

_____ **SERVICES CONTRACT**

WHEREAS, the parties hereto desire to enter into this Contract for the purpose of providing actuarial audit services to the Iowa Public Employees' Retirement System (IPERS) whose business location is 7401 Register Drive, Des Moines, Iowa 50321.

NOW, THEREFORE, for the mutual covenants and agreements herein contained, the parties agree as follows:

1. DEFINITIONS.

- a. "Contract" means the negotiated contract, the terms and conditions of the RFP, the _____'s proposal made in response to the RFP, and any written clarifications or changes made in accordance with the provisions herein.
- b. "IPERS" means the Iowa Public Employees' Retirement System as it is defined in Iowa Code chapter 97B, and other relevant sections of the Iowa Code.
- c.
- d.

2. PARTIES TO THE CONTRACT. This Contract shall be between _____, hereinafter referred to as _____, and the Iowa Public Employees' Retirement System, hereinafter referred to as IPERS, for the services as specified by this Contract.

3. TERM OF CONTRACT. This Contract shall begin on _____, 2023. The duration of the Contract shall be through _____, . IPERS and the _____ can extend this Contract based on the mutual agreement of the parties provided, however, any Contract extension shall be reduced to writing and signed by both parties. No extension shall be yond a total of six years.

4. DELIVERABLES.

5. FEES. This is a firm fixed price Contract. In exchange for the services in Paragraph 4, _____ will receive \$_____. The Contract does not guarantee any minimum level of purchase or any minimum amount of compensation.

5.1 The following performance based fees are applicable to this Contract:

- a. _____
- b. _____

6. TERMINATION OF CONTRACT.

6.1 Termination for cause: IPERS may terminate the Contract at any time after fifteen calendar days' written notice if _____ fails to carry out its

provisions. IPERS shall provide the _____ with fifteen calendar days' written notice of conditions endangering performance. If after such notice the _____ fails to remedy the conditions contained in the notice, IPERS may do one or more of the following:

- Exercise any remedy provided by law.
- Terminate the _____'s services.
- Seek monetary damages from the _____.

6.2 The _____ shall not be considered to be in default under this Contract, nor shall monetary damages be assessed, if performance is delayed or made impossible by an act of God, or such other event that is beyond the reasonable control of the _____. In each such case, the delay or impossibility must be beyond the reasonable control and without the fault or negligence of the _____.

6.3 Should IPERS obtain a money judgment against _____ as a result of a breach of this Contract, _____ consents to such judgment being offset against monies owed _____ by IPERS under this or any other agreement with IPERS or the State of Iowa.

6.4 Amounts due to IPERS as monetary damages may be deducted by IPERS from any money payable to the _____ pursuant to this or any other agreement. IPERS shall notify the _____ in writing of any claims for damages on or before the date IPERS deducts such sums from money payable to the _____.

6.5 Should either party be in default of its obligations, the party not in default shall issue a written notice of default providing for an agreed time frame in which defaulting party shall have an opportunity to cure, provided that the cure is possible and feasible. If after opportunity to cure, the default remains, the party not in default may exercise any remedy provided by Iowa law.

6.6 Notwithstanding any other provisions of Contract, if funds anticipated for continued fulfillment of said Contract are at any time not forthcoming or sufficient, either through the failure of IPERS to receive appropriated funds, discontinuance, or material alteration of the program for which funds were provided, then IPERS shall give written notice as soon as practical documenting the lack of funding, discontinuance, or program alteration. Unless otherwise agreed to by the parties, the Contract shall become null and void on the last day for which appropriations were available.

6.7 Remedies of the _____ in event of termination by IPERS. In the event of termination of this Contract for any reason, IPERS shall pay only those amounts, if any, due and owing to the _____ for services actually rendered up to and including the date of termination of the Contract and for which IPERS is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the _____'s claim. This provision in no way limits the remedies available to IPERS under this Contract in the event of termination. However, IPERS shall not be liable for any of the following costs:

- a. The payment of unemployment compensation to the Contractor's employees.
- b. The payment of workers' compensation claims which occur during the Contract or extend beyond the date on which the Contract terminates.
- c. Any costs incurred by the _____ in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract.
- d. Any taxes that may be owed by the Contractor in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes, or property taxes.

6.8 Termination at will. IPERS may terminate the Contract without penalty on any day by giving written notice to the _____ at least 30 calendar days prior to the termination. The _____ may terminate the Contract without penalty on any given day by giving written notice to IPERS at least 180 days prior to the termination.

7. EQUAL EMPLOYMENT OPPORTUNITIES. EQUAL EMPLOYMENT OPPORTUNITIES: The Manager shall comply with the provisions of federal, state, and local laws and regulations to ensure that no employee or applicant for employment is discriminated against because of race, religion, color, sex, disability, or national origin. Upon IPERS' written request, the Manager shall submit to IPERS a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121. The Manager shall ensure that all authorized subcontractors comply with the provisions of this clause. Failure to comply with this clause may result in termination and prohibition from further contracting with IPERS.

8. AUDIT AND EXAMINATION OF RECORDS. The _____ agrees that the _____ of the State of Iowa, or any authorized representative of IPERS, and where federal funds are involved, the Comptroller General of the United States or any other representative of the United States Government, shall have access to, and the right to examine, audit, excerpt, and transcribe any directly pertinent books, documents, papers, and records of the _____ relative to services performed, orders, invoices, or payments of this Contract.

8.1 All records relating to this Contract shall be retained by the _____ for five years following the date of final payment or completion of any required audit, whichever is earlier.

8.2 Compliance with this clause does not relieve the _____ from retaining any records required by other laws or regulations of federal, state, or local governmental units. The _____ will not be eligible for additional payments from IPERS, for expenses incurred, to comply with the foregoing audit requirements.

9. CONTRACT CHANGES. Changes in contractual provisions or services to be furnished under the Contract may be made only in writing and must be approved mutually by the _____ and IPERS.

10. INDEMNIFICATION AND LIABILITY RESTRICTIONS.

10.1 The _____ will indemnify IPERS against liability for any suits, actions, or claims arising from or relating to the performance of the _____ under this Contract.

10.2. IPERS has no obligation to provide legal counsel or defense to the _____ if a suit, claim, or action is brought against the _____ or its subcontractors as a result of the _____'s performance of its obligations under the Contract. In addition, IPERS has no obligation for the payment of any judgments or the settlement of any claims against the _____ as a result of the _____'s performance of its obligations under the Contract. The _____ shall immediately notify IPERS of any claim made or suit filed against the _____ resulting from the _____'s obligations under the Contract. The _____ will cooperate, assist, and consult with IPERS in the defense or investigation of any claim made or suit filed against IPERS resulting from the _____'s performance under the Contract.

10.3 The _____ agrees to indemnify and hold IPERS, its Chief Executive Officer, Managers, Board, Benefits Advisory Committee, elected and appointed officials, and employees harmless from any and all liabilities, damages, settlements, judgments, costs, and expenses, including reasonable attorney fees of IPERS staff or of the Iowa Attorney General's Office, and the costs and expenses and attorney fees of other counsel IPERS may retain, related to or arising from:

10.3.1 Property damage, personal injury, death, loss costs, expense or other harm arising out of, resulting from, relating to, or connected with any act or omission by the _____, its divisions, subsidiaries, partners, principals, employees, agents, elected or appointed officials, officers, and directors in fulfilling this Contract; or

10.3.2 Claims for infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from this Contract; or

10.3.3 Any breach or any claimed breach of this Contract by the _____ or by any of its partners, principals, officers, directors, employees, and agents.

10.4 IPERS shall not be responsible for action taken by the _____, its partners, principals, shareholders, employees, officers, elected or appointed officials, or its agents in knowing violation of any federal, state, or local law, or that of a foreign country.

10.5 In the event that either party deems it necessary to take legal action to enforce any provisions of the Contract, and in the event that IPERS prevails, the _____ agrees to pay costs and fees at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.

10.6 Immunity from Liability. Every person who is a party to the Contract is hereby notified and agrees that the State, IPERS, and all of their employees, agents, successors, and

assigns are immune from liability and suit for or from Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

11. TAXES. IPERS is exempt from federal excise taxes, and no payment will be made for any taxes levied on the _____'s payments. IPERS is exempt from state and local sales and use taxes on the services supplied pursuant to this Contract. In the event that the _____ is in arrears in payment of any State taxes that are due to the State of Iowa, the State may offset any taxes in arrears from payments to the _____ under the Contract.

12. SECURITY, CONFIDENTIALITY, AND OWNERSHIP OF DATA.

12.1 Access to Confidential Data. The _____'s employees, agents, and subcontractors may have access to confidential data maintained by IPERS to the extent necessary to carry out its responsibilities under the Contract. The _____ shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by IPERS. The _____ shall provide to IPERS a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats. The Primary _____ shall remain the responsible authority in charge of all data collected, used, or disseminated by the _____ in connection with the performance of the Contract. The _____ shall provide adequate supervision and training to its agents, employees, and subcontractors to ensure compliance with the terms of this Contract. The private or confidential data shall remain the property of IPERS at all times.

12.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of IPERS, either during the period of the Contract or thereafter. Any data supplied to or created by the _____ shall be considered the property of IPERS. The _____ must return any and all data collected, maintained, created, or used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of IPERS.

12.3 Subpoena. In the event that a subpoena or other legal process is served upon the _____ for records containing confidential information, the _____ shall promptly notify IPERS and cooperate with IPERS in any lawful effort to protect the confidential information.

12.4 Reporting of Unauthorized Disclosure. The _____ shall immediately report to IPERS any unauthorized disclosure of confidential information.

12.5 Survives Termination. The _____'s obligation under this Contract shall survive termination of this Contract.

13. RIGHTS IN PRODUCTS. IPERS retains all rights to the services and deliverables, and other results of the Contract. These rights exclude any copyrighted materials by the _____ that are utilized by IPERS. The

_____ may not reproduce or otherwise use the products of this Contract without the written consent of IPERS.

14. WARRANTY AGAINST CONTINGENT FEES. The _____ warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding of commission, percentage, brokerage, or contingency fee except bona fide employees maintained by the _____ for the purpose of securing business. For breach or violation of this warranty, IPERS shall have the right to immediately terminate this Contract without liability other than for services already performed, or in IPERS' discretion, to deduct from the Contract price or to otherwise recover the full amount of such commission, percentage, brokerage, or contingency.

15. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION. By signing this Contract, the _____ certifies that its prices in this Contract have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any competitor. No attempt was made by the _____ to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.

16. CONTRACT. This Contract between IPERS and the _____ shall include the negotiated Contract, the terms and conditions of the RFP, the _____'s proposal made in response to the RFP, and any written clarifications or changes made in accordance with the provisions herein. In the event of conflict between the documents, the rights of IPERS and the _____ shall be determined by first examining this agreement, then examining any written clarifications or changes that follow the effective date of this Contract, then the RFP, and finally the _____'s response to the RFP.

17. RELEASE OF INFORMATION ABOUT THIS CONTRACT. News releases or other material pertaining to this Contract shall not be made available to the public, the _____'s clients, or potential clients without prior written approval of IPERS.

18. AUTHORITY OF IPERS. IPERS shall determine the quantity, quality, and acceptability of work under this Contract. IPERS shall decide all questions regarding performance and fulfillment of the Contract, including the obligations of the _____.

19. ASSIGNMENT. The _____ shall not assign the Contract in whole or in part or any payment arising from the Contract without prior written consent of IPERS and subject to such conditions and provisions as IPERS may deem necessary.

20. PROHIBITION AGAINST GRATUITIES. Iowa law provides that it is a felony to offer, promise, or give anything of value or benefit to an elected official, public official, public employee, candidate, or that person's immediate family member, with the intent to influence that person's acts, opinion, judgment, or exercise of discretion with respect to that person's duties. In addition to any criminal and civil penalties, IPERS may, by written notice to the _____, terminate this Contract, if the

_____ violates this section.

21. USE OF THIRD PARTIES AND SUBCONTRACTORS. IPERS acknowledges that the _____ may contract with third parties for the performance of any of the _____'s obligations under this Contract. All subcontracts shall be subject to prior approval by IPERS. The _____ may enter into these contracts to complete the project provided that the _____ remains responsible for all services performed under this Contract. All restrictions, obligations, and responsibilities of the _____ under this Contract shall also apply to the subcontractors. IPERS shall have the right to request the removal of a subcontractor from the Contract for good cause.

22. INSURANCE. _____, and any subcontractor, shall maintain in full force and effect, with insurance companies licensed by the State of Iowa, at _____ expense, insurance covering its work during the entire term of this Contract and any extensions or renewals thereof. _____'s insurance shall, among other things, be occurrence based and shall insure against any loss or damage resulting from or related to _____'s performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and IPERS shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

22.1 Types and Amounts of Insurance Required. Unless otherwise requested by IPERS in writing, _____ shall cause to be issued insurance coverages insuring _____ and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified on the Contract Declarations and Execution Page for each occurrence. In addition, _____ shall ensure it has any necessary workers' compensation and employer liability insurance as required by law.

22.2 Certificates of Coverage. _____ shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to IPERS upon execution of this Contract and as further requested by IPERS. The certificates shall be subject to the approval by IPERS. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days' prior written notice to IPERS. Approval of the insurance certificates by IPERS shall not relieve _____ of any obligation under this Contract.

22.3 Waiver of subrogation rights. _____ shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to State and/or IPERS.

23. JURISDICTION OF DISPUTES. This Contract shall be governed under Iowa law. Jurisdiction over disputes involving this Contract, not settled by mutual consent of the parties, shall be solely in the courts of the State of Iowa and shall be tried in Polk County, Iowa District Court, or the United States District Court for the Southern District of Iowa, if jurisdiction is appropriate in federal court.

24. _____ PERSONNEL. IPERS may request replacement of any of

the _____'s personnel believed unable to carry out the responsibilities of this Contract. IPERS shall approve replacement personnel. Such approval shall not be unreasonably withheld. Such approval shall in no way lessen the _____'s responsibility for the proper selection, assignment, management, and discipline of the _____'s employees.

25. _____'S TERMINATION AND TRANSITION DUTIES. If this Contract is terminated with or without cause the _____, upon the receipt of notice from IPERS, shall:

25.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) calendar days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, or any other matters IPERS may require.

25.2 Immediately cease using and return to IPERS any personal property, records, data, or materials, whether tangible or intangible, provided by IPERS to the _____, unless otherwise directed by IPERS.

25.3 Comply with IPERS' instructions for the timely transfer of any active files and work product(s) produced by the _____ under this Contract.

25.4 Cooperate in good faith with IPERS, its employees, agents, and contractors during the transition period between the notification and the substitution of any replacement contractor.

25.5 Immediately return to IPERS any payments made by IPERS for services that were not rendered by the _____.

26. INDEPENDENT CONTRACTOR STATUS. It is expressly understood and agreed that the _____ will act as an independent contractor in performance of this Contract. No provision hereunder shall be intended to create an employer/employee relationship with respect to the _____'s employees and IPERS nor shall this Contract be construed to create a partnership or joint venture with respect to the services and deliverables, or otherwise.

27. INTEGRATION. This Contract represents the entire agreement between the parties and neither party is relying on any representation that may have been made which is not included in this Contract.

28. HEADINGS OR CAPTIONS. The paragraph headings or captions are for identification purposes only and do not limit or construe the contents of the paragraphs.

29. SUPERSEDES FORMER AGREEMENTS. This Agreement supersedes all prior Agreements between the _____ and IPERS for the services provided in connection with this Agreement.

30. _____ CHANGES. The _____ shall

provide notification to IPERS concerning changes in the _____'s organizational relationships, ownership, professional staff, or services, which may have an impact on the _____'s performance under this Contract.

31. JOINT AND SEVERAL LIABILITY. If _____ is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of activities and obligations.

32. NOTICE. Any notice, advice, or report to be given pursuant to this Contract shall be delivered or mailed to:

FOR IPERS:

Shawna Lode, Communications Director
Iowa Public Employees' Retirement System
7401 Register Drive, P.O. Box 9117
Des Moines, Iowa 50306-9117
E-mail: shawna.lode@ipers.org
Phone: 515-491-1374

FOR _____:

33. SEVERABILITY. If any provision of this Agreement is deemed invalid or unenforceable, the remainder shall be valid and enforceable.

34. WAIVER OF INFORMALITIES. Failure of IPERS at any time to require strict performance of any provision of this Contract shall not constitute a waiver of that provision nor in any way limit the enforcement of the provision.

35. COUNTERPARTS. This Contract may be executed in any number of counterpart copies, each of which when fully executed shall be considered as an original.

36. INVOICES. The _____ shall submit an invoice pursuant to the performance-based payment schedule as agreed to by the _____ and IPERS. IPERS shall be permitted a reasonable period to verify that the invoiced services were rendered and pay the invoice. The _____ shall not be entitled to any interest unless provided for under Iowa law.

37. ADHERENCE TO ETHICS POLICY. The _____ acknowledges that it has been provided with a copy of the IPERS Ethics Policy, and agrees to comply with that policy as a material requirement under this Contract. The _____ agrees that, except as otherwise disclosed and preapproved by IPERS, it shall not be involved in relationships with IPERS' Key Employees or with any other party providing products and/or services to IPERS where the relationships would constitute a conflict of interest under the IPERS Ethics Policy. In addition, the _____ agrees to certify upon IPERS' reasonable

request that the provisions of this paragraph continue to be true, and also to promptly notify IPERS and request a ruling using the IPERS disclosure statement at any time when the provisions of the paragraph may no longer be true because of a potential or actual conflict of interest.

38. TIME IS OF THE ESSENCE. Time is of the essence with respect to the _____'s performance of the terms of this Contract. _____ shall ensure that all personnel providing Deliverables to IPERS are responsive to IPERS' requirements and requests in all respects.

IN WITNESS, WHEREOF the parties have agreed to all provisions contained herein and has executed this Agreement on the date indicated.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

By _____
Shawna Lode, Communications Director

Date: _____

By _____

Date: _____