16th day of September, 2020.

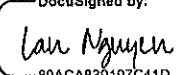
APPROVED this _____ day of _____, 2020.

Mayor of the City of Houston, Texas

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is SEP 21 2020.



 City Secretary

DocuSigned by:

 (Prepared by Legal Dept. _____)
 (LPN:ln 9-2-2020) Sr. Assistant City Attorney
 (Requested by Tantri Emo, Director, Finance Department)
 L.D. File No. 034-20-00119-001)
 G:\CONTRACT\LPN\Ordinances\Retirement Horizons_Pension Actuarial Consulting Serv.doc

AYE	NO	
✓		MAYOR TURNER
....	COUNCIL MEMBERS
✓		PECK
✓		DAVIS
✓		KAMIN
✓		EVANS-SHABAZZ
✓		MARTIN
✓		THOMAS
✓		TRAVIS
✓		CISNEROS
✓		GALLEGOS
✓		POLLARD
✓		MARTHA CASTEX-TATUM
✓		KNOX
✓		ROBINSON
✓		KUBOSH
✓		PLUMMER
✓		ALCORN
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT
 REVIEW
 DATE: **SEP 21 2020**

AGREEMENT FOR PROFESSIONAL SERVICES

FOR

PENSION ACTUARIAL CONSULTING AND ADVISORY SERVICES

ARTICLE 1.

PARTIES

THIS AGREEMENT FOR PROFESSIONAL SERVICES FOR PENSION ACTUARIAL CONSULTING AND ADVISORY SERVICES (this "Agreement") is made between the **CITY OF HOUSTON, TEXAS** (the "City"), a home-rule city of the State of Texas principally situated in Harris County and **RETIREMENT HORIZONS INC.** ("Contractor"), a Texas corporation doing business in Texas.

1.01 **ADDRESS**

1.01.1 The initial addresses of the Parties, which one Party may change by giving written notice to the other Party, are as follows:

City

Director or Designee
Finance Department
City of Houston
P. O. Box 1562
Houston, Texas 77251

Contractor

Retirement Horizons Inc.
2201 Timberloch Place – Suite 150
The Woodlands, Texas 77380
Attention: Sonyia McNeil
CFO

The Parties agree as follows:

1.02 **TABLE OF CONTENTS**

1.02.1 This Agreement consists of the following sections:

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EXHIBITS:

- “A” SCOPE OF SERVICES
- “B” DRUG POLICY COMPLIANCE AGREEMENT
- “C” CERTIFICATION OF NO SAFETY IMPACT POSITIONS
- “D” DRUG POLICY COMPLIANCE DECLARATION
- “E” FEE STRUCTURE

1.03 **PARTS INCORPORATED**

1.03.1 The above-described sections and exhibits are incorporated into this Agreement.

1.04 **CONTROLLING PARTS**

1.04.1 If a conflict between the sections or exhibits arises, the sections control over the exhibits.

[SIGNATURE PAGE FOLLOWS]

1.05 **SIGNATURES**

The Parties have executed this Agreement in multiple copies, each of which is an original. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms. The Parties hereby agree that each Party may sign and deliver this Agreement electronically or by electronic means and that an electronic transmittal of a signature, including but not limited to, a scanned signature page, will be as good, binding, and effective as an original signature.

**ATTEST/SEAL (if a corporation):
WITNESS (if not a corporation):**

DocuSigned by:
Raymond J. Waymel
7007AD35D097479...
Name: Raymond J. Waymel
Title: President

**CONTRACTOR:
RETIREMENT HORIZONS INC.**

DocuSigned by:
Sonyia McNeill
2097B19A926E3AE...
By: Name: Sonyia McNeill
Title: CFO
Federal Tax ID Number: 76-0551734

ATTEST/SEAL:

City Secretary

CITY OF HOUSTON, TEXAS
Signed by:

Mayor

APPROVED:

DocuSigned by:
Tartri Eno
E73A5FD3483F467...
Director, Finance Department
DocuSigned by:
Jerry Adams
0DD350139A6E4C8...
Chief Procurement Officer

COUNTERSIGNED BY:

City Controller

APPROVED AS TO FORM:

DocuSigned by:
Lan Nguyen
80ACAB39197C41D...
Sr. Assistant City Attorney
L.D. File No. 0342000119001

ARTICLE 2.

DEFINITIONS

- 2.01 In addition to the words and terms defined elsewhere in this Agreement, the following terms have the meanings set out below. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words in the singular include the plural. The word “shall” is always mandatory and not merely permissive.
- 2.01.1 “Agreement” means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.
- 2.01.2 “Business Day” means any calendar day except Saturdays, Sundays and full-day holidays for employees of the City (as designated by City Council).
- 2.01.3 “Chief Procurement Officer” (“CPO”) means the Chief Procurement Officer of the City of Houston, as set forth in Chapter 15 of the Houston Code of Ordinances.
- 2.01.4 “City” is defined in the preamble of this Agreement and includes its successors and permitted assigns.
- 2.01.5 “Contractor” is defined in the preamble of this Agreement and includes its successors and assigns.
- 2.01.6 “Countersignature Date” means the date shown as the date countersigned on the signature page of this Agreement.
- 2.01.7 “Director” means the Director of the City of Houston Finance Department or such other person as he or she designates.
- 2.01.8 “Documents” mean notes, manuals, notebooks, plans, computations, computer databases and diskettes, software, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, the original tracings of all drawings and plans, and other work products (and any modifications or improvements to them) to the extent, and only to the extent, that Contractor prepares or provides them under this Agreement as deliverables in connection with the Services described in Exhibit “A”.
- 2.01.9 “Effective Date” means the date as set out under Section 5.01 of this Agreement.
- 2.01.10 “Fiscal Year” means the City’s Fiscal Year which runs from July 1 through June 30.

- 2.01.11 "Notice to Proceed" means a written communication from the Director or the CPO to Contractor instructing Contractor to begin performance.
- 2.01.12 "Party" or "Parties" means one or all of the entities set out in the Preamble who are bound by this Agreement.
- 2.01.13 "Pension Systems" mean the Houston Municipal Employees Pension System ("HMEPS"), the Houston Police Officers Pension System ("HPOPS"), and the Houston Firefighters Relief and Retirement Fund ("HFRRF").

ARTICLE 3.

DUTIES OF CONTRACTOR

3.01 SCOPE OF SERVICES

3.01.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, material, and supplies necessary to perform the services (the "Services") described in Exhibit "A".

3.02 COORDINATE PERFORMANCE

3.02.1 Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

3.03 TIME EXTENSIONS

3.03.1 If Contractor requests an extension of time to complete its performance, then the Director, in consultation with the CPO, may, in his or her sole discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for such delay(s) regardless of the cause of the delay(s).

3.03.2 If the Director requests an extension of time to complete Contractor's performance, then the CPO may, upon consultation with the Director involved, extend the time so long as the extension does not exceed 90 calendar days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for such delay(s) regardless of the cause of the delay(s).

3.04 **REPORTS**

3.04.1 Contractor shall submit all reports and progress updates required in connection with the Services to the Director or CPO.

3.05 **PAYMENT OF SUBCONTRACTORS**

3.05.1 **IN ACCORDANCE WITH THE TEXAS PROMPT PAYMENT ACT, CONTRACTOR SHALL MAKE TIMELY PAYMENTS TO ALL PERSONS AND ENTITIES THAT CONTRACTOR HAS HIRED TO SUPPLY LABOR, MATERIALS, OR EQUIPMENT FOR THE PERFORMANCE OF THIS AGREEMENT. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS REGARDLESS OF WHETHER THE FAILURE TO PAY IS CAUSED BY, OR CONTRIBUTED TO, IN WHOLE OR IN PART, THE NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT), OR STRICT LIABILITY, INTENTIONAL ACTS, OR OTHER CONDUCT OR LIABILITY, BUT NOT OF GROSS NEGLIGENCE (WHETHER SOLE, JOINT OR CONCURRENT) OF THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES.**

3.05.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this Agreement, for which Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.

3.06 **RELEASE**

3.06.1 **CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY. CONTRACTOR HEREBY COVENANTS AND AGREES NOT TO SUE THE CITY FOR ANY CLAIMS, DEMANDS, OR CAUSES OF ACTION DIRECTLY OR INDIRECTLY RELATED TO ITS RELEASE UNDER THIS SECTION. FOR THE AVOIDANCE OF DOUBT, THIS**

COVENANT NOT TO SUE DOES NOT APPLY TO CLAIMS FOR BREACH OF THIS AGREEMENT.

3.07 INDEMNIFICATION

As the services relating to the Pensions Systems will or may involve disclosure of information and data by each Pension System and/or its actuaries to the City and/or Contractor, and Contractor will or may continue to enter into confidentiality and/or nondisclosure agreements or letter agreements with each Pension System to protect the information and data disclosed by the Pension System and/or its actuaries to Contractor, (collectively, the "CN Agreements"), the parties agree as follows with regard to the CN Agreements:

3.07.1 CONTRACTOR INDEMNITY – CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, PRINCIPALS, REPRESENTATIVES AND AGENTS, FROM ALL CLAIMS ASSERTED AGAINST THE CITY ARISING OUT OF ANY FORMER, CURRENT, OR FUTURE CN AGREEMENTS WITH THE PENSION BOARDS, TO THE EXTENT THAT SUCH CLAIMS ARE CAUSED BY CONTRACTOR'S INTENTIONAL, GROSSLY NEGLIGENT OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CONTRACTOR'S OBLIGATION TO INDEMNIFY THE CITY SHALL BE LIMITED TO AND SHALL NOT EXCEED THE MAXIMUM AGGREGATE AMOUNT OF \$50,000 UNDER ALL CN AGREEMENTS, AND SHALL EXPIRE THREE YEARS FROM THE DATE OF TERMINATION OR EXPIRATION OF THIS AGREEMENT, OR CONTRACTOR'S PAYMENT OF \$50,000 HEREUNDER, WHICHEVER OCCURS FIRST. THE FOREGOING SETS FORTH CONTRACTOR'S EXCLUSIVE LIABILITY TO THE CITY AND OBLIGATION TO INDEMNIFY THE CITY FOR ANY AND ALL CLAIMS ARISING UNDER, IN CONNECTION WITH, OR INCIDENTAL TO THE PERFORMANCE OF THE CN AGREEMENTS.

3.07.2 CITY'S INDEMNITY – THE CITY SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS CONTRACTOR, INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES, PRINCIPALS, REPRESENTATIVES AND AGENTS, FROM ALL CLAIMS, ACTIONS, OBLIGATIONS, DAMAGES, LIABILITIES, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, BUT EXCLUDING INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES (COLLECTIVELY, "CLAIMS") INCURRED BY OR ASSERTED AGAINST CONTRACTOR IN CONNECTION WITH, OR ARISING OUT OF OR RELATING TO: (I) A BREACH OF ANY CN AGREEMENT CAUSED BY THE CITY, AND (II) THE PERFORMANCE BY CONTRACTOR UNDER ANY CN AGREEMENTS EXCEPT TO THE

EXTENT THAT SUCH CLAIMS ARE CAUSED BY CONTRACTOR'S INTENTIONAL, GROSSLY NEGLIGENT OR WILLFUL MISCONDUCT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, THE CITY'S OBLIGATION TO INDEMNIFY CONTRACTOR SHALL BE LIMITED TO AND SHALL NOT EXCEED THE AGGREGATE AMOUNT OF \$50,000 AND SHALL EXPIRE THREE YEARS FROM THE DATE OF TERMINATION OR EXPIRATION OF THIS AGREEMENT, OR THE CITY'S PAYMENT OF \$50,000 HEREUNDER, WHICHEVER OCCURS FIRST. THE FOREGOING SETS FORTH THE CITY'S EXCLUSIVE LIABILITY TO CONTRACTOR AND OBLIGATION TO INDEMNIFY CONTRACTOR FOR ANY AND ALL CLAIMS ARISING UNDER, IN CONNECTION WITH, OR INCIDENTAL TO THE PERFORMANCE OF THE CN AGREEMENTS. THE CITY HAS ALLOCATED ONLY \$50,000 FOR THIS AGREEMENT WITH REGARD TO PERFORMANCE UNDER THE CN AGREEMENTS AND THE CITY'S OBLIGATION TO INDEMNIFY CONTRACTOR UNDER THIS AGREEMENT IN CONNECTION WITH TH CN AGREEMENTS MUST NEVER EXCEED \$50,000.

3.08 SUBCONTRACTOR'S INDEMNITY

3.08.1 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

3.09 INDEMNIFICATION PROCEDURES

3.09.1 Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving Party shall give written notice to the other Party within 30 days. The notice must include the following:

3.09.1.1 a description of the indemnification event in reasonable detail;

3.09.1.2 the basis on which indemnification may be due; and

3.09.1.3 the anticipated amount of the indemnified loss.

This notice does not estop or prevent the City or Contractor from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City or Contractor does not provide this notice within the 30-day period, such delay shall not result in a loss of any right to indemnification except to the extent that indemnified Party is prejudiced, suffers loss, or incurs expense because of the delay.

3.09.2 Defense of Claims

3.09.2.1 Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney. Contractor shall then control the defense and any negotiations to settle the claim, subject to the City Attorney's consent or agreement to the settlement, which consent or agreement shall not unreasonably be withheld. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

3.09.2.2 Continued Participation. If Contractor elects to defend the claim, the City may, at City's sole expense, retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations.

3.10 INSURANCE

3.10.1 **Risks and Limits of Liability.** Contractor shall maintain the following insurance coverages in the following amounts:

<u>COVERAGE</u>	<u>LIMIT OF LIABILITY</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	<ul style="list-style-type: none"> • Bodily Injury by Accident \$500,000 (each accident) • Bodily Injury by Disease \$500,000 (policy limit) • Bodily Injury by Disease \$500,000 (each employee)
Commercial General Liability: Bodily and Personal Injury; Products and Completed Operations Coverage	Bodily Injury and Property Damage, Combined Limits of \$1,000,000 each Occurrence, and \$2,000,000 aggregate
Automobile Liability	\$1,000,000 combined single limit for: (i) Any Auto; or (ii) All Owned, Hired, and Non-Owned Autos
Professional Liability (if applicable)	\$1,000,000 per occurrence; \$2,000,000 aggregate
Excess Liability Coverage, or Umbrella Coverage, for Commercial General Liability	\$1,000,000

and Automobile Liability	
Aggregate Limits are per 12-month policy period unless otherwise indicated.	

3.10.2 **Insurance Coverage.** At all times during the term of this Agreement and any extensions or renewals, Contractor shall provide and maintain insurance coverage that meets the Agreement requirements described in the preceding section. Prior to beginning performance under the Agreement, at any time upon the Director's request, or each time coverage is renewed or updated, Contractor shall furnish to the Director current certificates of insurance, endorsements, all policies, or other policy documents evidencing such coverage. Contractor shall be responsible for and pay: (i) all premiums; and (ii) any claims or losses to the extent of any deductible amounts. Contractor waives any claim it may have for premiums or deductibles against the City, its officers, agents, or employees. Contractor shall also require all subcontractors or consultants whose subcontracts exceed \$100,000 to provide proof of insurance coverage meeting all requirements stated above except as to amount, but the amount of insurance required of such subcontractors must be commensurate with the amount of the subcontract, but no less than \$500,000 per claim.

3.10.3 **Form of insurance.** The form of the insurance shall be approved by the Director and the City Attorney; such approval (or lack thereof) shall never: (i) excuse non-compliance with the terms of this Section; or (ii) waive or estop the City from asserting its rights to terminate this Agreement. The policy issuer shall: (i) have a Certificate of Authority to transact insurance business in Texas; or (ii) be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+, and a Best's Financial Size Category of Class VI or better, according to the most current Best's Key Rating Guide.

3.10.4 **Required Coverage.** The City shall be an Additional Insured under this Agreement, and all policies, except Professional Liability and Worker's Compensation, shall explicitly name the City as an Additional Insured. The City shall enjoy the same coverage as the Named Insured without regard to other Agreement provisions. Contractor waives any claim or right of subrogation to recover against the City, its officers, agents, or employees, and each of Contractor's insurance policies, except Professional Liability, must contain language waiving such right of subrogation. Each policy, except Workers' Compensation and Professional Liability, must also contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement. If Professional Liability coverage is written on a "claims made" basis, Contractor shall also provide proof of renewal each year for two years after substantial completion of the Project, or in the alternative, evidence of extended reporting period coverage for a period of two years after substantial completion, or a project liability policy for the Project

covered by this Agreement with a duration of two years after substantial completion. All certificates of insurance submitted by Contractor shall be accompanied by endorsements for: (i) Additional Insured coverage in favor of the City for Commercial General Liability and Automobile Liability policies; and (ii) Waivers of Subrogation in favor of the City for Commercial General Liability, Automobile Liability and Workers' Compensation/Employers' Liability policies. The Director will consider all other forms on a case-by-case basis.

3.10.5 **Notice. CONTRACTOR SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELED OR NON-RENEWED.** Within the 30-day period, Contractor shall provide other suitable policies in order to maintain the required coverage. If Contractor does not comply with this requirement, the Director, at his or her sole discretion, may immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default.

3.10.6 **Other Insurance.** If requested by the Director, Contractor shall furnish adequate evidence of Social Security and Unemployment Compensation Insurance, to the extent applicable to Contractor's operations under this Agreement.

3.11 **WARRANTIES**

3.11.1 Contractor's performance shall conform to the professional standards prevailing in Harris County, Texas with respect to the scope, quality, due diligence, and care of the services and products Contractor provides under this Agreement, using trained and skilled persons having substantial experience performing the work required under this Agreement.

3.12 **CONFIDENTIALITY**

3.12.1 Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents (collectively, the "Information") that they receive, or to which they have access, in confidence, using the same reasonable degree of care that Contractor uses to protect its own confidential information. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing or except as otherwise set forth herein. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section. It is understood that normal communications with rating agencies and bond insurance companies of financial data of the City are permitted. The Contractor shall comply with regulatory records requests and, except as prohibited by law, provide notice of a response to a request. The terms and conditions of Confidentiality section shall survive the expiration or termination of the Agreement for any reason.

3.13 **USE OF WORK PRODUCTS**

3.13.1 The City may use all Documents that Contractor prepares or obtains under this Agreement. In addition, during the Term of this Agreement, Contractor shall provide the Director with supporting schedules, flow charts or other analysis necessary to understand the reported findings and recommendations. Generally, this information is attached as exhibits to the final report; however, if requested by the Director, Contractor shall provide this information from its work paper files.

3.13.2 Contractor warrants that it owns the copyright to the Documents.

3.13.3 The Contractor shall keep copies of all pertinent documents as required by regulatory bodies. Contractor shall return the original Information received from the City to the Director within fifteen (15) days after the Director's written request at any time up to three years after termination of this Agreement.

3.14 **LICENSES AND PERMITS**

3.14.1 Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation for the performance under this Agreement. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against its license.

3.15 **COMPLIANCE WITH LAWS**

3.15.1 Contractor shall comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances in its performance under this Agreement.

3.16 **COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY ORDINANCE**

3.16.1 Contractor shall comply with City's Equal Employment Opportunity Ordinance as set out in in Section 15-17 of the Code of Ordinances.

3.17 **DRUG ABUSE DETECTION AND DETERRENCE**

3.17.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No.

1-31 (the "Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

3.17.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

3.17.2.1 a copy of its drug-free workplace policy;

3.17.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "B", together with a written designation of all safety impact positions; and

3.17.2.3 if applicable (*e.g.*, no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "C".

3.17.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "D". Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or, if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

3.17.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

3.17.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

3.18 **CONFLICTS OF INTEREST**

3.18.1 If an actual or potential conflict arises between the City's interests and the interests of other clients Contractor represents, Contractor shall immediately notify the Director by fax transmission or telephone. If the Director consents to Contractor's continued representation of the other clients, he or she shall notify Contractor in writing. If the Director does not issue written consent within 3 business days after receipt of Contractor's notice, Contractor shall immediately terminate its representation of the other client whose interests are or may be in conflict with those of the City.

3.19 **PAY OR PLAY**

3.19.1 The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, as revised from time to time, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7, as revised, and shall comply with its terms and conditions.

3.20 **ADDITIONS AND DELETIONS**

3.20.1 **Additional Products and Services.** Subject to the allocation of funds, the Director or CPO may add similar supplies, services, or locations, within the scope of this Agreement, to the list of supplies, services, or locations to be performed or provided by giving written notification to Contractor, subject to Contractor's written agreement to undertake to provide such additional supplies, services or locations. For purposes of this Section, the "Effective Date" means the date specified in the notification from the Director or CPO, assuming Contractor has agreed in writing thereto. As of the Effective Date, each item added is subject to this Agreement, as if it had originally been a part, but the charge for each item starts to accrue only on the Effective Date.

3.20.2 **Exclusion of Products and Services.** If the Director or CPO determines that a deliverable or service is no longer needed, the Director or CPO may exclude it from the operation of this Agreement by notifying Contractor in writing. The notice takes effect immediately on its receipt by Contractor. More than one notice may be given. When a notice is received, Contractor shall delete the charge for work that has not yet been performed in connection with the excluded deliverable or service from the sum(s) otherwise due under this Agreement, but Contractor shall be entitled to payment for work performed in connection with the excluded deliverable or service up through the date of its exclusion from operation of this Agreement.

3.21 **ANTI-BOYCOTT OF ISRAEL**

3.21.1 Contractor certifies that Contractor is not currently engaged in, and agrees for the duration of this Agreement not to engage in, the boycott of Israel as defined by Section 808.001 of the Texas Government Code.

3.22 **ZERO TOLERANCE POLICY FOR HUMAN TRAFFICKING AND RELATED ACTIVITIES**

3.22.1 The requirements and terms of the City of Houston's Zero Tolerance Policy for Human Trafficking and Related Activities, as set forth in Executive Order 1-56, as revised from time to time, are incorporated into this Agreement for all

purposes. Contractor has reviewed Executive Order 1-56, as revised, and shall comply with its terms and conditions as they are set out at the time of the Countersignature Date. Contractor shall notify the CPO, City Attorney, and the Director of any information regarding possible violation by Contractor or its subcontractors providing services or goods under this Agreement within 7 days of Contractor becoming aware of or having a reasonable belief that such violations may have occurred, have occurred, or are reasonably likely to occur.

3.23 **PRESERVATION OF CONTRACTING INFORMATION**

3.23.1 The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Contractor agrees that this Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter. If the requirements of Subchapter J, Chapter 552, Texas Government Code, apply to this Agreement, then for the duration of this Agreement (including the initial term, any renewal terms, and any extensions), Contractor shall preserve all Contracting Information, as defined by Section 552.003 of the Texas Government Code, related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or city policy, which record retention requirements include but are not limited to those set forth in Chapters 201 and 205 of the Texas Local Government Code and Texas Administrative Code Title 13, Chapter 7. Within five business days after receiving a request from the Director, Contractor shall provide any Contracting Information related to this Agreement that is in the custody or possession of Contractor. Upon the expiration or termination of this Agreement, Contractor shall, at the Director's election, either (a) provide, at no cost to the City, all Contracting Information related to this Agreement that is in the custody or possession of Contractor, or (b) preserve the Contracting Information related to this Agreement as provided by the records retention requirements applicable to the City pursuant to federal or state law or regulation, city ordinance or City policy.

3.23.2 If Contractor fails to comply with any one or more of the requirements of this Section, Preservation of Contracting Information, or Subchapter J, Chapter 552, Texas Government Code, then, in accordance with and pursuant to the processes and procedures set forth in Sections 552.373 and 552.374 of the Texas Government Code, the Director shall provide notice to the Contractor and may terminate this Agreement. To effect final termination, the Director must notify Contractor in writing with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

3.24 **PERSONNEL OF CONTRACTOR**

3.24.1 Contractor shall provide a certified Lead Actuary and support actuary staff dedicated and familiarized with this Agreement, and shall ensure that the level of service will remain the same and not interrupted or disrupted should the level of command change for whatever reason.

ARTICLE 4.

DUTIES OF CITY

4.01 **PAYMENT TERMS**

4.01.1 Subject to all terms and conditions of this Agreement, the City shall pay fees to Contractor and Contractor agrees to accept fees for services actually performed under the tasks detailed in Exhibit "A". Contractor further acknowledges that the hourly rates set forth in Exhibit "E" represent the maximum rates to be received by Contractor for performing the Services throughout the Agreement Term, including the Renewals terms, even in the event the Director agrees, in writing, to expand the scope of the Services and simultaneously provide additional funding for the expanded scope and Consultant accepts, in writing, such expansion of scope. City's payments to Contractor for services are subject to the allocation of funds and all fees and expenses may only be paid from the Allocated Funds, as provided in Section 4.04 below.

4.02 **TAXES**

4.02.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

4.03 **METHOD OF PAYMENT**

4.03.1 Subject to all terms and conditions of this Agreement, the City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director showing (1) a description of the services performed during the period covered by the invoice and (2) the amount the Contractor requests for payment. The City shall make payments to Contractor at its address for notices within 30 days of receipt of an approved invoice. When the payment date falls on a Saturday, Sunday, or official holiday when City offices are closed and City business is not expected to be conducted, payment may be made on the following Business Day. All fees due to Contractor under this Agreement shall only be

payable from certain Allocated Funds, as provided in Section 4.04.

4.03.2 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify the Contractor of the dispute and request clarification and/or remedial action. After the dispute is settled, the Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

4.04 **LIMIT OF APPROPRIATION**

4.04.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

4.04.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of **\$450,000.00** to pay money due under this Agreement during the City's current fiscal year (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds (each a "Supplemental Allocation" and collectively, the "Supplemental Allocations") for this Agreement, but they are not obligated to do so. Therefore, the Parties have agreed to the following procedures and remedies:

4.04.2.1 The City has not allocated supplemental funds or made a Supplemental Allocation for this Agreement unless the City has issued to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS

By the signature below, the City Controller certifies that, upon the request of the Director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This Supplemental Allocation has been charged to such appropriation.

\$ _____

4.04.2.2 The Original Allocation plus all Supplemental Allocations are the "Allocated Funds." The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must

assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

4.05 **ACCESS TO SITE**

4.05.1 Contractor may enter and leave the premises at all reasonable times without charge. Contractor and its employees may use the common areas and roadways of the premises where it is to perform the services together with all facilities, equipment, improvements, and services provided in connection with the premises for common use. This excludes parking for Contractor's personnel. Contractor shall repair any damage caused by it or its employees as a result of its use of the common areas.

4.06 **ACCESS TO DATA**

4.06.1 The City shall, to the extent permitted by law, allow Contractor to access and make copies of documents and data in the possession or control of the City or available to it that are reasonably necessary for Contractor to perform under this Agreement.

4.06.2 The City does not, however, represent that all existing conditions are fully documented, nor is the City obligated to develop new documentation for Contractor's use. Notwithstanding the foregoing, the City represents and assures that all documents and data provided by the City to the Contractor are and will be true and correct for the purpose of the Services provided hereunder by Contractor.

4.06.3 For any raw data created, assembled, used, maintained, collected, or stored by Contractor and received from the City, Contractor shall provide the City either the raw data itself or the ability to extract the raw data in a format mutually agreed upon by both Parties at no additional cost to the City

ARTICLE 5. TERM AND TERMINATION

5.01 **AGREEMENT TERM**

5.01.1 This Agreement is effective on September 24, 2020 and shall remain in effect for three (3) years thereafter, unless sooner terminated under this Agreement (the "Initial Term").

5.02 **NOTICE TO PROCEED**

5.02.1 Contractor shall begin performance under this Agreement on the date specified in

a Notice to Proceed from the CPO or Director.

5.03 **RENEWALS**

5.03.1 Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two (2) successive one-year terms on the same terms and conditions. If the Director chooses not to renew this Agreement, he or she shall notify Contractor and the CPO of non-renewal at least 30 days before the expiration of the then-current term.

5.04 **TERMINATION FOR CONVENIENCE BY CITY**

5.04.1 The Director may terminate this Agreement at any time by giving 30 days' written notice to Contractor, with a copy of the notice to the CPO. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.

5.04.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in this Agreement unless the fees exceed the allocated funds remaining under this Agreement.

5.04.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

5.05 **TERMINATION FOR CAUSE BY CITY**

5.05.1 If Contractor defaults under this Agreement, the Director may terminate this Agreement after providing Contractor written notice and an opportunity to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies that exist now or in the future. Default by Contractor occurs if:

5.05.1.1 Contractor fails to perform any of its material duties under this

Agreement;

5.05.1.2 Contractor becomes insolvent;

5.05.1.3 all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

5.05.1.4 a receiver or trustee is appointed for Contractor.

5.05.2 If a default occurs and the Director determines that the City wishes to terminate the Agreement, then the Director must deliver a written notice to Contractor describing the default and the proposed termination date, with a copy of the notice to the CPO. The date must be at least 30 days after Contractor receives notice. The Director, at his or her sole option, may extend the termination date to a later date. If Contractor cures the default before the proposed termination date, then the proposed termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at no further obligation of the City other than to pay for all Services provided by Consultant up to and including the effective date of such termination.

5.05.3 To effect final termination, the Director must notify Contractor in writing, with a copy of the notice to the CPO. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and promptly cancel all orders or subcontracts chargeable to this Agreement.

5.06 **TERMINATION FOR CAUSE BY CONTRACTOR**

5.06.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date. The date must be at least 30 days after the Director receives the notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date

ARTICLE 6.

MISCELLANEOUS

6.01 INDEPENDENT CONTRACTOR

6.01.1 Contractor shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City.

6.02 FORCE MAJEURE

6.02.1 Timely performance by both Parties is essential to this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor, provided, however, that Force Majeure does not apply and shall not extend to the obligation of City to pay Consultant as described elsewhere in this Agreement. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a Party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected Party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn, or other factors of general application, or an event that merely makes performance more difficult, expensive, or impractical. Force Majeure does not entitle Contractor to extra reimbursable expenses or payment.

6.02.2 This relief is not applicable unless the affected Party does the following:

6.02.2.1 uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

6.02.2.2 provides the other Party with prompt written notice of the cause and its anticipated effect.

6.02.3 The Director will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the Director is final. If Contractor disagrees with the Director's decision, then the Contractor is permitted to pursue any alleged breach of this Agreement in accordance with its remedies available at law.

6.02.4 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

6.02.5 If the Force Majeure continues for more than 15 days from the date performance is affected, the Director may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.**

6.03 **SEVERABILITY**

6.03.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either Party.

6.04 **ENTIRE AGREEMENT**

6.04.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties with respect to this subject matter hereof. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

6.05 **WRITTEN AMENDMENT**

6.05.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.06 **GOVERNING LAW AND VENUE**

6.06.1 This Agreement shall be construed and interpreted in accordance with the applicable laws of the State of Texas and City of Houston. Venue for any disputes relating in any way to this Agreement shall lie exclusively in Harris County, Texas.

6.07 **NOTICES**

6.07.1 All notices to either Party to the Agreement must be in writing and must be

delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, UPS, or any other national overnight express delivery service. The notice must be addressed to the Party to whom the notice is given at its address set out in Article 1 of this Agreement or other address the receiving Party has designated previously by proper notice to the sending Party. Postage or delivery charges must be paid by the Party giving the notice. Notices are effective upon delivery to the Party to whom the notice is addressed as evidenced by written proof of delivery thereto.

6.08 **CAPTIONS**

6.08.1 Captions contained in this Agreement are for reference only and therefore have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

6.09 **NON-WAIVER**

6.09.1 If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the Party from later enforcing that term and all other terms. If either Party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

6.09.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

6.10 **INSPECTIONS AND AUDITS**

6.10.1 City representatives may perform, or have performed: (i) audits of Contractor's books and records; and (ii) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least three years after this Agreement terminates. If the books and records are located outside of Harris County, Texas, Contractor agrees to make them available in Harris County, Texas. This provision does not affect the applicable statute of limitations.

6.11 **ENFORCEMENT**

6.11.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement,

with the exception of those documents made confidential by federal or State law or regulation.

6.12 **AMBIGUITIES**

6.12.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

6.13 **SURVIVAL**

6.13.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including, but not limited to, the indemnity provisions.

6.14 **PUBLICITY**

6.14.1 Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

6.15 **PARTIES IN INTEREST**

6.15.1 This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

6.16 **SUCCESSORS AND ASSIGNS**

6.16.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

6.17 **BUSINESS STRUCTURE AND ASSIGNMENTS**

6.17.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the Director and CPO with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

6.17.2 Contractor shall not delegate any portion of its performance under this Agreement without the Director's prior written consent.

6.18 **REMEDIES CUMULATIVE**

6.18.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies that exist now or in the future. Neither Party may terminate its duties under this Agreement except in accordance with its provisions.

6.19 **CONTRACTOR DEBT**

6.19.1 IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, HE OR SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR. CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

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EXHIBIT "A"

SCOPE OF SERVICES

The City maintains three pension systems for full-time firefighters ("HFRRF"), police ("HPOPS") and municipal employees ("HMEPS"). Each pension plan maintains its own staff and is governed by a board of trustees consisting of elected and appointed members.

Contractor shall provide actuarial consulting and/or advisory services for the City's above-mentioned existing three pension systems to the Finance Department.

Background: On July 1, 2017, Senate Bill 2190 ("Pension Reform Legislation"), passed by the Texas Legislature earlier that year, took effect. Under the Pension Reform Legislation, the City will pay off the unfunded liability over a fixed maximum 30-year amortization period ending in 2047. Beginning in Fiscal Year 2015, changes in the Governmental Accounting Standards Board's ("GASB") pension accounting rules resulted in significant changes to the presentation of the City's liabilities for each Pension System in its financial statements. Under new GASB standards 67 and 68, the financial statements now reflect a calculation of the City's Net Pension Liability to describe the City's funding obligation to the Pension Systems. GASB 67 and 68 do not affect the City's pension contribution or contribution rates, both of which are dictated by the Pension Reform Legislation.

The annual contributions to each system, in percentage terms and total dollars are shown below, along with the assets in each system.

	FY19 Effective City Contribution (%)	FY19 City Contribution (\$)	Assets ¹
Fire (HFRRF)	32.99%	\$89.9 Million	\$4.36 Billion
Police (HPOPS)	31.85%	\$142.4 Million	\$5.75 Billion
Municipal (HMEPS)	28.94%	\$176.3 Million	\$3.17 Billion

¹Data for Assets is from the most recent (Fiscal Year 2019) Comprehensive Annual Financial Reports.

Contractor shall provide pension actuarial consulting services in connection with the City's role as Plan Sponsor of the retirement systems covering its employees. Contractor must have in-depth institutional knowledge of the past pension challenges faced by the City as well as the Pension Reform Legislation and its effects along with ongoing efforts by the City to better manage the City's Net Pension Liability.

Contractor should have an actuarial modeling system that could be tailored to the data from the City's Pension Systems.

Scope of Services

The following list includes but is not limited of services that Contractor will provide:

- Annually recurring Risk Sharing Valuation Studies (RSVS) for the City's three Pension Systems;
- Actuarial review of any Experience Studies performed by the three Pension Systems;
- Actuarial consulting for the City's Legal Department associated with pension-related litigation matters;
- Annual updates to the confidentiality agreements with the three Pension Systems;
- Actuarial reports estimating the impact of proposed union agreements;
- Attendance at meetings and conferences requested by the City;
- Consulting on GASB Standards 67 and 68;
- Independent actuarial audits as required by the City;
- Advising on actuarial trends;
- Recommending alternative funding methods;
- Assisting in developing comparisons in benefit structures;
- Assisting in developing comparisons in asset allocations;
- Assisting in determining cost estimates of changes to benefit levels and changes to actuarial assumptions (e.g. mortality tables); and
- Other services as requested by the City's Finance Director, provided funds have been appropriated and allocated to pay for those services.

EXHIBIT "B"

DRUG POLICY COMPLIANCE AGREEMENT

I, _____, _____,
(Name) (Title)

as an owner or officer of _____ (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

Date

Contractor Name

Signature

Title

EXHIBIT "C"

**CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT**

I, _____, _____,
(Name) (Title)

as an owner or officer of _____ (Contractor)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved in performing _____
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Finance if any safety impact positions are established to provide services in performing this City Contract.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "D"

DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of _____ (Contractor)
(Name) (Print/Type) (Title) (Name of Company)
have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20____.

_____ Initials A written Drug Free Workplace Policy has been implemented and employees notified.
The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

_____ Initials Written drug testing procedures have been implemented in conformity with the Mayor's
Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31.
Employees have been notified of such procedures.

_____ Initials Collection/testing has been conducted in compliance with federal Health and Human
Services (HHS) guidelines.

_____ Initials Appropriate safety impact positions have been designated for employee positions
performing on the City of Houston contract. The number of employees in safety impact positions
during this reporting period is _____.

From _____ to _____ the following test has occurred
(Start date) (End date)

	<u>Random</u>	<u>Reasonable Suspicion</u>	<u>Post Accident</u>	<u>Total</u>
Number Employees Tested	_____	_____	_____	_____
Number Employees Positive	_____	_____	_____	_____
Percent Employees Positive	_____	_____	_____	_____

_____ Initials Any employee who tested positive was immediately removed from the City worksite
consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ Initials I affirm that falsification or failure to submit this declaration timely in accordance
with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration
are within my personal knowledge and are true and correct.

(Date)

(Typed or Printed Name)

(Signature)

(Title)

EXHIBIT "E"

FEE STRUCTURE

Staff Position	Name of Staff Member	Quantity of Staff for Position	Hourly Rate	Estimated Annual Total Hours
Perform Annual Risk Sharing Valuation Studies				272
Consulting Actuary	David Sawyer	1	\$ 360.00	57
Support Actuary	David Kent	1	\$ 300.00	41
Project Manager	Barry Anderson	1	\$ 220.00	119
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	55
Actuarial review of Experience Study performed by pension system				33
Consulting Actuary	David Sawyer	1	\$ 360.00	15
Support Actuary	David Kent	1	\$ 300.00	8
Project Manager	Barry Anderson	1	\$ 220.00	10
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	0
Actuarial consulting for pension-related litigation matters				10
Consulting Actuary	David Sawyer	1	\$ 360.00	8
Support Actuary	David Kent	1	\$ 300.00	2
Project Manager	Barry Anderson	1	\$ 220.00	0
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	0
Annual updates to confidentiality agreements				4
Consulting Actuary	David Sawyer	1	\$ 360.00	3
Support Actuary	David Kent	1	\$ 300.00	1
Project Manager	Barry Anderson	1	\$ 220.00	0
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	0
Actuarial reports estimating the impact of proposed union agreements				37
Consulting Actuary	David Sawyer	1	\$ 360.00	12
Support Actuary	David Kent	1	\$ 300.00	5
Project Manager	Barry Anderson	1	\$ 220.00	15
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	5
Independent Actuarial Audits per Texas Government Code § 802.1012				145
	David Sawyer	1	\$ 360.00	45
Support Actuary	David Kent	1	\$ 300.00	25
Project Manager	Barry Anderson	1	\$ 220.00	54
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	21
Consulting on other services mentioned under Scope of Services				12
Consulting Actuary	David Sawyer	1	\$ 360.00	10
Support Actuary	David Kent	1	\$ 300.00	2
Project Manager	Barry Anderson	1	\$ 220.00	0
Actuarial Analyst	Elizabeth Schulin	1	\$ 200.00	0

Certificate Of Completion

Envelope Id: B6E4598A65B84B9CAF833D2C5735945C

Subject: Please DocuSign: 20581_Retirement Horizons RHI_Pension Actuarial Services_Final.pdf

Source Envelope:

Document Pages: 33

Certificate Pages: 5

AutoNav: Enabled

Envelope Stamping: Disabled

Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:

Conley Jackson

611 Walker St.

HITS

Houston, TX 77002

Conley.Jackson@houston.tx.gov

IP Address: 98.200.122.82

Record Tracking

Status: Original

9/4/2020 8:26:57 AM

Security Appliance Status: Connected

Storage Appliance Status: Connected

Holder: Conley Jackson

Conley.Jackson@houston.tx.gov

Pool: FedRamp

Pool: City of Houston IT Services

Location: DocuSign

Location: DocuSign

Signer Events

Raymond J. Waymel

rwaymel@rhi-texas.com

President

Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:

Raymond J. Waymel

7807AD35D997479...

Signature Adoption: Pre-selected Style

Using IP Address: 99.32.77.49

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Accepted: 9/4/2020 9:41:24 AM

ID: aa142e0f-b224-4910-aeb1-40d8cd380eec

Sonyia McNeill

sonyia.mcneill@grouprhi.com

CFO

Merit Benefits Group LLC

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Sonyia McNeill

2697B19A920E4AE...

Signature Adoption: Pre-selected Style

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Electronic Record and Signature Disclosure:

Accepted: 9/4/2020 11:57:01 AM

ID: 3c0cba7e-d408-4930-b55b-515410d687b1

Jerry Adams

Jerry.Adams@houston.tx.gov

City of Houston IT Services

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Jerry Adams

0DD350139A0F4C8...

Signature Adoption: Pre-selected Style

Using IP Address: 107.77.195.209

Signed using mobile

Sent: 9/4/2020 11:57:17 AM

Viewed: 9/4/2020 12:52:59 PM

Signed: 9/4/2020 12:53:32 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Tartri Emo

tantri.emo@houston.tx.gov

Security Level: Email, Account Authentication
(None)

DocuSigned by:

Tartri Emo

E73A5FD3483F487...

Signature Adoption: Pre-selected Style

Using IP Address: 50.58.210.12

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Signed: 9/4/2020 12:56:08 PM

Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
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Lan Nyugen lan.nyugen@houstontx.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		Sent: 9/4/2020 12:56:10 PM

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
David Sawyer dsawyer@rhi-texas.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	VIEWED	Sent: 9/4/2020 8:47:03 AM Viewed: 9/4/2020 9:01:46 AM Using IP Address: 73.136.12.195

Carbon Copy Events	Status	Timestamp
Fahad Gulzar Fahad.Gulzar@houstontx.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Melissa Dubowski Melissa.Dubowski@houstontx.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/4/2020 12:56:10 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of Houston:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: reenie.askew@houstontx.gov

To advise Carahsoft OBO City of Houston of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at reenie.askew@houstontx.gov and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Carahsoft OBO City of Houston

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to reenie.askew@houstontx.gov and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Houston

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to reenie.askew@houstontx.gov and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Carahsoft OBO City of Houston as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Carahsoft OBO City of Houston during the course of my relationship with you.