

**San Francisco Employees' Retirement System**  
**(SFERS)**

**Request for Qualifications**

*for*

***Stewardship and Corporate Governance  
Strategy Consulting Services***

Date issued:

September 8, 2023

Response due:

September 15, 2023, 4:30 p.m. PDT

**Request for Qualifications for Stewardship and Corporate Governance Strategy  
Consulting Services**

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## **Request for Qualifications**

### **I. Introduction, Schedule**

#### **A. General**

The City and County of San Francisco ("the City"), through the San Francisco City and County Employees' Retirement System ("SFERS"), is issuing this Request for Qualifications ("RFQ") in search of qualified consultants ("Candidates") to provide stewardship and corporate governance strategy consulting services on an ongoing, as needed basis, to SFERS.

Established in 1921, SFERS is dedicated to securing, protecting, and prudently investing pension trust assets and administering a defined benefit pension fund for eligible members of the City and County of San Francisco, San Francisco Unified School District, City College of San Francisco, and the Superior Court for the County of San Francisco. SFERS' Retirement Board and investment team oversee the investment of over \$34 billion in Trust assets (as of June 30, 2022) in global public equities, fixed income, and alternative investments.

SFERS is issuing this RFQ to create a qualified pool of firms to provide stewardship and corporate governance strategy consulting services on an ongoing, as needed basis, to SFERS (the "Pool"). SFERS anticipates selecting up to eight qualified firms for the Pool ("Selected Candidates"). Selected Candidates must satisfy the minimum qualifications set forth in this RFQ and demonstrate superior expertise in the relevant areas. SFERS, in its sole discretion, may choose any candidate from the Pool to provide stewardship and corporate governance strategy consulting services to SFERS.

Candidates selected for the Pool will be eligible to enter into a contract (the "Contract") to perform the work, project or services described in Section II of this RFQ (the "Work"). No Selected Candidate shall have any legal or equitable right to enter into the Contract or to perform the Work as a result of being chosen as a Selected Candidate. SFERS reserves the right, at its sole discretion, to select stewardship and corporate governance strategy consulting services through alternative means or requests for qualifications. Prior to engagement for consulting services, a firm must execute the Contract, substantially in the form of the contract attached as Appendix C to this RFQ, with SFERS for that engagement.

The Pool will remain in effect for a period of five years from the date it is established.

#### **B. Blackout Period**

For the duration of the RFQ process, SFERS will enter into a "blackout" period during which communications and meetings between interested parties and SFERS employees and board members related to the subject matter of this RFQ and any interested party's response to this RFQ are prohibited. This blackout period will continue until the RFQ process is completed and contracts executed with the Selected Candidates.

This blackout will enable SFERS to treat all Respondents (defined below) fairly during the RFQ process and permit the unbiased review of responses. Blackout conditions are outlined below:

- Proposers shall not meet or communicate with SFERS employees or Board members

(communications include telephone conversations, letters and email);

- This blackout period shall remain in effect until the Selected Candidates enter into Contracts with SFERS; and
- Proposers may meet SFERS only if the meeting is limited to discussions that are not related to this RFQ, the services sought by this RFQ, or any interested party's response to this RFQ.

This blackout period shall not limit a Proposer which is currently engaged by the SFERS as a service provider from engaging in all meetings and communications with SFERS employees required to effectively conduct the business under the existing engagement, but any such meetings or communications shall not involve this RFQ, the services sought by this RFQ, or any Proposer's response to this RFQ.

If a Proposer intends to respond to the RFQ, kindly send an e-mail to [andrew.collins@sfgov.org](mailto:andrew.collins@sfgov.org) providing notice that proposer will be replying to this RFQ. This notification will permit SFERS to monitor compliance with the blackout period requirements.

## C. Schedule

The anticipated schedule for selecting Candidates for inclusion in the Pool is as follows:

<u>Response Phase</u>	<u>Date</u>
RFQ issued by SFERS	September 8, 2023
Deadline for submission of written questions or requests for clarification	September 13, 2023 at 4:30 p.m. PDT
Responses due	September 15, 2023 at 4:30 p.m. PDT
Oral interviews, if any, with Candidates selected for further consideration	September 19, 2023
Notice of Intent to Select Candidates for Pool Issued	September 20, 2023

## II. Scope of Work

The Scope of Work described below is intended as a general guide and not as a complete list of all aspects of the services to be performed under this RFQ or of all tasks necessary in order to complete the work. The services requested include, but are not limited to, the following:

1. Strategic and research support on climate stewardship, including engagements through Climate Action 100+ where SFERS acts as lead engager and those where SFERS is a collaborating engager.
2. Support in developing SFERS' stewardship policies and procedures including defining an "escalation framework" for engagement and related internal governance processes.
3. Support in developing a framework and internal governance processes for making specific SFERS decisions regarding votes against directors, exempt solicitations, shareholder proposals, and similar escalation actions.
4. Strategic and research support on SFERS' board diversity engagements, including engagements with peer asset owners and through the 30 Percent Coalition.
5. Educational programs for internal SFERS staff and SFERS' Board, as communicated from time to time.
6. Additional governance and director research and strategic support, as communicated from time to time.

There is no assurance that consulting services will be required on all or any of these particular issues.

Firms responding to this RFQ ("Respondents") will be expected to familiarize themselves with SFERS, its policies, the fiduciary duties and responsibilities of staff and the Retirement Board, and relevant ordinance provisions without cost.

Selected Candidates will typically respond to work assignments from SFERS.

### **III. Submission Requirements**

#### **A. Time and Place for Submission of Responses**

Responses must be received by **4:30 p.m. (PDT) on September 15, 2023** (“Submission Deadline”) and be clearly marked as “*Response to Stewardship and Corporate Governance Strategy Consulting Services ‘RFQ.’*” Responses must be submitted in .PDF form, by e-mail to Andrew Collins, Director of ESG Investing, SFERS at [andrew.collins@sfgov.org](mailto:andrew.collins@sfgov.org).

#### **B. Format**

If Respondent’s response is lengthy, please include a Table of Contents.

#### **C. Content**

Completeness, clarity and brevity will be looked upon favorably. Respondent should submit all information requested in this RFQ in the specified format. Responses not meeting RFQ requirements or that are incomplete in any way may be rejected. Respondents are urged to read this RFQ carefully, to take care in the preparation of responses, and to carefully proofread the final versions for accuracy and completeness.

Respondents must submit responses to each item listed in Appendix A attached hereto in the form requested in the appendix. Additionally, before any contracts are awarded, Respondents must file the forms listed on Appendix B attached hereto.

### **IV. Evaluation and Selection Criteria**

#### **A. Minimum Qualifications**

Respondent must demonstrate that it meets the minimum qualifications outlined below in its response to this RFQ (the “Response”). Any Response that does not demonstrate that the Respondent meets these minimum qualifications by the Submissions Deadline will be considered non-responsive and will not be eligible for consideration in the Pool. The Respondent must:

1. have at least ten (15) years of significant experience in corporate governance and/or asset stewardship/shareholder engagement;

2. identify at least one asset owner client with assets comparable to or larger than SFERS that Respondent currently provides stewardship and corporate governance strategy consulting services or provided such services at some time after December 31, 2018.

## **B. Selection Criteria**

SFERS will evaluate each Response. Responses that merely provide generalities in response to items listed in Appendix A may be deemed non-responsive and will not be eligible for consideration in the Pool. At any time during the evaluation process, the City may require a Respondent to present oral or written clarification of its Response.

The guidelines for analyzing and evaluating Responses are stated below. If eight or fewer responsive Responses are received, SFERS, in its sole discretion, may choose not to score Responses to establish the Pool with all Respondents. SFERS anticipates that it will evaluate Responses and oral presentations, when requested, based on the criteria below. But, in an effort to reach a decision concerning the best qualified firms SFERS reserves the right to evaluate, at its sole discretion, all factors it deems appropriate, whether or not such factors have been stated in this RFQ. SFERS anticipates that Respondents that demonstrate specific stewardship and corporate governance strategy experience on projects similar to the Work will be qualified for the panel of firms that will be eligible to enter into a contract to perform the Work.

SFERS will evaluate the responses generally in accordance with the criteria itemized below.

### **1. Firm Experience and Qualifications (45 Points)**

- Specific experience providing consulting services similar to the Work to asset owners of comparable size.
- Relevant experience of consultant.
- Quality of recently completed projects similar to the Work.
- Dismissals or contract terminations of Respondent by a client.
- Conflict of interest issues.
- Professional liability insurance coverage.
- Acknowledgements as set forth in Appendix A, Section 9.
- Quality of responses to items in Appendix A, Sections 1 and 2.
- Ability to satisfy the requirements of the Scope of Work as described in Section II of this RFQ.
- Fees and cost structure for services described in this RFQ.

**2. Assigned Staff (30 Points)**

- Experience of consultant(s) in providing the services under this RFQ to asset owners with comparable or greater assets.
- Professional experience and educational qualifications of assigned staff.
- Staffing model (i.e., resources, skills, and processes to be applied) for services under this RFQ.

**3. Demonstrated Professionalism (25 Points)**

- Communication skills.
- Professionalism and quality of submitted Qualifications Statement

**4. Interviews, if any (25 Points)**

Following the evaluation of written responses, SFERS may require Respondents to participate in interviews to be scheduled by SFERS. SFERS may limit the Respondents invited to interviews to the highest scoring Respondents, based on scoring under Section IV.B.1-3 above, that it decides is needed to establish the Pool. Respondent should ensure that all significant personnel who will be providing services to SFERS are present during any interview. Interview scores will be based on presentation and communication skills. The interview score will be combined with the results of the written response evaluation for a cumulative score.

**V. Contract Award**

SFERS will select up to eight Respondents with which to commence contract negotiations. The selection of any such Respondent shall not imply acceptance by SFERS of any terms of Respondent's Response, which are subject to further negotiations and approvals before SFERS may be legally bound. The selected Respondents must be willing to enter into a written agreement that is substantially in the form Consulting Agreement attached hereto as Appendix C. Failure to timely execute the contract, or to furnish any and all insurance certificates and policy endorsements, or other materials required in the contract, shall be deemed an abandonment of contract negotiations. If a satisfactory contract cannot be negotiated in a reasonable time, SFERS, in its sole discretion, may terminate negotiations with any Respondent(s).



## **VI. Terms and Conditions for Receipt of Responses**

### **A. Errors and Omissions in RFQ**

Respondents are responsible for reviewing this RFQ in its entirety. Respondents are to promptly notify SFERS, in writing, if there is any ambiguity, discrepancy, omission, or other error in the RFQ. Any such notification should be directed to SFERS promptly after discovery, but in no event later than 4:30 p.m. (PDT) on September 13, 2023 to Andrew Collins ([andrew.collins@sfgov.org](mailto:andrew.collins@sfgov.org)). Modifications and clarifications will be made by addenda as provided below.

### **B. Inquiries Regarding RFQ**

Inquiries regarding the RFQ and any request for written interpretation or clarification of RFQ questions or procedures must be in writing and submitted by email not later than 4:30 p.m. (PDT) on September 13, 2023 to Andrew Collins ([andrew.collins@sfgov.org](mailto:andrew.collins@sfgov.org)). SFERS will only respond to inquiries for written interpretation or clarifications of RFQ questions or procedures. This opportunity to seek interpretation or clarification of the RFQ is not an opportunity to ask general questions. SFERS will post written interpretations and clarifications on the SFERS website (<http://www.mysfers.org/>).

### **C. Objections to RFQ Terms**

Should a Respondent object on any ground to any provision or legal requirement set forth in this RFQ, the Respondent must, not later than 4:30 p.m. (PDT) on September 13, 2023, provide written notice to SFERS (addressed to Andrew Collins ([andrew.collins@sfgov.org](mailto:andrew.collins@sfgov.org))) setting forth with specificity the grounds for the objection. The failure of a Respondent to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any objection a Respondent may have.

### **D. Addenda**

SFERS may modify this RFQ, prior to the Submissions Deadline, by issuing addenda, which will be posted on SFERS' website (<http://www.mysfers.org>). Respondents shall be responsible for ensuring that its response reflects any and all addenda issued by SFERS prior to the Submissions Deadline regardless of when the response is submitted. Therefore, SFERS recommends that Respondents consult the websites frequently, including shortly before the response due date, to ensure that Respondent has downloaded all addenda.

### **E. Term of Response**

Submission of a Response signifies that the proposed services and fees are valid for at least 180 calendar days from the Submissions Deadline and that the fees contained therein are genuine and not the result of collusion or any other anti-competitive activity.

## **F. Revision of Response**

A Respondent may revise a response on the Respondent's own initiative at any time before the Submissions Deadline. The Respondent must submit the revised response in the same manner as the original, as set forth in Section III of this RFQ. A revised response must be received by the Submissions Deadline. In no event will a statement of intent to submit a revised response or commencement of a revision process extend the Submissions Deadline for any Respondent.

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

## **G. Errors and Omissions in Response**

Failure by SFERS to object to an error, omission, or deviation in the response will in no way modify the RFQ or excuse the Respondent from full compliance with the specifications of this RFQ or any contract awarded pursuant to this RFQ.

## **H. Financial Responsibility**

SFERS accepts no financial responsibility for any costs incurred by a Respondent in responding to this RFQ. Responses submitted in response to this RFQ are the property of SFERS and may be used in any way deemed appropriate by SFERS.

## **I. Respondent's Obligations under the Campaign Reform Ordinance**

Respondents must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code.

City law bans persons who are seeking or recently entered into government contracts from making contributions to certain candidates for City elective office. The ban applies when:

1. The City, a state agency on whose board an appointee of a City elective officer serves, the Unified School District, or the Community College District is a party to a contract,
2. The contributor is a party to the contract or is an affiliate (see discussion below) of a party to the contract;
3. The contract or series of contracts in the same fiscal year has a total anticipated or actual value of \$100,000 or more in a fiscal year.

If these three conditions are met, then the contributor is prohibited from making a contribution to the candidate. This applies from the time that the contractor submits a Response to the City to become a party to the contract until either (a) negotiations regarding the Response terminate (and the contractor is not awarded the City contract), or (b) twelve months have passed since the contract was approved.

Affiliates of a contractor are the entity's directors, principal officers (including its chairperson, chief executive officer, chief financial officer, chief operating officer, or any similar position), individuals or entities holding a share of the organization of ten percent or greater, and any subcontractor listed on the organization's bid for a City contract.

See San Francisco Campaign and Governmental Conduct Code §1.126.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal or Request for Qualifications, and requests to be placed on a mailing list do not constitute negotiations.

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

1. Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

## **J. Sunshine Ordinance**

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

## **K. Public Access to Meetings and Records**

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

## **L. Reservations of Rights by the City**

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

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all responses;
3. Reissue a Request for Proposals or Qualifications;
4. Prior to the Submission Deadline, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any services to be provided under this RFQ, or the requirements for contents or format of the responses; or
5. Procure any services specified in this RFQ by any other means.

## **M. No Waiver**

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

## **VII. Contract Requirements**

### **A. Nondiscrimination in Contracts and Benefits**

Selected Candidates contracting with the City will be required to agree to comply fully with and be bound by the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Generally, Chapter 12B prohibits the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of employees. The Chapter 12C requires nondiscrimination in

contracts in public accommodation. Additional information on Chapters 12B and 12C is available on the Contract Monitoring Division's website at <http://www.sfgsa.org/index.aspx?page=6058>.

## **B. Minimum Compensation Ordinance (MCO)**

Selected Candidates contracting with the City will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P. Generally, the MCO requires contractors to provide employees covered by the MCO who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements.

For the amount of hourly gross compensation currently required under the MCO, see [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). Note that this hourly rate may increase on January 1 of each year and that contractors will be required to pay any such increases to covered employees during the term of the contract. Additional information regarding the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco).

## **C. Health Care Accountability Ordinance (HCAO)**

Selected Candidates contracting with the City will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q. Respondents should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at [www.sfgov.org/olse/hcao](http://www.sfgov.org/olse/hcao).

## **D. Conflicts of Interest**

Selected Candidates will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including (i) Section 15.103 of the City's Charter, (ii) Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and (iii) Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. Selected Candidates will be required to acknowledge that they are familiar with these laws; certify that they do not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if they become aware of any such fact during the term of their engagement with SFERS.

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

## **VIII. Protest Procedures**

### **A. Protest of Non-Responsiveness Determination**

Within five business days of SFERS's issuance of a notice of non-responsiveness, any Respondent that has submitted a response and believes that SFERS has incorrectly determined that its response is non-responsive may submit a protest, captioned "Notice of Protest." Such protest must be received by SFERS on or before the fifth business day following SFERS' issuance of the notice of non-responsiveness. The protest must include a written statement specifying in detail each of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the Respondent must specify facts and evidence sufficient for SFERS to determine the validity of the protest.

### **B. Protest of Pool**

Within five business days of SFERS' issuance of the notice of intent to select candidates for the pool, any Respondent not selected for the Pool that has submitted a responsive response and believes that SFERS has incorrectly selected another Respondent for the Pool may submit a written protest, captioned "Notice of Protest." Such protest must be received by SFERS on or before the fifth business day after SFERS' issuance of the notice of intent to place respondents in the pool.

The protest must include a written statement specifying in detail each one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFQ provision on which the protest is based. In addition, the Respondent must specify facts and evidence sufficient for SFERS to determine the validity of the protest.

### **C. Delivery of Protests**

All protests must be delivered by email to Andrew Collins, SFERS, at [andrew.collins@sfgov.org](mailto:andrew.collins@sfgov.org), and received by the due date as described above. Protests or notice of protests made orally (e.g., by telephone) will not be considered.

## **APPENDIX A**

### **RFQ Questions**

To respond to this RFQ, Respondents must respond to each of the items below, in the same order listed. Completeness, clarity and brevity will be looked upon favorably. Please limit your responses to the items in this Appendix A to no more than fifteen (15) pages total with a font of at least 12 points (excluding required attachments and attorneys' resumes). Please restate each question in bold face before your response and be as specific as possible. Answers that merely provide generalities may be deemed non-responsive. The written consent of SFERS will be required prior to the substitution of any personnel identified as assigned to provide services under this RFQ.

#### **1. Firm Organization and Background**

**a)** Please provide a short introduction and executive summary of the firm's qualifications of not more than two pages which include the name, address, telephone number, email address and facsimile number of the person authorized to represent the Respondent with respect to all notices, negotiations, discussions and other communications relating to this RFQ, to any further selection process, and to any negotiations related to a contract for the services described in this RFQ.

**b)** Please provide narrative statements which demonstrate that Respondent meets the minimum qualifications set forth in Section IV.A of this RFQ. Narrative statements should not exceed three pages and should address the following:

- i. A brief description of your firm, including its history, when the firm's corporate governance and stewardship consulting practice began, the number of employees, the location of the firm's offices; and
- ii. identify and describe the experience of the lead consultant, who must have at least five (5) years of experience in corporate governance and stewardship.

**c)** Please provide an overall description of Respondent's firm, including the following:

- i. Respondent's organizational structure (e.g., corporation, partnership, limited liability company);
- ii. ownership structure, including any parent or affiliated companies and/or joint ventures;
- iii. years in existence;
- iv. years of experience in corporate governance and stewardship consulting

- v. total number of employees; and
- vi. headquarters and regional office locations,
- d) Please describe any changes in the firm's ownership structure or senior staffing within the last two years. Please describe any future changes that Respondent anticipates.

## **2. Qualifications and Experience**

- a) Describe your experience working for and/or providing consultative advice to U.S. public pensions on asset stewardship and corporate governance efforts.
- b) Describe your experience in developing corporate governance and proxy voting guidelines for asset owners.
- c) Describe your experience engaging with Boards of Directors and management of publicly traded companies on ESG topics.
- d) Describe your experience filing shareholder proposals at publicly traded companies.
- e) Describe your experience working with investor coalitions such as Climate Action 100+.
- f) Describe your expertise on ESG topics such as climate change, and diversity, equity, and inclusion.
- g) Describe your experience at or on behalf of publicly listed companies engaging with shareholders and responding to shareholder proposals.
- h) Please describe why Respondent and its services are superior to other firms providing these services and Respondent's competitive advantage, if any.

## **3. Staff**

- a) Identify the individuals who will be directly assigned to matters within the Scope of Work, their responsibilities for handling this relationship, their experience and qualifications, and the number of years they have provided corporate governance and stewardship consulting services

## **4. Fees**

- a) Please describe Respondent's proposed fee arrangement for the services described in this RFQ. You may wish to propose, and state whether this proposal is negotiable. Please be as specific and creative as possible. State whether the firm offers discounted rates for governmental entities.
- b) Please describe any other direct or indirect costs that may be incurred by SFERS. Please describe whether Respondent applies a markup charge for outside vendor services.
- c) State whether Respondent offers discounted rates for governmental entities.



d) Please discuss any additional information related to billing that Respondent believes will be relevant to SFERS in considering the Respondent's fees.

## **5. Conflicts of Interest**

a) Please describe Respondent's systems and processes for identifying and mitigating actual or potential conflicts of interest. Please provide a copy of Respondent's conflicts of interest policy, if any.

b) Please describe any actual or potential conflicts of interest that Respondent or any attorney with Respondent may have in providing the services described in this RFQ. Please describe in detail the nature of the conflict and what consents would be required (if any).

## **6. References**

Please provide three client references for whom you have provided corporate governance and stewardship consulting services within the past 5 years, including client name, contact and telephone number and email address. Asset owner clients are preferred.

## **7. Disputes and Litigation**

a) Please identify every instance within the last five years in which a client dismissed Respondent or terminated a contract with Respondent for services similar to those described in this RFQ.

b) Please describe all actual or pending litigation (including case name, court, case number, and date filed), grand jury inquiries, indictments, convictions, and state ethics board proceedings in the last ten years relating to the Respondent, or any employee with the Respondent that arises from the Respondent's business, including the outcome. Please describe all pending or threatened administrative proceedings or investigations by a federal, state or local agency.

c) Please describe in detail all malpractice and fee dispute claims made against Respondent in the last five years, including disposition or current status.

## **8. Conflicts of Interest**

a) Does your firm have a written conflict of interest policy?

b) What does the firm do to ensure there are no conflicts of interest? What process does the firm maintain in order to provide a consistent, high standard of professional ethics?

c) Please describe any actual or potential conflict of interest that may arise as a result of your selection to provide corporate governance and stewardship consulting services. Describe in detail the nature of the conflict and what consent you would require (if any).

## **9. Acknowledgements and Confirmations**

a) Please include a statement acknowledging that, by responding to this RFQ, Respondent and its attorneys and staff are "restricted sources" as

that term is defined in the San Francisco Campaign and Governmental Conduct Code, Section 3.216.

**b)** Please include a statement acknowledging and confirming that, by responding to this RFQ, Respondent and its counsel (if applicable) has reviewed the form Consulting Agreement attached to this RFQ as Appendix C. As noted above, the Selected Candidates must be able and willing to enter into a written agreement that is substantially in the form as the Consulting Agreement at Appendix C. If Respondent believes that changes are necessary, please identify the changes it would request to the sample Consulting Agreement, either by providing a marked revised copy of the Consulting Agreement or by identifying each section of the Consulting Agreement where Respondent would request changes, specifying the changes requested and, in either case, providing an explanation for each objection and revision.

#### **10. Miscellaneous**

**a)** Please provide the level of coverage of Respondent's insurance and professional liability insurance the firm carries, including the name of the insurance carrier(s). Please identify whether the coverage is on a per client basis, or whether the coverage is applied to the firm as a whole. Please identify all deductibles or self-insured retentions.

**b)** Please discuss any additional information that Respondent would like SFERS to know about Respondent that may impact consideration of Respondent as a potential service provider to SFERS.

## APPENDIX B

### Standard Forms

Before the City can award any contract to a contractor, that contractor must file three standard City forms (items 1-3 on the chart). Because many contractors have already completed these forms, and because some informational forms are rarely revised, the City has not included them in the RFQ package. Instead, this Appendix describes the forms, where to find them on the Internet (see last page), and where to file them. If a contractor cannot get the documents off the Internet, the contractor should call (415) 554-6248 or e-mail Purchasing ([purchasing@sfgov.org](mailto:purchasing@sfgov.org)) and Purchasing will fax, mail or e-mail them to the contractor.

If a contractor has already filled out items 1-3 (See note under item 3.) on the chart, **the contractor should not do so again unless the contractor's answers have changed.** To find out whether these forms have been submitted, the contractor should call Vendor Support at the Controller's Office at (415) 554-6702.

### Where the forms are on the Internet

#### Office of Contract Administration

Homepage: <http://www.sfgov.org/oca>  
Business with the City"

Click on "How to Qualify to Do

Form	Purpose/Info	Routing
<a href="#"><u>Request for Taxpayer Identification Number</u></a> (IRS Form W-9)  Request for Taxpayer Identification Number and Certification  <a href="https://sfcitypartner.sfgov.org/pages/index.aspx">https://sfcitypartner.sfgov.org/pages/index.aspx</a> <a href="https://www.irs.gov/pub/irs-pdf/fw9.pdf">https://www.irs.gov/pub/irs-pdf/fw9.pdf</a>	This form provides the City with your taxpayer ID number, which is then used to assign your firm a City 5-digit Supplier ID Number.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102  (415) 944-2442 <a href="mailto:sfcitypartnersupport@sfgov.org">sfcitypartnersupport@sfgov.org</a>
<a href="#"><u>Business Tax Declaration Form</u></a> (Form P-25)  <a href="http://newbusiness.sfgov.org/vendor">http://newbusiness.sfgov.org/vendor</a>	This Declaration is used to determine if you are physically "doing business in San Francisco" and therefore are required	Email: <a href="mailto:ttx.VendorAccounts@sfgov.org">ttx.VendorAccounts@sfgov.org</a> (415) 554-6718 Mail: Controller's Office City Hall, Room 484 1 Dr. Carlton B. Goodlett Pl. San Francisco, CA 94102

	to pay business taxes.	
<p><b><u>Declaration of Nondiscrimination in Contracts and Benefits</u></b> <i>with supporting documentation</i> (Form CMD-12B-101)</p> <p><a href="https://sfgov.org/cmd/forms-resources">https://sfgov.org/cmd/forms-resources</a></p>	<p>This Declaration is used by the City's Human Rights Commission to determine if the vendor has employees and offers benefits to these employees. If the vendor does, then the vendor must demonstrate to the Human Rights Commission that the vendor offers equal benefits (health, retirement, sick leave...) to employees with spouses and to employees with domestic partners by submitting with the Declaration copies of the vendor's benefit plans and personnel handbook that evidence compliance with the Human Rights</p>	<p>Website: <a href="http://www.sfgov.org/cmd">www.sfgov.org/cmd</a>  Email: <a href="mailto:cmd.equalbenefits@sfgov.org">cmd.equalbenefits@sfgov.org</a>  Mail: Contract Monitoring División  30 Van Ness Ave., Suite 200  San Francisco, CA 94102-6033  415-581-2310</p>

	Commission's standards. For additional information please visit City Administrator's <a href="#">Contract Monitoring Division's</a> website.	
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### Supplemental Forms

Depending on the requirements specified in the bid you are responding to, you may be requested to complete one of the below forms. These supplemental forms are bid specific and are required in addition to the mandatory forms above.

Form:	Required If:
Minimum Compensation Ordinance (MCO) Declaration ( <a href="#">pdf</a> )	You have at least \$25,000 (\$50,000 for non-profit organizations) in cumulative annual business with a City department or departments and have more than 5 employees, including employees of any parent, subsidiaries and subcontractors.
Health Care Accountability Ordinance (HCAO) Declaration ( <a href="#">pdf</a> )	You have at least \$25,000 (\$50,000 for non-profit organizations) in cumulative annual business with a City department or departments and have more than 20 employees (more than 50 employees for non-profit organizations) including employees of any parent, subsidiaries and subcontractors.
Insurance Requirements ( <a href="#">pdf</a> )	If the bid package requires the successful bidder to demonstrate proof of insurance

## **WHERE THE FORMS CAN BE FOUND ON THE INTERNET**

### **Office of Contract Administration**

Homepage: <https://sfgov.org/oca/>  
Purchasing forms: Click on “Resources” under the “Vendor Information” banner.

### **GSA – Office of the City Administrator, Contracts Monitoring Division (CMD)**

CMD’s homepage: <https://sfgov.org/cmd/>  
Equal Benefits forms: Click “12B Equal Benefits Program” in the column on the left side of the page.

## **APPENDIX C**

### **FORM OF CONSULTING AGREEMENT**

***STEWARDSHIP AND CORPORATE GOVERNANCE STRATEGY  
CONSULTING SERVICES AGREEMENT  
BETWEEN  
SAN FRANCISCO CITY AND COUNTY EMPLOYEES' RETIREMENT SYSTEM  
AND***

***[ \_\_\_\_\_ ]***

This Stewardship and Corporate Governance Strategy Consulting Services Agreement (this "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 20[] in the City and County of San Francisco (the "City"), State of California, by and between [ \_\_\_\_\_ ] ("Consultant") and the San Francisco City and County Employees' Retirement System (the "Retirement System").

#### **RECITALS**

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

WHEREAS, the Retirement System is dedicated to securing, protecting, and prudently investing pension trust assets and administering a defined benefit pension fund;

WHEREAS the Retirement System seeks stewardship and corporate governance strategy consulting services (the "Proposed Services");

WHEREAS, the Retirement System issued a request for qualifications with respect to the Proposed Services ("RFQ");

WHEREAS, as a result of the selection process in connection with the RFQ (the "RFQ Process"), the Retirement System selected Consultant for its pre-qualified pool of consultants and selected Consultant for a contract for the Proposed Services based on Consultant's representations during the RFQ Process; and

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

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

- 1. Term of the Agreement.** Subject to Section 8 of this Agreement, the term of this Agreement shall be [ ] beginning on [ \_\_\_\_\_, 20[] and ending on \_\_\_\_\_, 20[]; *provided, however*, that the Retirement System shall have [ ] options to extend the term of the Agreement for a period of [ ] each option, which the Retirement System may exercise in its sole, absolute discretion.
- 2. Engagement.** The Retirement System hereby engages Consultant, and Consultant hereby accepts such engagement, to provide the consulting services described in this Agreement to the Retirement System

in accordance with the terms and conditions of this Agreement, and applicable federal, state and local laws.

3. **Services.** Consultant agrees to perform the consulting services for the Retirement System as described in the Schedule of Services attached hereto as Exhibit A and incorporated by reference as though fully set forth herein (the "Described Services"). Additional services will be provided only upon and in accordance with a written request by the Executive Director of the Retirement System (the "Executive Director") or designee acting on behalf of the Retirement System (the "Additional Services," together with the Described Services, the "Services").
4. **Compensation.**
  - (a) **Fees.** For the full performance and the completion of the Services, Consultant shall be compensated as set forth in the Fee Schedule attached hereto as Exhibit B and incorporated by reference as though fully set forth herein (the "Fees"). The Fees include the compensation for professional Services as well as travel and other out-of-pocket expenses, printing, delivery, secretarial and clerical support services and any other costs incurred as may be necessary to perform the Services in a professional manner. No charges shall be incurred under this Agreement nor shall any payments become due to Consultant until reports, Services, or both, required under this Agreement are received from Consultant and approved by the Retirement System as being in accordance with this Agreement. The Retirement System may withhold payment to Consultant in any instance in which Consultant has failed or refused to satisfy any material obligation provided for under this Agreement. In no event shall the Retirement System be liable for interest or late charges for any late payments.
  - (b) **Fee Ceiling.** In no event shall the annual compensation amount under this Agreement exceed \_\_\_\_\_ Dollars [\$\_\_\_\_\_].
  - (c) **Payment Does Not Imply Acceptance of Services.** The granting of any payment by the Retirement System, or the receipt thereof by Consultant, shall in no way lessen the liability of Consultant to replace unsatisfactory Services, although the unsatisfactory character of such Services may not have been apparent or detected at the time such payment was made. Services that do not conform to the requirements of this Agreement may be rejected by the Retirement System and in such case must be replaced by Consultant without delay.
5. **Standard of Care.** Consultant represents and warrants that the Services will be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.
6. **Disclosures.**
  - (a) **RFQ.** Consultant represents and warrants that its statements, dated [\_\_\_\_\_], in its response to the RFQ, are true and correct.
  - (b) **Disclosure of Interest.** Consultant shall fully and promptly disclose to the Retirement System:
    - (i) its direct or indirect financial interests in any advice or recommendation that it may provide



to the Retirement System in providing the Services other than the Fees pursuant to this Agreement; and (ii) any other fact or relationship which would compromise or materially affect its ability to faithfully perform its duties under this Agreement.

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

## 7. **Personnel.**

- (a) **Qualified Personnel.** Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Consultant. Consultant will comply with the Retirement System's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at the Retirement System's request, must be supervised by Consultant. Consultant shall commit adequate resources to complete the Services within the schedule as reasonably specified by the Retirement System in accordance with this Agreement.
- (b) **Key Personnel.** The Retirement System may designate in writing, from time to time, that certain personnel of Consultant are "key personnel." Consultant shall immediately notify the Retirement System in writing of any changes in key personnel within its organization.
- (c) **Disclosures.** Consultant acknowledges and agrees that certain key personnel of Consultant, as designated solely by the Retirement System, shall file certain disclosures concerning economic interests at the determination of the Retirement System under Section 3.1-108 of the San Francisco Campaign and Governmental Conduct Code.

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

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

- 9. **Invoices.** Consultant shall submit invoices for the Services in a form acceptable to the Retirement System, along with an itemized statement of Services, at the end of each [ ]. Consultant shall send invoices to:

Ba Do  
Investment Operations Director

San Francisco Employees' Retirement System  
1145 Market Street, 5th Floor  
San Francisco, CA 94103-1561  
[Ba.Do@sfgov.org](mailto:Ba.Do@sfgov.org)

WITH COPY TO:

Andrew Collins  
Director of ESG Investing  
San Francisco Employees' Retirement System  
1145 Market Street, 5th Floor  
San Francisco, CA 94103-1561  
[Andrew.Collins@sfgov.org](mailto:Andrew.Collins@sfgov.org)

Consultant shall also send electronic copies of such invoices to: [Ba.Do@sfgov.org](mailto:Ba.Do@sfgov.org) with a copy to [Andrew.Collins@sfgov.org](mailto:Andrew.Collins@sfgov.org).

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

10. **False Claims.** The full text of San Francisco Administrative Code Chapter 21, Section 21.35 (the “False Claims Ordinance”), including the enforcement and penalty provisions, is incorporated into this Agreement. Consultant acknowledges that Consultant is subject to the False Claims Ordinance, which provides that any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in the False Claims Ordinance. Under the False Claims Ordinance, a contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the Retirement System a false claim or request for payment or approval; (b) knowingly makes or uses or causes to be made or used a false record or statement to get a false claim paid or approved by the Retirement System; (c) conspires to defraud the Retirement System by getting a false claim allowed or paid by the Retirement System; (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the Retirement System; or (e) is a beneficiary of an inadvertent submission of a false claim to the Retirement System, subsequently discovers the falsity of the claim and fails to disclose the false claim to the Retirement System within a reasonable time after discovery of the false claim.
11. **Taxes.** Consultant shall have the sole obligation to pay any taxes, including without limitation payroll taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the Services delivered pursuant to this Agreement.
12. **Independent Contractor.**
  - (a) **Independent Contractor Status.** In performing the Services, Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the Services and work under this

Agreement. Consultant or any agent or employee of Consultant shall not have employee status with the Retirement System, nor be entitled to participate in any plans, arrangements, or distributions by the Retirement System pertaining to or in connection with any retirement, health or other benefits that the Retirement System may offer its employees. Consultant or any agent or employee of Consultant is liable for the acts and omissions of itself, its employees and its agents. Consultant shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Consultant's performing Services and work, or any agent or employee of Consultant providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the Retirement System and Consultant or any agent or employee of Consultant.

- (b) **Payment of Taxes.** If any governmental authority should, nevertheless, determine that Consultant is an employee for purposes of collection of any employment taxes, then the Retirement System's payment obligations hereunder shall be reduced so that the aggregate number of payments directly to the Consultant and to the applicable governmental authority does not exceed the maximum amount specified in Section 4 of this Agreement. Consultant shall refund any amounts necessary to affect that reduction.
- (c) **Assignment.** The Services to be performed by Consultant are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Consultant (collectively, an "Assignment") without prior written consent of the Retirement System. A change of ownership or control of Consultant or a sale or transfer of substantially all of the assets of Consultant shall be deemed an Assignment for purposes of this Agreement. Consultant shall immediately notify the Retirement System about any Assignment. Any purported Assignment made in violation of this Section 12 shall be null and void.

### **13. Insurance.**

- (a) Without in any way limiting Consultant's liability pursuant to Section 14 of this Agreement, Consultant must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:
  - (1) worker's compensation, in statutory amounts, with employers' liability limits not less than \$1,000,000 each accident to the extent Consultant has employees;
  - (2) commercial general liability insurance with limits not less than \$1,000,000 each occurrence, including without limitation combined single limit for bodily injury and property damage, including contractual liability, personal injury, products, completed operations and hired and non-owned automobiles;
  - (3) commercial automobile liability Insurance with limits not less than \$1,000,000 each occurrence, "combined single limit" for bodily injury and property damage, including owned, non-owned and hired auto coverage (as applicable), to the extent Consultant intends to use personal or company vehicles to perform its

obligations under this Agreement;

- (4) professional indemnity (errors and omissions) insurance with limits not less than \$2,000,000 for each claim with respect to negligent acts, error of omissions in connection with the Services;
- (5) [Reserved]; and
- (6) cyber and privacy Insurance with limits of not less than \$1,000,000 per claim where such insurance shall include coverage for liability arising from theft, dissemination, and/or misuse of confidential information.
- (b) The commercial general liability insurance policy must (i) be endorsed to name as additional insured the Retirement System and its officers, agents, and employees; and (ii) provide that such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- (c) All policies shall be endorsed to provide thirty (30) days' advance written notice to the Retirement System of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the Retirement System in accordance with Section 21 hereof.
- (d) Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of five (5) years beyond the expiration or earlier termination of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration or earlier termination of the Agreement, such claims shall be covered by such claims-made policies.
- (e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified in this section.
- (f) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the Retirement System receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the Retirement System may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
- (g) Before commencing any Services under this Agreement, Consultant shall furnish to the Retirement System certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to the Retirement System, in form evidencing all coverages set forth herein. Consultant shall also furnish to the Retirement System such certificates and endorsements on an annual basis.

- (h) If Consultant will use any subcontractor(s) to provide Services under this Agreement in accordance with Section 25 herein, Consultant shall require the subcontractor(s) to provide all necessary insurance and to name the Retirement System, its officers, agents and employees and the Consultant as additional insureds.
- (i) Approval of the insurance by the Retirement System shall not relieve or decrease the liability of Consultant hereunder.

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

**15. LIMITATION ON LIABILITY OF THE RETIREMENT SYSTEM.** THE RETIREMENT SYSTEM'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 4 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL THE RETIREMENT SYSTEM BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN

CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

**16. Default; Remedies.**

- (a) Each of the following shall constitute an event of default ("Event of Default") under this Agreement:
  - (1) Consultant fails or refuses to perform or observe any term, covenant or condition contained in any of the following sections of this Agreement:
    - (A) Section 10 (False Claims);
    - (B) Section 11 (Taxes);
    - (C) Section 13 (Insurance);
    - (D) Section 20 (Proprietary or Confidential Information);
    - (E) Section 25 (No Assignment or Subcontracting);
    - (F) Section 31 (Alcohol and Drug-Free Workplace); and
    - (G) Section 44 (Compliance with Laws).
  - (2) Consultant fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten (10) days after written notice thereof from the Retirement System to the Consultant;
  - (3) Consultant (A) is generally not paying its debts as they become due, (B) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (C) makes an assignment for the benefit of its creditors, (D) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Consultant or of any substantial part of Consultant's property or (E) takes action for the purpose of any of the foregoing; or
  - (4) a court or government authority enters an order (A) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Consultant or with respect to any substantial part of Consultant's property, (B) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (C) ordering the dissolution, winding-up or liquidation of Consultant.
- (b) On and after any Event of Default, the Retirement System shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, the Retirement System shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Consultant any Event of Default; Consultant shall pay to the Retirement System on demand all costs and expenses incurred by the Retirement System in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. The

Retirement System shall have the right to offset from any amounts due to Consultant under this Agreement or any other agreement between the Retirement System and Consultant all damages, losses, costs or expenses incurred by the Retirement System as a result of such Event of Default and any liquidated damages due from Consultant pursuant to the terms of this Agreement or any other agreement.

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

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

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

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

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

- (a) Section 4(c) (Payment Does Not Imply Acceptance of Services);
- (b) Section 10 (False Claims);
- (c) Section 11 (Taxes);
- (d) Section 12 (Independent Contractor);
- (e) Section 13 (Insurance);
- (f) Section 14 (Indemnification);
- (g) Section 15 (Limitation on Liability of the Retirement System);
- (h) Section 20 (Proprietary or Confidential Information);
- (i) Section 22 (Ownership of Results);
- (j) Section 23 (Works for Hire);
- (k) Section 24 (Audit and Inspection of Records);
- (l) Section 39 (Modifications);
- (m) Section 40 (Administrative Remedy);

- (n) Section 41 (California Law; Venue);
- (o) Section 42 (Construction);
- (p) Section 43 (Entire Agreement); and
- (q) Section 46 (Severability).

Subject to the immediately preceding sentence, upon termination of this Agreement, this Agreement shall terminate and be of no further force or effect. Consultant shall transfer title to the Retirement System, and deliver in the manner, at the times, and to the extent, if any, directed by the Retirement System, any work in progress, completed work and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to the Retirement System.

## **19. Prohibited Activities.**

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

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

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



(d) Consultant shall comply with San Francisco Administrative Code Chapter 12K. Consultant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (a) asking such applicants about their current or past salary or (b) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Consultant is subject to the enforcement and penalty provisions in Chapter 12K. Consultant is required to comply with all of the applicable provisions of Chapter 12K, irrespective of the listing of obligations in this Section 19.

- 20. Proprietary or Confidential Information.** Consultant understands and agrees that, in the performance of the work or Services under this Agreement or in contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by the Retirement System and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the Retirement System. Consultant agrees that all information disclosed by the Retirement System to Consultant shall be held in confidence and used only in the performance of the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent consultant would use to protect its own proprietary confidential data. To that end, Consultant will, at a minimum, (1) establish and maintain an information security program with physical, administrative, technical and procedural controls and safeguards that are no less rigorous than accepted industry practices to protect the Retirement System's confidential information; (2) promptly (but no later than twenty-four (24) hours) notify the Retirement System upon becoming aware the confidentiality, security or integrity of Retirement System's confidential information has been compromised (each a "Data Breach") with such notice to contain information concerning the nature of the Data Breach, the unauthorized person(s) who accessed, used or disclosed the Retirement System's confidential information (if known) and what corrective action Consultant has taken or will take to prevent a future Data Breach; and (3) use commercially reasonable efforts to contain or mitigate a Data Breach and keep the Retirement System regularly informed of the progress of Consultant's investigation into the Data Breach. In addition, where the Retirement System has provided its prior written consent for Consultant to share confidential information with Consultant's vendors or sub-contractors for the sole purpose of providing Services hereunder, Consultant shall obtain from any such vendor or sub-contractor substantially similar confidentiality, use, data security and notice provisions contained in this Agreement to protect Retirement System's confidential information in vendor's or subcontractor's possession.
- 21. Notices.** Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail (with confirmation of receipt) or by fax (with confirmation of receipt), and shall be addressed as follows (or to such other recipient or address as either party from time to time may specify in writing to the other party in accordance with this notice provision):

To the Retirement System:

Andrew Collins  
Director of ESG Investing  
San Francisco Employees' Retirement System  
1145 Market Street, 5th Floor  
San Francisco, CA 94103-1561  
[Andrew.Collins@sfgov.org](mailto:Andrew.Collins@sfgov.org)

To Consultant: [\_\_\_\_\_]

**22. Ownership of Results.** Any interest of Consultant or its subcontractors, in drawings, plans, specifications, blueprints, studies, research, reports, memoranda, computation sheets, computer files and media or other documents prepared by Consultant or its subcontractors in connection with Services to be performed under this Agreement, shall become the property of and will be transmitted to the Retirement System in a useable format (including electronic format) upon demand by the Retirement System; *provided, however*, Consultant may retain and use copies for reference and as documentation of its experience and capabilities. The Retirement System shall have the unrestricted authority to publish, disclose, distribute or otherwise use in whole or in part any reports, data or other materials prepared under this Agreement, crediting Consultant as the source.

**23. Works for Hire.** If, in connection with Services performed under this Agreement, Consultant or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems design, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the Retirement System. If it is ever determined that any works created by Consultant or its subcontractors under this Agreement are not works for hire under U.S. law, Consultant hereby assigns all copyrights to such works to the Retirement System and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the prior written approval of the Retirement System, Consultant may retain and use copies of such works for reference and as documentation of its experience and capabilities.

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

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

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

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

**28. Nondiscrimination; Penalties.**

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

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

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

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

- 30. Tropical Hardwood and Virgin Redwood Ban.** Pursuant to San Francisco Environment Code Section 804(b), as amended, the City urges Consultant not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood product, virgin redwood or virgin redwood wood product.
- 31. Alcohol and Drug-Free Workplace.** The Retirement System reserves the right to deny access to, or require Consultant to remove from, the Retirement System's or the City's facilities agents of Consultant who the Retirement System has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the Retirement System's ability to maintain safe work facilities or to protect the health and well-being of the Retirement System's employees and the general public. The Retirement System shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, the Retirement System's or the City's facilities. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription.
- 32. Compliance with Americans with Disabilities Act.** Consultant shall provide the Services under this Agreement in a manner that complies with the Americans with Disabilities Act of 1990, as amended, including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.
- 33. Sunshine Ordinance.** Consultant acknowledges that under Section 67.24(e) of San Francisco Administrative Code, contracts, contractors' bids, responses to requests for proposals and all other records of communications between the Retirement System and persons or Firms seeking contracts, shall be open to public inspection immediately after a contract has been awarded. All information provided by Consultant that is covered by that ordinance (as it may be amended) will be made available to the public upon request.
- 34. Limitations on Contributions.** By executing this Agreement, Consultant acknowledges its obligations under Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Consultant's board of directors; Consultant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Consultant; any subcontractor listed in the bid or contract;

and any committee that is sponsored or controlled by Consultant. Consultant certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 of the San Francisco Campaign and Governmental Conduct Code by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the Retirement System.

- 35. Minimum Compensation Ordinance.** If applicable, Consultant shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Consultant is subject to the enforcement and penalty provisions in San Francisco Administrative Code Chapter 12P. By signing and executing this Agreement, Consultant certifies that it is in compliance with San Francisco Administrative Code Chapter 12P.
- 36. Health Care Accountability Ordinance.** If applicable, Consultant shall comply with San Francisco Administrative Code Chapter 12Q. Consultant shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Consultant is subject to the enforcement and penalty provisions in Chapter 12Q.
- 37. Prohibition on Use of Public Funds for Political Activity.** In performing the Services under this Agreement, Consultant shall comply with San Francisco Administrative Code Chapter 12G, as amended, which prohibits funds appropriated for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Consultant is subject to the enforcement and penalty provisions in such chapter.
- 38. First Source Hiring Program.** Consultant must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Consultant is subject to the enforcement and penalty provisions in Chapter 83 of the San Francisco Administrative Code.
- 39. Modifications.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.
- 40. Administrative Remedy.** All disputes, controversies or claims arising under or relating to this Agreement shall be settled by the Executive Director. The Executive Director's decision shall be deemed an exhaustion of all administrative remedies. However, the Executive Director's decision shall not preclude resorting to judicial remedy.
- 41. California Law; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.
- 42. Construction.** All section headings in this Agreement are for reference only and shall not be considered in construing this Agreement. Terms such as "hereunder" or "herein" refer to this Agreement as a whole. Terms such as "include" or "including" shall be deemed followed by the words "without limitation." References to consents, approvals, determinations or other decisions of the

Retirement System shall refer to the sole judgment of the Retirement System.

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

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

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

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

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

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

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first referenced above.

**SAN FRANCISCO CITY AND COUNTY  
EMPLOYEES' RETIREMENT SYSTEM**

[\_\_\_\_\_]

By: \_\_\_\_\_  
Alison Romano  
CEO & CIO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

Approved as to Form:

David Chiu  
City Attorney

By: \_\_\_\_\_  
[Insert Name]  
Deputy City Attorney

**EXHIBIT A**  
**SCHEDULE OF SERVICES**

The following description of schedule of services is intended as a general guide and not as a complete description of all aspects of services that the Retirement System may ask Consultant to perform or of all the tasks necessary to complete those services.

1. Strategic and research support on climate stewardship, including engagements through Climate Action 100+ where the Retirement System acts as lead engager and those where the Retirement System is a collaborating engager.
2. Support in developing the Retirement System's stewardship policies and procedures including defining an "escalation framework" for engagement and related internal governance processes.
3. Support in developing a framework and internal governance processes for making specific Retirement System decisions regarding votes against directors, exempt solicitations, shareholder proposals, and similar escalation actions.
4. Strategic and research support on SFERS' board diversity engagements, including engagements with peer asset owners and through the 30 Percent Coalition.
5. Educational programs for internal SFERS staff and SFERSs' Board, as communicated from time to time.
6. Additional governance and director research and strategic support, as communicated from time to time.



**EXHIBIT B**  
**FEES SCHEDULE**