CITY OF PHOENIX
EMPLOYEES' RETIREMENT SYSTEM

REQUEST FOR PROPOSALS
FOR
OUTSIDE COUNSEL LEGAL SERVICES

DEADLINE FOR SUBMISSION
April 24, 2015

SUBMITTAL ADDRESS
City of Phoenix
Employees' Retirement System
200 W. Washington Street, 10th Floor
Phoenix, Arizona 85003
Email: copersrfp@phoenix.gov

CONTACT PERSON
Scott Miller
Retirement Program Administrator
200 W. Washington Street, 10th Floor
Phoenix, Arizona 85003
602-262-7694
scott.a.miller@phoenix.gov
**DEADLINE FOR RECEIVING OFFER**

Offers must be submitted by 3:00 p.m. MST on **Friday, April 24, 2015** (“Offer Date”). Offers received after 3:00 p.m. MST may not be considered. Offers must be delivered to:

Scott A Miller
Retirement Administrator
City of Phoenix Retirement Department
200 West Washington Avenue, 10th Floor
Phoenix, AZ 85003-1611

If Offeror wishes to provide outside counsel **legal services**, Offeror must submit one (1) signed original and four (4) copies for a total of five (5) copies in a package marked: “Offer, Outside Counsel Legal Services, RFP No. 14-LAW-003.” For all Offers, the name of the Offeror should be listed on the outside of the package. All Offers must be complete by providing all of the information requested under Section III, Submission.

**DEADLINE FOR WRITTEN QUESTIONS**

Questions regarding this RFP should be submitted in writing to Scott A Miller, via FAX (602) 495-2008 or e-mail to scott.a.miller@phoenix.gov, no later than **Friday, April 3, 2015, by 3:00 p.m., MST**. Answers will be provided in the form of addenda and posted to the RFP Internet site by Friday, April 10, 2015.

**CONTACT PERSON**

CD ROM and hard copy formats of the RFP are also available upon written request and at no charge. For more information or an alternate format of this RFP, please contact scott.a.miller@phoenix.gov or (602) 262-7694.
Outlined below is schedule of activities for this RFP process:

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<td>April 24, 2015</td>
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<td>May 15, 2015</td>
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All dates are subject to change without prior notice. The City of Phoenix is not responsible for cost or losses incurred by any Offeror due to date changes.
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I. INTRODUCTION

A. OUTSIDE COUNSEL FOR FIRE AND POLICE PENSION BOARDS:

The City of Phoenix Retirement Department, on behalf of the City of Phoenix Fire Pension Board and the City of Phoenix Police Pension Board for the Public Safety Personnel Retirement System (the “Board(s)”), invite sealed proposals, including detailed information concerning the qualifications and hourly rates of law firms or attorneys, for providing legal services as outside counsel to the Boards. Those services will include attending meetings of the Boards, providing legal counsel and advice to the Boards and applicable staff, reviewing agenda and supporting materials prior to the meetings and monitoring compliance with the open meeting laws.

The Scope of Work is set forth in detail in Section III of this RFP.

B. OFFER PROCESS:

The Offer by the qualified attorney or law firm to furnish legal services at the rates provided in Attachment B-Areas of Practice and Rate Schedule must remain fixed for the entire term of the offer and acceptance period until accepted by the Boards.

All documents and information involving this RFP process are available from the City of Phoenix RFP Internet site: https://www.phoenix.gov/solicitations

C. MINIMUM QUALIFICATIONS REQUIREMENTS-OUTSIDE COUNSEL:

Offeror must be authorized to practice law and be in good standing in the state in which Offeror is authorized to practice law. While the Boards encourage Offers from attorneys admitted to jurisdictions outside of Arizona, the legal services sought involve matters located within Arizona.

D. AGREEMENT TERM:

The term of the agreement is a period of three (3) years, and the agreement may contain two additional one (1) year options for renewal. The option to renew an agreement for an additional year is at the discretion of the Boards and will be exercised only if it is in the City’s best interest to do so.

E. CONTRACTUAL RELATIONSHIP:

The information in this RFP is not intended to completely define the proposed contractual relationship to be entered into by the Boards and the successful Offeror. Offeror is advised to read the representative agreement in Attachment A-Sample Contract carefully. These agreement terms may be amended at the
sole discretion of the Boards at any time during the RFP process and prior to execution.

II. SOLICITATION TRANSPARENCY POLICY

Beginning on the date the solicitation is issued and until the date the contract is awarded or the solicitation withdrawn, all persons or entities that respond to the solicitation for Board Counsel, including their employees, agents, representatives, proposed partner(s), subcontractor(s), joint venturer(s), member(s), or any of their lobbyists or attorneys, (collectively, the Offeror) will refrain, from any direct or indirect contact with any person (other than the designated contract representative) who may play a part in the selection process, including members of the Boards and the evaluation panel, the City Manager, Assistant City Manager, Deputy City Managers, Department heads, the Mayor and other members of the Phoenix City Council. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff.

Offerors may discuss their proposal or the solicitation with the Boards, the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through Scott Miller, conducted in person at 200 West Washington, Phoenix, Arizona 85003, and are posted as open meetings with the City Clerk at least twenty-four (24) hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Offeror/Bidder, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective offerors.

This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.**
III. SCOPE OF SERVICE

The City of Phoenix Police Pension Board and the City of Phoenix Fire Pension Board seek outside legal counsel experienced in the area of Public Pension Plans, specifically including public safety pension plans.

The Boards are seeking proposals from qualified law firms to provide general legal services. The services requested are below:

- Advising the Boards on compliance with all applicable federal laws including all qualification issues affecting employee benefits plan design under the Internal Revenue Code.
- Advising the Board concerning drafting and compliance of plan documents, including rules, policies, and procedures.
- Providing specific, written recommendations on amendments to policies and procedures.
- Providing advice, review and drafting services concerning necessary legal documents.
- Providing advice, review and drafting services relating to benefits administration.
- Providing sophisticated legal advice on federal tax matters.
- Presenting legal opinions concerning benefits or other legal issues as requested.
- Providing legal opinions on fiduciary duties.
- Assisting in the communication of concerns involving pension fund issues to trustees, staff, consultants, advisors and other parties.
- Attending board meetings at the request of the Boards and the Local Board Secretary, and monitor compliance with open meetings laws.
- Representing the Board in complex litigation regarding plan issues. Counsel shall, upon referral of a lawsuit or other legal matter by either of the Boards, provide any necessary legal representation to the Boards and any of its officers, employees or agents as directed by the Boards. Counsel agrees to perform all necessary legal services, including but not limited to investigation, legal research, preparation of legal memoranda, pleadings and briefs and making appearances before administrative tribunals and courts in representing the Boards.
IV. INSTRUCTIONS TO OFFERORS

A. INTRODUCTION:

A response to this solicitation is an offer to contract with the City of Phoenix Fire and Police Pension Boards based upon the terms, conditions, and specifications contained in the solicitation.

Such a proposal does not become a contract until it is executed by the Boards.

For this solicitation, the contract representative is: Scott Miller, Retirement Program Administrator, scott.a.miller@phoenix.gov, 602-262-7694.

Interested Offerors may download the complete solicitation and addenda from https://www.phoenix.gov/solicitations. Internet access is available at all public libraries.

Any interested offerors without Internet access may obtain this solicitation by calling 602-262-7694 or picking up a copy during regular business hours at:

City of Phoenix Retirement Department
200 West Washington Avenue, 10th Floor
Phoenix, AZ 85003-1611

The City of Phoenix and the Boards take no responsibility for informing recipients of changes to the original solicitation document. It is the Offeror’s responsibility to obtain a copy of any amendment relevant to this solicitation. Failure to submit amendments with the solicitation response may be grounds for deeming a submittal non-responsive.

This solicitation is available in large print, Braille, audio tape, or computer diskette. Please call (602) 262-5054/Fax (602) 534-2311 or TTY (602) 534-5500 for assistance.

B. DEFINITIONS OF KEY WORDS USED IN THE SOLICITATION:

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.

Should: Indicates something that is recommended but not mandatory. If the offeror fails to provide recommended information, the Board may, at its sole option, ask the offeror to provide the information or evaluate the offer without the information.
May: Indicates something that is not mandatory but permissible.

C. **SCHEDULE OF EVENTS:**

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**Proposal Submittal Location:** City of Phoenix Retirement Department  
200 West Washington Avenue, 10th Floor  
Phoenix, AZ 85003-1611

The Boards reserve the right to change dates and/or locations as necessary.

D. **PRE-PROPOSAL CONFERENCE:**

No Pre-Proposal Conference will be held.

E. **OFFEROR INQUIRIES:**

All questions that arise relating to this RFP shall be directed in writing to the Department contact representative designated in the Introduction to this RFP:

Scott Miller  
Retirement Program Administrator  
City of Phoenix Retirement Department  
200 West Washington Avenue, 10th Floor  
Phoenix, AZ 85003-1611  
scott.a.miller@phoenix.gov  
602-262-7694

To be considered, written inquiries shall be received at the above address by the date indicated in Section IV(C) above (Schedule of Events). Inquiries received will then be answered by an addendum and published at the Department website listed above: https://www.phoenix.gov/solicitations

No informal contact initiated by Offerors on the requested service will be allowed
with members of City’s staff from date of distribution of this RFP until after the closing date and time for the submission of proposals. All questions concerning or issues related to this RFP shall be presented in writing.

F. **AMENDMENT OF REQUEST FOR PROPOSAL:**

The Offeror shall acknowledge receipt of a Request for Proposal amendment by signing and returning the document by the specified due date and time. It is the Offeror’s responsibility to obtain a copy of any amendment relevant to this solicitation. Failure to submit amendments with the solicitation response may be grounds for deeming a submittal non-responsive.

G. **FAMILIARIZATION OF SCOPE OF WORK:**

It is the responsibility of all offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of the contract requirements. The submission of a proposal will constitute a representation of compliance by the offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

H. **PREPARATION OF PROPOSAL:**

1. All proposals shall be on the forms and in the format set forth the Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.

2. The Offer and Acceptance form, the Price Page and any solicitation amendments must be signed and returned with the proposal.

3. The Offer and Acceptance page shall be signed by a person authorized to submit an Offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to provide the service specified herein.

4. Erasures, interlineations, or other modifications of your proposal shall be initialed in original ink by the authorized person signing the proposal.

5. In case of error in the extension of price in the proposal, unit price shall govern when applicable.
6. Periods of time, stated as a number of days, shall be in calendar days.

7. The Boards shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation. All materials and proposals submitted in response to this solicitation become the property of the Boards and will not be returned.

I. PROPOSAL FORMAT:

The written proposal shall be signed by an individual authorized to bind the Offeror. The proposal shall provide the name, title, address and telephone number of individuals with authority to contractually bind the company and who may be contacted during the period of the Contract. All fees quoted shall be firm and fixed for the full contract period. Please see Section VIII – Offer and Submittal, for further information. Each response shall be:

1. Typewritten for ease of evaluation.

2. Be limited to 25 pages.

3. Submitted in an 8½ x 11 inch loose leaf three-ring binder preferably using double-sided copying and at least 30% post consumer content paper.

4. Set forth in the same sequence as identified in Section VIII – Submittal (i.e., Offerors should respond to this RFP in sequence and each narrative response should reference the applicable section of Evaluation Requirements).

5. Signed by an authorized representative of the Offeror.

6. Submitted with the name(s), title, address, and telephone number of the individual(s) authorized to negotiate a contract with the City.

7. Appended with any exceptions to the Terms and Conditions clearly stated. See Section IV(J) below.

J. REQUEST TO MODIFY THE CONTRACT PROVISIONS:

A response to any Request for Proposal is an offer to contract with the Boards based upon the contract provisions contained in the Request for Proposal, including, but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must submit a “Request for Consideration of Alternate Terms.” See Submittal, #10 on Solicitation Response Checklist. The written request for modification must be received by the Department contact listed on the front of this solicitation, at least seven (7) calendar days prior to the proposal due date. The Boards may
issue an addendum to this solicitation of any approved specification changes. The provisions of the Request for Proposal cannot be modified without the express written approval of the Board Chairperson or Board Chairperson's designee. If a proposal or offer by Offeror is returned with modifications to the contract; the contract provisions contained in the Request for Proposal shall prevail unless the Offeror’s proposed alternative provisions are expressly approved in writing by the Board Chairperson or designee.

K. **PUBLIC RECORD:**

All proposals submitted in response to the Request for Proposal shall become the property of the Boards and shall become a matter of public record available for review pursuant to Arizona state law after the award notification.

L. **CONFIDENTIAL INFORMATION:**

The City of Phoenix Fire and Police Pension Boards are obligated to abide by all public information laws.

If an Offeror believes that a specific section of its proposal is confidential, the Offeror shall isolate the pages marked confidential in a specific and clearly labeled section of its proposal. The Offeror shall include a written basis for considering the marked pages confidential including the specific harm or prejudice if disclosed and the Boards will review the material and make a determination.

M. **CERTIFICATION:**

By signature in the offer section of the Offer and Submittal page in Section VIII Offeror certifies:

1. The submission of the offer did not involve collusion or other anti-competitive practices.

2. Offeror will not discriminate against any employee or applicant for employment in violation of Federal or State Law.

3. Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer.

4. Offeror is financially stable and solvent and has adequate cash reserves to meet all financial obligations while waiting reimbursement from the City.
N. **SUBMISSION OF PROPOSAL:**

Proposals must be in the actual possession of the Boards at the designated location, on or prior to the exact time and date indicated in the Schedule of Events. Late proposals shall not be considered. The prevailing clock shall be the City’s clock at the location designated for delivery of the proposal.

Proposals must be submitted in a sealed envelope or box and the following information should be noted on the outside of the envelope:

- Offeror’s Name
- Offeror's Address (as shown on the Certification Page)
- RFP Number
- RFP Title

All proposals must be completed in ink or typewritten.

O. **LATE PROPOSALS:**

Late proposals shall be rejected regardless of the reason, including mail delivery problems beyond Offeror’s control. Offerors mailing their responses should allow sufficient time to insure delivery by the date and time specified.

P. **NON-RESPONSIVE PROPOSALS:**

Proposals deemed non-responsive will not be evaluated or considered for award.

1. The following proposals will not be evaluated:

   - Proposals submitted unsigned.
   - Proposals that do not conform to the minimum specifications stated in the scope of work.
   - Proposals submitted without complete pricing.
   - Proposals that contain altered or conditional cost information.
   - Proposals submitted by an Offeror who does not have valid certifications and/or licenses required by state, federal or local law or regulations to perform the service requested at the time of the submittal.
   - Proposals that fail to contain the required bonds, security assurances or insurance certificates as specified in this RFP.
• Proposals not received by the designated due date, place and time.

2. Proposals may be deemed non-responsive at anytime in the evaluation process if in the sole opinion of the Boards:

• Offeror does not meet the minimum required skill, experience or other conditions or terms set forth in this RFP.

• Proposal does not comply with the submission requirements including any specified page limits.

• Offeror does not have a past record of sound business integrity and a history of fulfilling contractual obligations.

• Offeror is not financially stable, solvent, or have cash reserves to meet all financial obligations while waiting reimbursement from the Boards. (An Offeror who is borrowing any or all of the monies necessary to meet initial expenses between the start of the contract period and receipt of the first payment must provide a Letter of Commitment from the Offeror’s creditor).

• Proposal contains false, inaccurate, or misleading statements that, in the opinion of the City, is intended to mislead the City in its evaluation of the proposal.

Q. RESPONSIVE PROPOSALS:

Proposals must meet all material requirements of the solicitation. All required elements of a sealed proposal will be evaluated on a pass/fail basis. The use of scoring or ranking cannot be used to evaluate non-responsive proposals. Only those proposals determined to be responsive will be evaluated and scored by members of an evaluation committee in accordance with the criteria set forth in the Scope of Work in this RFP.

In addition, the committee MAY request a formal presentation from the highest ranked Offerors before a final recommendation is made. If presentations are requested and presented, the evaluation team will re-convene, review, and re-score the evaluation categories based on the expanded information.

In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The Boards shall not reimburse the Offeror for the costs associated with the interview process.

The Boards reserve the right to make such additional investigations as they deem necessary to establish the competence and financial stability of any Offeror
submitting a proposal.

Experiences with the City and entities that evaluation committee members represent may be taken into consideration when evaluating qualifications and experience.

If two or more finalists are tied, the finalist with the lowest cost proposal score will be awarded the contract.

Note: In addition to the foregoing information submitted by Offerors, the Boards shall have the right to consider other verifiable information bearing on financial stability and strength including, without limitation, information provided by former employees and/or creditors.

R. **COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY:**

In order to do business with the City, Consultant must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Consultant will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

S. **OFFER AND ACCEPTANCE PERIOD:**

In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for 120 days after the proposal due date and time.

T. **DISCUSSIONS:**

The Boards reserve the right to conduct discussions with Offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to solicitation requirements. If such a discussion is deemed necessary, the only City staff that is authorized to contact the Offeror is the contract representative listed on the front of this proposal. The contract representative shall document any such discussion in the Board’s file.

U. **WITHDRAWAL OF OFFER:**

At any time prior to the solicitation due date and time, an offeror (or designated representative) may withdraw the proposal by submitting a request in writing and signed by a duly authorized representative. Facsimiles, telegraphic or mailgram withdrawals shall not be considered.
V. PROPOSAL RESULTS:

Proposals and other information received in response to the Request for Proposal shall be shown only to authorized Board members having a legitimate interest in them or persons assisting the Boards in the evaluation. Proposals are not available for public inspection until after award recommendation has been posted on the City’s website, https://www.phoenix.gov/solicitations.

W. EVALUATION CRITERIA:

Proposals will be evaluated and scored by members of an evaluation committee in accordance with the criteria stated in Section V, consisting of technical component(s) and a pricing (or “cost”) component.

In addition, the committee MAY request a formal presentation from the highest ranked Offerors before a final recommendation.

X. BOARDS’ RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:

The Boards reserve the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the proposal submitted or any other data available to the Boards. This disqualification is at the sole discretion of the Boards. Any Offeror submitting a proposal herein waives any right to object now or at any future time, before any body or agency, including but not limited to the Public Safety Personnel Retirement System Board of Trustees, the City Council of the City of Phoenix or any court.

Y. AWARD:

The Offeror whose proposal receives the highest score will be recommended for the contract award.

Notwithstanding any other provision of this solicitation, the Boards reserve the right to: (1) waive any immaterial defect or informality; or (2) reject any or all proposals or portions thereof; or (3) reissue a solicitation.

A response to this solicitation is an offer to contract with the Boards based upon the terms, conditions, and specifications contained in the solicitation. Such a proposal does not become a contract until it is executed by the Boards. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, unless any of the terms, conditions, or specifications is modified by an addendum or contract amendment. The terms and conditions set forth in this RFP and the selected Offeror’s Offer (Section VIII – Submittal) shall form the entire contract between the Boards and the Contractor.
Z. **EMPLOYEE IDENTIFICATION:**

Offeror agrees to provide an employee identification number or social security number to the City of Phoenix for the purposes of reporting to appropriate taxing authorities, monies paid by the City of Phoenix under the awarded contract. If the federal identifier of the Offeror is a social security number, this number will be shared only with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

V. **EVALUATION REQUIREMENTS**

A. **EVALUATION CRITERIA and FORMAT:**

All timely proposals will be reviewed to determine whether the minimal qualification requirements have been met. Proposals that do not meet all qualifications requirements will be considered non-responsive and will be rejected.

Each Proposal has two parts; a Technical component and a Price (“Cost” or “Pricing”) component. Each Proposal will be evaluated on its technical and cost merits by a panel of reviewers. The Proposal Evaluation Criteria (listed in relative order of importance) are as follows:

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<tr>
<th>Criteria</th>
<th>Points</th>
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<tbody>
<tr>
<td>Qualifications and Experience</td>
<td>600</td>
</tr>
<tr>
<td>Method of Approach</td>
<td>200</td>
</tr>
<tr>
<td>Pricing</td>
<td>200</td>
</tr>
</tbody>
</table>

Total available points: 1000

The narrative portion and the materials presented in response to this Request for Proposal shall be submitted with the Price component as set forth in the Submittal, Section VIII and follow the same order as requested and must contain, at a minimum, the following:

B. **OFFER EVALUATION & SELECTION PROCESS:**

A Selection Committee established by the Fire and Police Board Chairperson will evaluate all Offers to the RFP. The Selection Committee will select a finalist from among the Offerors based upon the Offers to the RFP and the need for representation within the specific area of governmental retirement plans. Price will not be the controlling factor in making a selection but will be given due consideration. Additional selections may be made as the need for legal services develops. However, the execution of an agreement does not guarantee that any matter or any minimum number of matters will be assigned to any particular attorney, individual, or firm.
C. **OFFER AND ACCEPTANCE PERIOD:**

Once an Offeror has submitted a proposal, the Offeror must maintain and shall not increase the hourly rates set forth in the Offer for the particular billing designation and specialty. The rates must remain fixed throughout the term of any resulting agreement and any extensions of the agreement.

D. **OFFEROR’S EXPERIENCE AND QUALIFICATIONS:**

1. **Good Standing Requirement:**

   In order to have an Offer considered for review, the Boards require all Offerors who contract with the City of Phoenix to be in good standing in the state in which they are authorized to practice law at all relevant times including, but not limited to, the Offer and acceptance period and throughout the term of any resulting agreement.

2. **Business History:**

   Offerors shall provide the following general background information with respect to the law firm and attorneys with special focus on the area of specialization under consideration:
   
   a. the size and experience of the firm,
   b. the type of firm organization (i.e., partnership, professional corporation), and
   c. the overall areas of practice of the firm, including whether the firm offers governmental retirement plan advice services.

3. **Relevant Experience and Key Personnel:**

   Offerors shall provide the following specific information with respect to the specific area of specialization:
   
   a. the number and a description of public pension plans, specifically including Arizona local public safety Boards, for which the Offeror is currently providing legal services or has provided legal services in the past,
   b. the names of the attorneys (“Key Personnel”) who will be assigned to provide legal services for this specific area of law,
   c. the number of years they have been practicing in that area of law,
   d. their position in the firm hierarchy for billing purposes (e.g., senior partner, junior partner, senior associate, or junior associate),
e. the hourly rate offered for each level and specialty within the firm hierarchy, which hourly rate must not increase throughout the term of the Offer and acceptance period,
f. their specialist certification (if any),
g. references from current or former clients, and
h. resumes or other similar documents of the Key Personnel that will be assigned to these services, listing education, training, bar membership(s), any experience specifically related to the Scope of Work and any similar work successfully completed. [Limit three (3) pages per resume.]

4. **Adverse Actions/Potential Impact:**

State whether the firm is currently involved in any litigation, threatened litigation, investigation, reorganization, receivership, filing, strike, audit, corporate acquisition, unpaid judgments or other action that could have an adverse impact on your ability to provide the required RFP needs. If so, please describe the nature of the item and its potential impact.

State whether your firm has been unable to complete a contract, been removed from a contract, or been replaced during a contract period in the past five years. If so, explain what happened and why.

5. **Government/Corporate Experience:**

State your firm’s experience in providing services to public pension plans, specifically including Arizona local public safety Boards, and any other private pension plans. List other government contracts that you have now or have had in the past five years including the City of Phoenix. [**Not to exceed 3 pages**]

6. **Sample Projects:**

Describe sample projects (not to exceed 3) which best illustrate the firm’s qualifications for the scope of the services; identifying any projects accomplished by current staff while conducted under the employment of others. Projects must be of similar complexity completed and demonstrate the Offeror’s ability and experience to successfully perform the services. [**Not to exceed 5 pages total**]

7. **Customer References:**

Offeror shall furnish as references a minimum of one (1) reference but no more than five (5) from firms or government organizations for which the Offeror is currently furnishing services; or in the past five years has completed services. References from public pension plans, specifically
including Arizona local public safety Boards, are preferred.

Please provide for each reference: Name of Company or Government Entity, Name of Reference, Address, Telephone Number and E-mail Address [if available].

8. **Other Relevant Information:**

Submit any other information which documents other skills or experience relating to the requirements of this RFP which you believe may be relevant including brochures and descriptions.

E. **METHOD OF APPROACH:**

Describe the firm’s method of approach to satisfy the requirements of the solicitation. This should be accomplished by covering the Scope of Work requirements. Offeror may utilize a written narrative or other printed technique to demonstrate the ability to satisfy the Scope of Work. Address issues such as:

1. **Customer Service – Availability:**

State the work schedule (days and hours) that the contract representative will be available and the anticipated turn around time for returning phone calls.

State the availability of assigned personnel to perform the work according to the timing/needs of the Boards. Provide a brief assessment of the current workload and capacity of the Offeror to carry out the Scope of Work.

2. **Customer Service – Office Resources:**

State or describe the on-site resources such as office space, conference rooms, clerical support for meeting arrangements as relevant to the services provided.

3. **Sample Documents:**

Provide three samples of memos or other documents provided to pension clients.

4. **Technology:**

Describe how your firm uses technology in performing services.
5. **Budget Controls:**

Describe the fiscal accounting processes and budgetary controls that you will use to ensure the responsible use and management of funds and accurate invoicing.

State how costs incurred under this project will be appropriately accounted for and only applicable project expenses will be billed to the Boards.

State your fiscal reporting and monitoring capabilities (e.g. spread sheets, automated fiscal reports, quality controls, checks and balances).

Describe the procedures that you will take to ensure that the Boards receive satisfactory products and services at low costs, i.e., how will your firm strive to provide the best value at the lowest price.

**F. PRICE PROPOSAL:**

Offerors shall submit rates on Attachment B in accordance with the directions in the “Submittal”, Section VIII. This Attachment B represents the City of Phoenix's Fire and Police Pension Boards’ official request for price quotation and MUST be completed by the Offeror. The pricing stated herein **must be a firm fee.** Unless otherwise and specifically noted, the price is all-inclusive and must include all necessary costs including, but not limited to, materials, labor, travel, copying costs, incidentals, equipment, space, taxes, profit, insurance and any other items necessary to effectively conduct and complete the Scope of Work.

**G. GENERAL:**

1. **Shortlist:**

   The Boards reserve the right to shortlist the Offerors on all of the stated criteria. However, the Boards may determine that shortlisting is not necessary.

2. **Interviews/Demonstrations:**

   The Boards reserve the right to conduct interviews with some or all of the Offerors at any point during the evaluation process. However, the Boards may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The Boards shall not reimburse the Offeror for the costs associated with the interview process.

   Interviews, if scheduled, will be held at a time and place specified by the Boards’ Chairperson. Each of the Offeror's key project team members,
including any subcontractors who will be assigned to the project, are strongly encouraged to attend the interview.

3. **Additional Investigations:**

   The Boards reserve the right to make such additional investigations as they deem necessary to establish the competence and financial stability of any Offeror submitting a proposal including, without limitation, information provided by former employees and/or creditors.

4. **Prior Experience:**

   Experiences with the Boards and entities that evaluation committee members represent may be taken into consideration when evaluating the qualifications and experience.

5. **Overall Evaluation of the Proposal Response:**

   The overall completeness, accuracy and quality of the proposal may be taken into consideration when evaluating the qualifications and experience.

6. **Required Agreements:**

   Any required agreements, to include any required for third party software, must be submitted at time of proposal submission.

VI. **PROTEST PROCESS**

   Staff recommendations to award the contract(s) to a particular bidder or offeror shall be posted: [https://www.phoenix.gov/solicitations](https://www.phoenix.gov/solicitations). Any unsuccessful bidder may file a protest no later than 7 calendar days after the recommendation is posted on the website. All protests shall be in writing, filed with the Contracting Authority identified in the solicitation and include the following:

   - Identification of the RFP or other solicitation number;
   - The name, address and telephone number of the protester;
   - A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
   - The form of relief requested; and
   - The signature of the protester or its authorized representative.

   The Contracting Authority will render a written decision within 14 calendar days after the protest is filed. The Boards will not request City Council authorization to award the contract until the protest process is completed.
VII. ADDITIONAL TERMS AND CONDITIONS

Offeror’s offer is subject to the following special terms and conditions.

A. GENERAL TERMS AND CONDITIONS OF AGREEMENT:

Any Offeror entering into an agreement with the Boards must agree to a number of general terms and conditions (Attachment A-Sample Contract). The submission of an Offer herein constitutes the agreement of Offeror that the Agreement will be consistent with Attachment A, which the Boards may amend as necessary prior to execution. The submission of an Offer shall further constitute the agreement of each Offeror that it will not insist on the use of standard contract agreements, documents or forms, and that it waives any demand for the use of its standard contracts. The language of the agreement(s) to be shall be the controlling document as identified in Attachment A.

B. MATERIALS SUBMITTED:

All materials submitted in response to this RFP become the property of the Boards upon delivery to the Retirement Department and may be appended to any formal documentation that would further define or expand the contractual relationship between the Boards, the City of Phoenix and the Offeror. Each Offeror, as an express condition for the Boards’ consideration of such Offer, agrees that the contents of every other Offer are confidential and proprietary, and waives any right to access to such Offers until 30 days after the finalist is chosen and a contract has been executed. No submission or supporting documentation will be returned to Offeror except as part of the Agreement with a successful Offeror.

Offerors submitting Offers should recognize that the Boards are public bodies and, as such are subject to the disclosure requirements of Arizona’s public records law and must abide by public record laws. Neither party shall be liable for disclosures required by law.

C. CITY RESERVATION OF RIGHTS:

This RFP does not commit the Boards or the City of Phoenix to award an agreement or to pay any costs incurred in the preparation of an Offer for this RFP.

The Boards reserve the right to take any course of action as the Boards deem appropriate at the Boards’ sole and absolute discretion, which may include:

1. Waiving any defects or informalities in any Offer or proposing procedure;
2. Accepting or rejecting any or all Offers or any part of any or all Offers;
3. Canceling the RFP in part or in its entirety;
4. Reissuing the RFP with or without modification;
5. Negotiating any or all Offer elements with entities of its choice or negotiating with any qualified sources; or
6. Any other option deemed by the Boards to be in the Boards’ best interest.

Any Offer that is incomplete, conditional, obscure, or which contains additions not called for, exceptions to material provisions, or irregularities of any kind, may be cause for rejection of the Offer.

The requirements of this Offer package are for the benefit and protection of the Boards and the City of Phoenix. In the event of a default of the successful Offeror or the successful Offeror refuses or fails to timely execute a formal contract with the Boards or timely provide the required bonds and/or insurance certificate(s), the Boards shall consider an award to another qualified Offeror who is ready and willing to provide service.

D. **LATE OFFERS MAY NOT BE CONSIDERED:**

Offers received after the stipulated deadline date and time may not be considered.

E. **INCONSISTENCY OR ERROR IN THE RFP:**

Should an Offeror find a discrepancy in, or omission from, the general terms and conditions included in the Offer documents or instructions to Offerors, or should there be any doubt as to their meaning, Offeror shall notify Scott Miller, in writing via FAX (602) 495-2008 or e-mail at scott.a.miller@phoenix.gov. Instructions/clarifications will be provided, in writing, and posted on the RFP Internet site by March 30, 2015. Failure to notify the City by that date will constitute a waiver of claim of ambiguity, omission, inconsistency or other error.

F. **OFFEROR ERRORS OR OMISSIONS:**

The Boards are not responsible for any of Offeror's errors or omissions.

G. **ADDENDA:**

The City of Phoenix shall not be responsible for any oral instructions given by any employees or officials of the City of Phoenix in regard to the Offer instructions, specifications or Offer documents as described in this RFP. Any clarifications or changes will be addressed in writing in response to questions or in the form of addenda, which will be posted to the RFP Internet site by April 10, 2015.
H. **OFFEROR INCURRED COSTS:**

The Offeror shall be responsible for all costs incurred in preparing or responding to this RFP, including costs associated with interviews. The City shall **not** be responsible for any costs associated with this Offer or process.

I. **MODIFICATION OR WITHDRAWAL OF OFFER:**

Offers may be withdrawn by requesting such withdrawal in writing at any time prior to 3:00 p.m. MST on the Offer due date. Notice of withdrawal of Offer prior to Offer Date must be in writing and must be signed by the Offeror. This does not preclude the submission of a substitute Offer by such Offeror prior to 3:00 p.m. MST on the Offer Date.

After 3:00 p.m. MST on the Offer Date, Offers shall be binding without modification or amendment. After this time, no Offeror will be permitted to withdraw its Offer without penalty, and the submission of the Offer will constitute a valid offer subject to acceptance by the Boards.

J. **OFFEROR CERTIFICATION:**

By submission of an Offer, the Offeror certifies that the Offeror has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of an agreement to any employee, official or current contracting consultant of the City or Boards.

K. **CITY’S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:**

The Boards reserve the right to disqualify any Offeror on the basis of any real or apparent conflict of interest that is disclosed by the Offer submitted or any other data available to the City.

The successful Offeror’s employees may not be involved with any other legal related business during the term of this agreement as an employee, owner, partner, and consultant, etc., which may perpetuate a real or apparent conflict of interest.

All determinations regarding potential conflicts of interest under this agreement for any affected employee or of the successful Offeror shall be made by the Boards or their designee in their sole discretion, whose decision shall be final.

Any Offeror submitting a Offer herein waives any right to object before any body or agency, including but not limited to the Public Safety Personnel Retirement System Board of Trustees, the City Council of the City of Phoenix, or any court, to the City’s exercise of this right, now or at any future time.
L. **COVENANT AGAINST CONTINGENT FEES:**

The Offeror warrants that no person or selling agent has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Offeror for the purpose of securing business.

For breach or violation of this warranty, the Boards shall have the right to annul the Agreement without liability or in their discretion to deduct from fees or payments due the Offeror the commission, percentage brokerage or contingent fee.
VIII. OFFER and SUBMITTAL INSTRUCTIONS (COMPLETE AND RETURN)

Please complete and submit:

1) Original and one copy of this entire Submittal Section which includes:

   • The Offeror’s Rates (Attachment B) [“Price Component”]
   • Provide in narrative form, in accordance with Section V, Evaluation Requirements, your response to the Evaluation Requirements as stated in Sections V(D)(2), (D)(3), (D)(4), (D)(5), and (D)(6) (Offeror’s Experience and Qualifications) and in V(E) (Method of Approach) [“Technical Component”]
   • Company Information
   • All other documents, including references, required or permitted by Section V, Evaluation Requirements.
   • Offer and Acceptance (Section VIII(C) of this RFP)
   • Any requested alternative terms, clearly separated and marked as such as an attachment to the Submittal.
   • Any confidential or proprietary information clearly separated and marked as such as an attachment to the Submittal.

Please submit only Section VIII and any additional documents as requested above or in Section V (Evaluation Requirements). Do not submit a copy of the entire RFP document. Your offer will remain in effect for a period of [120] calendar days from the proposal opening date and is irrevocable.

A. PRICING COMPONENT:

Provide applicable billing rates on Attachment B.

Note: Prices offered in the Offeror’s proposal or bid shall not include applicable taxes. For purposes of determining the lowest price proposal or bid, the City will not take any applicable tax into consideration. Once a contract is awarded, all applicable taxes will apply. Applicable taxes, if any, must be listed as a separate item on all invoices submitted to the City and shall remain the sole responsibility of the vendor to calculate and make payment.

Cost is a factor in awarding the contract, however, only those proposals that meet all the mandatory criteria in the RFP will be given consideration. The contract will not be awarded solely on the basis of price. After a composite
technical score for each proposer has been established, the pricing score will be considered and additional points will be added to the technical score to determine the RFP total score. The maximum score for price will be assigned to the firm offering the lowest price and proportional scores will be assigned to the other firms.

B. TECHNICAL COMPONENT:

Provide in narrative form in accordance with Section V, Evaluation Criteria.

C. OFFER AND ACCEPTANCE:

TO THE CITY OF PHOENIX:
The Undersigned hereby offers and agrees to furnish the material and or service(s) in compliance with all terms, conditions, specifications, and addenda issued as a result of this Request for Proposals and any written exceptions in the offer.

Arizona Sales Tax No. ________________________________

Use Tax No. for Out-of State Suppliers ________________________________

City of Phoenix Sales Tax No. ________________________________

Offeror certifies that Offeror has read, understands, and will fully and faithfully comply with this Request for Proposals, any attachments and any referenced documents. Offeror also certifies that the prices offered were independently developed without consultation with any of the other offerors or potential offerors.

Authorized Signature Date

Printed Name and Title
Offeror’s Contact Information:

Company Name

Address

City, State and Zip Code

Telephone Number

Company’s Fax Number

Company’s Toll Free #

Email Address

Website

Payment Address: (If different from above)
NOTE: Any assignment of proceeds must go through the City of Phoenix, Division of Accounts, and formal assignment procedure. Please also refer to the Assignment Provision, Section VIII(2) - Standard Terms and Conditions.

Name ________________________________

Address ________________________________

City, State and Zip Code ________________________________

Payment Address: (If different from above)

Note: Any assignment of proceeds must go through the City of Phoenix, Division of Accounts, and formal assignment procedure. Please also refer to the Assignment Provision, Section VIII(2), Standard Terms and Conditions.

Name ________________________________

Address ________________________________

City, State and Zip Code ________________________________
D. SOLICITATION RESPONSE CHECK LIST

(Proposer’s Use Only—UNNECESSARY TO RETURN CHECKLIST WITH OFFER):

Check off each of the following as the necessary action is completed.

☐ 1. All forms have been signed. All of Section VIII – Submittals and required attachments are included. All contract terms (Attachment A) have been read.

☐ 2. Narrative Portion of the Proposal follows the sequence set forth in Section V (Evaluation Requirements).

☐ 3. The prices offered have been reviewed. All blanks have been filled in. The rates information (Attachment B) is included with the Proposal Response.

☐ 4. The narrative and other page limitations, if any, have been followed.

☐ 5. The insurance and bond and surety requirements, if any, have been reviewed to assure you are in compliance. A Certificate of Insurance will not be required at the proposal stage, but will be required on award of the contract.

☐ 6. The specified number of copies of your offer has been included.

☐ 7. Any addenda have been signed and are included.

☐ 8. The mailing envelope has been addressed to:

   City of Phoenix Retirement Department  
   200 West Washington Avenue, 10th Floor  
   Phoenix, AZ 85003-1611

   The mailing envelope clearly shows:

   Your company’s name and address, the RFP Number, RFP Title, and the proposal opening date.

☐ 9. The response will be mailed in time to be received no later than 10:00 a.m. local Arizona time.

☐ 10. Request for Consideration of Alternate Terms, if needed, is included. See Section IV(J), Instructions to Proposers. If requested, the request must be submitted with the proposal either as a separate section of the proposal or as a separate attachment and must be titled as “Request for Consideration of Alternate Terms.”
IX. ATTACHMENTS
ATTACHMENT A

AGREEMENT FOR LEGAL SERVICES
BETWEEN
THE ARIZONA PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
CITY OF PHOENIX FIRE PENSION BOARD,
THE ARIZONA PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
CITY OF PHOENIX POLICE PENSION BOARD
AND
***FIRM NAME HERE***

AGREEMENT NO. ____________

THIS Agreement (hereinafter “AGREEMENT”), is made and entered into on this ___ day of __________, 2015, by and between the the Public Safety Personnel Retirement System Fire and Police Pension Boards (individually referred to as “BOARD” and collectively referred to as “BOARDS” or “BOARD(S)”; and ***FIRM NAME HERE*** (hereinafter “COUNSEL”),

RECITALS

WHEREAS, the City of Phoenix Retirement Department, on behalf of the BOARDS, issued a Request for Proposals seeking outside legal counsel to represent the BOARDS; and

WHEREAS, after issuing a Request for Proposals, the BOARDS have determined that it is in their best interests to employ COUNSEL to furnish legal services to the BOARDS on terms and conditions specifically set forth below and subject to the additional requirements set forth in the SCOPE OF WORK attached as Exhibit E;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, terms, covenants and conditions set forth herein, the parties agree as follows:

1. SCOPE

COUNSEL shall, upon referral of a lawsuit or other legal matter by the BOARD(S), provide any necessary legal representation to the BOARD(S) and any of its officers, employees or agents. COUNSEL agrees to perform all necessary legal services, including but not limited to investigation, legal research, preparation of legal memoranda, pleadings and briefs, drafting and review of legal documents, providing legal advice and opinions, and making appearances before administrative tribunals and courts, in representing the BOARD(S). The legal services shall be carried out in cooperation with and under the supervision of the BOARD(S)” designated representative(s) as set forth in the SCOPE OF SERVICES Exhibit E (the “BOARD(S)’ Designated Client Representative(s)”), in a manner consistent with COUNSEL’S ethical obligations to the BOARD(S).

COUNSEL shall not undertake any representation of the BOARD(S) or perform any legal services for and/or BOARD(S) at the request of any CITY and/or BOARD(S)
official or employee without first obtaining specific written authorization to do so from the BOARD(S)' Designated Client Representative(s).

COUNSEL shall not file any action or enter any litigation on behalf of the BOARD(S) without first obtaining permission to do so from the BOARD(S)' Designated Client Representative(s).

Before releasing any written legal opinion or statement affecting the BOARD(S) or any of their officers or employees, COUNSEL shall obtain the concurrence of the BOARD(S)' Designated Client Representative(s).

2. REFERRAL OF WORK TO COUNSEL

Referral of legal matters to COUNSEL under this AGREEMENT will only be through BOARD action or the BOARD(S)' Designated Client Representative(s).

Work performed by COUNSEL on matters that are not referred to COUNSEL as set forth in this AGREEMENT will be considered unauthorized and noncompensable. COUNSEL is to provide legal services to the BOARD(S) only through the BOARD(S)' Designated Client Representative(s). COUNSEL shall report to the BOARD(S)' Designated Client Representative(s) any effort made to engage the services of COUNSEL independently of the BOARD(S)' Designated Client Representative(s).

The legal matter(s) referred to COUNSEL will be set forth in the SCOPE OF WORK attached as Exhibit E. The SCOPE OF WORK will contain: (1) the name and a description of the matter for which legal services are sought, (2) an explanation of the scope of work, (3) the compensation the BOARDS will authorize payment for the services sought, (4) the designation of the specific Client Representative(s) with whom COUNSEL will communicate and from whom COUNSEL will receive direction.

In the event that COUNSEL needs to communicate with someone other than the Client Representative listed in the SCOPE OF WORK, COUNSEL will contact the BOARD Chair or BOARD Secretary.

3. BOARD CONTACT

All decisions requiring the consent of BOARD(S) shall be brought by COUNSEL to the attention of the BOARD(S)' Designated Client Representative(s), as appropriate and as referenced in the above paragraph.

4. STAFFING

The BOARDS reserve the right to designate a specific attorney(s) in COUNSEL'S firm to work on specific matters. COUNSEL shall employ suitably trained and skilled professional personnel to perform the legal services. Prior to changing any key personnel, especially those key personnel who the BOARDS relied upon in making this AGREEMENT, COUNSEL shall obtain the approval of the Contact Attorney. All staffing decisions shall be discussed and agreed upon with the BOARDS in advance.
5. MATERIALS AND INVESTIGATIVE SERVICES
The BOARDS will furnish COUNSEL all investigative and other materials the BOARDS have relative to the legal services to be provided by COUNSEL and will conduct such additional investigation as COUNSEL shall request.

6. COMPENSATION
COUNSEL will be paid for services under this AGREEMENT as set forth in Exhibit A, entitled “Compensation.”

6.1 Hourly Rate
If compensated on an hourly rate, COUNSEL shall be paid at an hourly rate that includes all costs and expenses except for those specific reimbursable expenses listed in Exhibit B, entitled “Reimbursable Expenses”. COUNSEL agrees that the monthly payment of billed hourly fees will be reduced by 2% if COUNSEL is paid within 10 days of receipt of COUNSEL’S invoice.

6.2 General Contingency
If COUNSEL is compensated on a contingency basis, for other than Collections, COUNSEL shall be paid an amount equal to the agreed upon contingency percentage multiplied against the return, plus all costs and expenses listed in Exhibit B, entitled “Reimbursable Expenses”.

6.3 Collections Contingency
[This paragraph intentionally left blank.]

6A. COMPENSATION FOR ARBITRATION CASES
For cases billed on an hourly basis and deemed to be arbitrable under A.R.S. §12-133, COUNSEL shall be paid a single lump sum as set forth in Exhibit A, entitled “Compensation”. The lump sum includes all fees, costs, and expenses except for those specific reimbursable expenses listed in Exhibit B, entitled “Reimbursable Expenses”.

The lump sum amount shall apply for the term of this AGREEMENT and will not be renegotiated during the term of this AGREEMENT, except that COUNSEL shall have the ability under this AGREEMENT to request the BOARD(S) to change the compensation designation to an hourly rate under paragraph 6 when unforeseen developments make continued billing under this paragraph unfair or unreasonable. The BOARD(S) will not unreasonably deny such a request from COUNSEL.

7. REIMBURSEMENT FOR EXPENSES
COUNSEL will be reimbursed for approved expenditures where the expense is itemized in the invoice and COUNSEL provides the documentation supporting the invoiced amount.

All expenses shall be billed at COUNSEL’s actual out-of-pocket cost without any mark-up.
8. **ACCOUNTING AND AUDITING**

COUNSEL agrees that the BOARDS or their duly authorized representatives shall have access to and the right to examine any books, documents, papers, records and other evidence reflecting all time charges, compensation and costs billed under this AGREEMENT. The materials described herein shall be made available at the office of COUNSEL at any reasonable time for inspection, audit or reproduction until the expiration of three (3) years from the date of final payment under this AGREEMENT.

COUNSEL is prohibited from transmitting, or assisting in the transmission of, any billing information generated by COUNSEL under this AGREEMENT to any person or organization other than the BOARDS without the express written consent of the BOARD(S)’ Designated Client Representative(s).

9. **HOURLY BILLING – PAPER INVOICES**

COUNSEL shall prepare invoices for services rendered and expenses incurred during the prior month on each matter handled. All billing will be in accordance with ABA Opinion No. 93-379. If mailed, the monthly invoices should be addressed to:

ATTN:
Boards’ Secretary [Retirement Administrator]
City of Phoenix Fire Pension Board
City of Phoenix Police Pension Board
200 West Washington Street, 10th Floor
Phoenix, Arizona 85003-1611
602-262-7694
602-495-2008 fax
copers@phoenix.gov

Each matter should be covered in a separate invoice in an easily understandable format. Each invoice should contain the following information: (1) this AGREEMENT No; (2) the project name; (3) the bill and/or invoice date; (4) the date and time of each activity billed; (5) the name or initials of the individual performing the activity; (6) the corresponding ABA task codes, (7) for each activity, a specific description of the work done sufficient to ascertain the work involved being mindful of the potential limitations under E.R. 1.8 in situations where the client is not the payor; and (8) a separate itemization of reimbursable disbursements and expenditures, including the corresponding ABA expense code for the expense, along with the supporting documentation.

Along with each paper invoice COUNSEL shall also provide a separate Invoice Summary Page in the form and containing the information exhibited by Exhibit C, “Sample Invoice Summary Page”.

10. **HOURLY BILLING RESTRICTIONS**

Unless otherwise agreed to by the Contact Attorney:
• COUNSEL is not to bill for research that already exists in the BOARDS' or COUNSEL'S legal files.
• Only one billing professional may bill to attend meetings, depositions, and arguments.
• COUNSEL is not to bill for more than ten hours of any professional's time in any one day.
• COUNSEL is not to bill for more than ten hours of research on any one matter.
• Internal conferences are billable only by one of the participants.
• COUNSEL shall not bill for more than two hours of travel time without Contact Attorney’s prior approval.
• COUNSEL is not to bill the BOARDS in increments of less than 6 minutes (.1 hour).
• COUNSEL will be paid only for productive time that advances the interest of the BOARD(S).
• COUNSEL is not to bill for clerical time or other overhead expenses.

11. RESTRICTIONS ON REIMBURSEMENTS
   Unless otherwise agreed to by the BOARD(S)' Designated Client Representative(s):
   • Reimbursement for expenses is limited to those specific reimbursable expenses listed in Exhibit B and entitled “Reimbursable Expenses”.
   • COUNSEL will not be reimbursed for any single expense greater than ONE THOUSAND DOLLARS ($1,000).
   • Travel expenditures of COUNSEL within Maricopa County will not be reimbursed. Mileage and parking will not be reimbursed.
   • Airfare will be reimbursed at coach fare rates. Hotel accommodations will be reimbursed at commercial rates for non-resort facilities.
   • Experts or consultants will be retained by COUNSEL on behalf of the BOARD(S) only after consultation with, and the approval of the BOARD(S)' Designated Client Representative(s). COUNSEL is expected to pay the consultant for services provided and then submit an invoice for reimbursement.
   • All experts and consultants will be required to submit a bill similar to the format for outside counsel prior to payment, including the need to itemize expenses and attach the supporting documentation.
   • No contract or subcontract shall be made by COUNSEL with any other person to furnish any work or services under this AGREEMENT without advance approval of the BOARD(S)' Designated Client Representative(s).

12. FISCAL YEAR

   The BOARDS’ fiscal year begins July 1 and ends June 30 of each calendar year. The BOARD may only make payment for services rendered or costs encumbered during a fiscal year and for a period of 60 days immediately following the close of the fiscal year. Billings for services performed or costs incurred prior to the close of
a fiscal year must be submitted within ample time to allow payment within this 60 day period.

13. CONFLICT OF INTEREST

COUNSEL is retained by the BOARDS to represent the BOARDS only for the purposes and to the extent set forth in this AGREEMENT. COUNSEL shall be free to dispose of such portion of COUNSEL’S entire time, energy, and skill as are not required to be devoted to the BOARDS in such a manner as COUNSEL sees fit and to such persons, firms or corporations as COUNSEL deems advisable, but shall not engage in any representation of any nature, including legislative or administrative lobbying, which could be adverse to the BOARDS at the same time COUNSEL is representing the BOARDS pursuant to this AGREEMENT. If such representation presents an ethical conflict of interest, and if a waiver is permitted, a waiver of such conflict must first be obtained prior to undertaking such representation. COUNSEL agrees to have established policies and procedures to avoid conflicts of interest and to protect the attorney-client privilege. COUNSEL will immediately bring all situations involving adverse representation, and all conflicts and potential conflicts to the attention of BOARDS. These would include situations that may be subject to the Rules of Professional Conduct as well as those situations where COUNSEL would otherwise be expected to identify the BOARDS as a party, a potential party, or as a non-party at fault. COUNSEL hereby represents and affirms that there is no known conflict of interest existing between a client or potential client of COUNSEL and BOARDS as a result of this AGREEMENT. Before COUNSEL may undertake to represent parties in matters that may arise after execution of this AGREEMENT, which may present issues adverse to THE BOARD(S), COUNSEL will present the facts and circumstances of the matter to THE BOARD(S) and request a waiver of any ethical conflict of interest. It is further understood that any conflict of interest which may arise as a result of COUNSEL’S representation of parties adverse to the BOARD(S) is not waivable unless expressly so stated in writing by the BOARD(S) after full disclosure of the nature and extent of the conflict.

14. COPIES OF DOCUMENTS

Throughout the course of the representation COUNSEL shall seasonally furnish the BOARD(S)’ Designated Client Representative(s) copies of all significant pleadings, discovery material, investigative, expert witness, transactional documents and other reports and correspondence (other than routine transmittal letters). All significant depositions and answers to interrogatories shall be summarized promptly and furnished to the BOARD(S)’ Designated Client Representative(s). COUNSEL may also be asked by the BOARD(S)’ Designated Client Representative(s) to furnish such copies to the BOARDS and insurance carrier(s). At the conclusion of COUNSEL’s representation on any matter, COUNSEL shall return the complete file to THE BOARDS as set forth in Paragraph 26, but may retain copies at COUNSEL’s expense.

15. RESEARCH DATABASE

All documents, including all research, pleadings, motions, and appeals, generated by COUNSEL under this AGREEMENT shall be the non-exclusive property of the
BOARDS, to be collected, organized, shared, and distributed at the BOARDS' sole discretion.

16. BUDGETING
COUNSEL may be asked by the BOARDS to submit a budget and strategic plan. The plan should include a description of the available options for handling the matter, the major steps likely to be involved, the timing and sequence of the major steps, the projected costs (within a narrow range) associated with each step and the likelihood of prevailing in percentages.

17. STATUS REPORTS AND ASSESSMENT OF EXPOSURE
COUNSEL shall keep the BOARDS fully and currently informed about the status of all matters and the import of that status. As soon as practical after receipt of any referral, and in civil cases governed by Rule 26.1, Arizona Rules of Civil Procedure, as soon as disclosure statements are exchanged, COUNSEL shall furnish the BOARDS an evaluation of the merits of the disputed matter and COUNSEL'S assessment of the monetary exposure or potential recovery, if any, to the BOARDS, along with appropriate recommendations. Thereafter, status reports shall be furnished by COUNSEL on a monthly or quarterly basis as directed by the Contact Attorney. Status reports should be addressed to the BOARD(S)' Designated Client Representative(s) and should briefly outline the status of the case or matter, emphasizing significant developments, depositions and discovery, and settlement proposals. COUNSEL shall promptly notify the BOARDS of events significantly affecting exposure and recovery.

COUNSEL is strongly encouraged to e-mail status reports. COUNSEL is encouraged to format all native documents in Microsoft Word© and to scan significant third-party documents into a *.pdf Adobe Acrobat© format and e-mail them as an attachment to a status report. A status report should precede any scheduled meeting where a comprehensive analysis of the case or matter may be expected.

Any significant document that is not routine, or that is to be provided to third parties, including the court or administrative agencies, shall be sent to BOARD(S) with enough time so that the BOARD(S) may have a meaningful review of it prior to distribution. All final copies of documents and memoranda for which the BOARD(S) is charged shall be sent to the BOARD(S).

18. OFFERS OF COMPROMISE
COUNSEL must consider the possibility of resolving disputes through both traditional and nontraditional methods of alternative dispute resolution.

All offers of compromise shall be promptly transmitted to the BOARD(S) through the BOARD(S)' Designated Client Representative together with COUNSEL'S recommendations. The BOARD(S) will be responsible for obtaining proper authority to accept a compromise or for obtaining authority to make a counter offer. COUNSEL may be required to attend meetings to adequately explain the status of a matter before a regulatory body or in litigation.
19. **NOTICE**

Any notice, consent, or other communication (“Notice”) required or permitted under this Agreement will be in writing and either delivered in person, sent by e-mail or facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed to the Client Representative or Contact Attorney as appropriate.

20. **WITHDRAWAL OF COUNSEL**

COUNSEL must request to withdraw from representation of the BOARD(S), or any department, officer, agent or employee thereof, when it would be ethically improper to continue the representation. In the event COUNSEL requests to withdraw, the request must be in writing to the BOARD(S)' Designated Client Representative(s) setting forth in detail the reasons COUNSEL must withdraw.

21. **APPEALS**

No appeals or special actions will be filed without prior written approval of the BOARD(S), acting through the BOARD(S)' Designated Client Representative(s).

22. **CONFIDENTIALITY AND DATA SECURITY**

All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to COUNSEL in connection with this Agreement is confidential proprietary information owned by the BOARD(S). Except as specifically provided in this Agreement, COUNSEL shall not disclose data generated in the performance of the service to any third person without the prior written consent of the BOARD(S)' Designated Client Representative(s).

Personal identifying in formation, financial account information, or restricted information of the BOARD(S), whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, COUNSEL must encrypt and/or password protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices.

When personal identifying information, financial account information, or restricted BOARD information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed.

In the event that data collected or obtained by COUNSEL in connection with this Agreement is believed to have been compromised, COUNSEL shall notify the the BOARD(S)' Designated Client Representative(s) immediately. COUNSEL agrees to reimburse the BOARD(S) for any costs incurred by the City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach.
COUNSEL agrees that the requirements of this Section shall be incorporated into all subcontractor/subconsultant agreements entered into by COUNSEL. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

The obligations of COUNSEL under this Section shall survive the termination of this Agreement.

23. MEDIA RELATIONS
COUNSEL is not authorized by the BOARD(S) to comment publicly on BOARD matters. All media inquiries should be directed to the BOARD(S)’ Designated Client Representative(s).

24. RECORDS RETENTION/RETURN
At the conclusion of the matter, COUNSEL will notify the BOARD(S)’ Designated Client Representative(s) that the matter is closed and prepare the file for shipment as set forth in Exhibit D.

25. OTHER CONTRACTS
The BOARD(S) shall have the right to let other contracts in connection with work under this AGREEMENT and COUNSEL shall cooperate with any other contractor.

26. COMPLIANCE WITH LAWS AND REGULATIONS
COUNSEL shall comply with all applicable federal and State statutes, City ordinances, executive orders and regulations. In particular COUNSEL agrees to comply with all legal requirements relating to civil rights and non-discrimination in employment.

COUNSEL understands and acknowledges the applicability to COUNSEL of the Immigration Reform and Control Act of 1986 (IRCA). COUNSEL agrees to comply with the IRCA in performing under this AGREEMENT and to permit BOARD inspection of personnel records to verify such compliance.

27. LEGAL WORKER REQUIREMENTS
The BOARD(S) are prohibited by A.R.S. § 41-4401 from awarding an agreement to any contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, COUNSEL agrees that:

COUNSEL and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A.

A breach of warranty under paragraph 1 shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.
The BOARD(S) retains the legal right to inspect the papers of COUNSEL or subcontractor employee(s) who work(s) under this Agreement to ensure that COUNSEL or subcontractor is complying with the warranty under paragraph 1.

28. CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND SCREENING

28.1 Contract Worker Background Screening

COUNSEL agrees that all COUNSEL’S contract workers and subcontractors (collectively “Contract Worker(s)”) that COUNSEL furnishes to the City pursuant to this Agreement shall be subject to background and security checks and screening (collectively “Background Screening”) at COUNSEL’S sole cost and expense as set forth in this Section. The Background Screening provided by COUNSEL shall comply with all applicable laws, rules and regulations. COUNSEL further agrees that the Background Screening required in this Section is necessary to preserve and protect public health, safety and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Agreement. The City in no way warrants that these minimum requirements are sufficient to protect COUNSEL from any liabilities that may arise out of COUNSEL’S services under this Agreement or COUNSEL’S failure to comply with this Section. Therefore, in addition to the specific measures set forth below, COUNSEL and its Contract Workers shall take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this Agreement.

28.2 Background Screening Requirements and Criteria

Because of the varied types of services performed, the City has established three levels of risk and associated Background Screening. The risk level and Background Screening required for this Agreement is Minimum.

28.3 Minimum Risk and Background Screening (“Minimum Risk”)

A minimum risk Background Screening shall be performed when the Contract Worker: (i) will not have direct access to City facilities or information systems; or (ii) will not work with vulnerable adults or children; or (iii) when access to City facilities is escorted by City workers. The Background Screening for minimum risk shall consist of the screening required by Arizona Revised Statutes §§ 41-4401 and following to verify legal Arizona worker status.

28.4 Terms of This Section Applicable to all of COUNSEL’S Contracts and Subcontracts

COUNSEL shall include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Agreement including, but not limited to, supervision and oversight services.

28.5 Materiality of Background Screening Requirements; Indemnity

The Background Screening requirements of this Section are material to City’s entry into this Agreement and any breach of this Section by COUNSEL shall be deemed a material breach of this Agreement. In addition to the indemnity provisions set forth
in Section 35 of this Agreement, COUNSEL shall defend, indemnify and hold 
harmless the City for any and all Claims (as defined in Section 35) arising out of this 
Background Screening Section including, but not limited to, the disqualification of a 
Contract Worker by COUNSEL or the City for failure to satisfy this Section.

28.6 Continuing Duty; Audit

COUNSEL’S obligations and requirements that Contract Workers satisfy this 
Background Screening Section shall continue throughout the entire term of this 
Agreement. COUNSEL shall maintain all records and documents related to all 
Background Screenings and the City reserves the right to audit COUNSEL’S 
compliance with this Section pursuant to Section 8.

29. WAIVER

The failure of the BOARD(S) at any time to require performance of any provision of 
this AGREEMENT shall in no way affect the right of BOARD(S) thereafter to enforce 
such provision. Nor shall the waiver of any succeeding breach of such provision act 
as a waiver of the provision itself.

30. TERMINATION

The BOARD(S) shall have the right to terminate this AGREEMENT in whole or in 
part at any time and without penalty or further obligation. COUNSEL shall be paid at 
a rate equal to the agreed compensation for requested legal services rendered and 
reimbursed for authorized expenses actually incurred in rendering such services, as 
of the date of such termination, after approval of payment is obtained from the 
BOARD(S). Such payment for Services already completed shall be the total 
compensation due to COUNSEL for Termination. COUNSEL shall deliver to the the 
BOARD(S)’ Designated Client Representative(s) a complete set of all materials, 
information and data required or prepared by COUNSEL as of the date of 
termination. All such materials, information, and data shall be the property of 
the BOARD(S) and shall be delivered to the BOARD(S)’ Designated Client 
Representative(s) at the termination or completion of services.

31. SPECIFIC PERFORMANCE

COUNSEL agrees in the event of a breach by COUNSEL of any material provision 
of this AGREEMENT, the BOARD(S) shall, in addition to any other remedy provided 
by law and upon proper action instituted by it, be entitled to a decree of specific 
performance thereof according to the terms of this AGREEMENT. In the event the 
BOARD(S) shall elect to treat any such breach on the part of COUNSEL as a 
discharge of the AGREEMENT, the BOARD(S) may nevertheless maintain an 
action to recover damages arising out of such breach.

32. INSURANCE REQUIREMENTS

COUNSEL shall procure and maintain until all of its obligations have been 
discharged, including any warranty periods under this AGREEMENT are satisfied, 
insurance against claims for injury to persons or damage to property which may 
arise from or in connection with the performance of the work hereunder by 
COUNSEL, its agents, representatives, or employees.
The insurance requirements herein are minimum requirements for this AGREEMENT and in no way limit the indemnity covenants contained in this AGREEMENT. The BOARD(S) in no way warrant that the minimum limits contained herein are sufficient to protect COUNSEL from liabilities that might arise out of the performance of the work under this contract by the COUNSEL, its agents, representatives, or employees and COUNSEL is free to purchase additional insurance as may be determined necessary.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE: COUNSEL shall provide coverage with limits of liability not less than those stated below.

1. Worker's Compensation and Employers' Liability
   - Workers' Compensation: Statutory
   - Employers' Liability
     - Each Accident: $100,000
     - Disease – Each Employee: $100,000
     - Disease – Policy Limit: $500,000

   1a. Policy shall contain a waiver of subrogation against the BOARD(S).

2. Professional Liability (Errors and Omissions Liability)
   - Each Claim: $1,000,000
   - Annual Aggregate: $2,000,000

   2a. In the event that the professional liability insurance required by this AGREEMENT is written on a claims-made basis, COUNSEL warrants that any retroactive date under the policy shall precede the effective date of this AGREEMENT; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this AGREEMENT is completed.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the BOARD(S) are named as an additional insured, the BOARD(S) shall be an additional insured to the full limits of liability purchased by COUNSEL even if those limits of liability are in excess of those required by this AGREEMENT.

2. COUNSEL'S insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

3. Coverage provided by COUNSEL shall not be limited to the liability assumed under the indemnification provisions of this AGREEMENT.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this AGREEMENT shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the
CITY and, if applicable, to BOARD. Such notice shall be sent directly to the designated BOARD Representative and shall be sent by certified mail, return receipt requested.

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an “A.M. Best” rating of not less than B+ VI. The BOARD(S) in no way warrant that the above-required minimum insurer rating is sufficient to protect COUNSEL from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: COUNSEL shall furnish the BOARD(S) with certificates of insurance (ACORD form or equivalent approved by the BOARD(S)) as required by this AGREEMENT. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the BOARD(S) before work commences. Each insurance policy required by this AGREEMENT must be in effect at or prior to commencement of work under this AGREEMENT and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this AGREEMENT or to provide evidence of renewal is a material breach of contract.

All certificates required by this AGREEMENT shall be sent directly to the BOARD(S) Designated Representative. The BOARD(S) project/contract number and project description shall be noted on the certificate of insurance. The BOARD(S) reserve the right to require complete, certified copies of all insurance policies required by this AGREEMENT at any time.

F. APPROVAL: Any modification or variation from the insurance requirements in this AGREEMENT shall be made by the BOARD(S), whose decision shall be final. Such action will not require a formal AGREEMENT amendment, but may be made by BOARD action.

33. INDEMNIFICATION

COUNSEL shall indemnify, defend, save and hold harmless the BOARD(S) and their respective officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of COUNSEL or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of COUNSEL to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by
COUNSEL from and against any and all claims. It is agreed that COUNSEL will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, COUNSEL agrees to waive all rights of subrogation against the BOARD(S), their officers, officials, agents and employees for losses arising from the work performed by COUNSEL for the BOARD(S).

34. ADVERTISING AND PROMOTION
The name of the BOARD(S) shall not be used in any advertising or other promotional context by COUNSEL without prior written approval of the BOARD(S)' Designated Client Representative(s).

35. NON-ASSIGNABILITY
This Agreement is in the nature of a personal services agreement and COUNSEL shall have no power to assign its rights and obligations under this AGREEMENT without the prior written consent of the BOARD(S). Any attempt to assign without such prior written consent shall be void.

An essential consideration provided to the BOARD(S) by COUNSEL to induce the BOARD(S) to enter into the AGREEMENT is the ability of the BOARD(S) to control the actual assignment of work to COUNSEL's principal attorneys. Therefore, should such a principal attorney sever their relationship with COUNSEL, or otherwise be unavailable to carry out COUNSEL's duties under this AGREEMENT for an extended period of time, which period shall be determined at the sole discretion of the BOARD(S), then the BOARD(S) may, without notice, immediately terminate this AGREEMENT for cause.

36. ENTIRE AGREEMENT
It is expressly agreed that this written AGREEMENT embodies the entire AGREEMENT of the parties in relation to the subject matter, and that no understanding or agreements, verbal or otherwise, in relation thereto, exist between the parties, except as herein expressly set forth.

37. GOVERNING LAWS
This AGREEMENT is executed and delivered in the State of Arizona, and it is the expressed intention of the parties thereto that this AGREEMENT and all terms hereof shall be in conformity with and governed by the laws of the State of Arizona, both as to interpretation and performance. Any action to enforce or interpret this AGREEMENT shall be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

38. INDEPENDENT CONTRACTOR
The parties agree that COUNSEL is providing the Services under this AGREEMENT on a part-time and/or temporary basis and that the relationship created by this AGREEMENT is that of independent contractors. Neither COUNSEL nor any of
COUNSEL’s agents, employees or helpers shall be deemed to be the employee, agent, or servant of the BOARD(S). The BOARD(S) are only interested in the results obtained under this AGREEMENT; the manner, means and mode of completing the same are under the sole control of COUNSEL.

This AGREEMENT is not intended to constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in this AGREEMENT. The parties agree that no individual performing under this AGREEMENT on behalf of COUNSEL will be considered a BOARD employee. COUNSEL shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker’s compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and shall save and hold harmless the BOARD(S) with respect thereto.

39. CANCELLATION
This AGREEMENT is subject to cancellation by the BOARD(S) pursuant to Arizona Revised Statutes Annotated § 38-511.

40. ELECTRONIC COMMUNICATION
The BOARD(S) expect COUNSEL to provide a specific electronic mail address, accessible from or through the Internet that will allow direct communication between BOARD(S) and the attorney assigned to provide legal services for a particular matter.

41. THIRD-PARTY BENEFICIARIES
This AGREEMENT and all services provided by COUNSEL are intended to benefit the corporate and municipal interests of the BOARD(S) alone, and no other person shall claim any implied right, benefit or interest in such services.

42. TERM
This AGREEMENT is effective beginning ____________, 2015, and expires on ____________, 2018, unless mutually extended by COUNSEL and the BOARD(S), in writing, for no more than one additional year. In the event of such an extension, COUNSEL will be permitted to renegotiate the terms of this AGREEMENT.

Upon expiration of this AGREEMENT, COUNSEL will cease all work under this AGREEMENT in a fashion consistent with COUNSEL’S ethical obligations to protect the interests of the BOARD(S); COUNSEL will submit a final bill and status report on each matter then being handled by COUNSEL; and, COUNSEL will return the matter and all related files to the BOARD(S).

43. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENT
A. In order to do business with the City of Phoenix, COUNSEL must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment
Opportunity Requirements. COUNSEL will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

B. COUNSEL, in performing under this Agreement, may not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. COUNSEL will ensure that applicants are employed, and employees are dealt with during employment, without regard to their race, color, religion, sex, national origin, age, or disability. Such action includes, but is not limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. COUNSEL further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. COUNSEL further agrees that this clause will be incorporated in all subcontracts, job-consultant agreements or subleases of this Agreement entered into by COUNSEL.

C. If COUNSEL employs more than thirty-five employees, COUNSEL further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

44. AMENDMENTS
Whenever an addition, deletion or alteration to the Services described in Exhibit E substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the BOARD(S) and COUNSEL before such addition, deletion or alteration shall be performed. Changes to the Services may be made and the compensation to be paid to COUNSEL may be adjusted by mutual agreement, but in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood and agreed that no claim for extra work done or materials furnished by COUNSEL will be allowed except as provided herein, nor shall COUNSEL do any work or furnish any materials not covered by this AGREEMENT unless first authorized in writing. Any work or materials furnished by COUNSEL without prior written authorization shall be at COUNSEL’s risk, cost and expense, and COUNSEL agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

45. NO ORAL ALTERATIONS
No alteration or variation of the terms of this AGREEMENT shall be binding on the parties herein unless such alteration or variation is in writing and signed by each of the parties to this AGREEMENT. No oral understanding or agreement not incorporated in this AGREEMENT shall be binding on any of the parties herein.

1020646 : Revised 3/27/15
IN WITNESS WHEREOF, the parties or their authorized representatives have made and executed this AGREEMENT the day and year first above written.

[SIGNATURES ON FOLLOWING PAGE]
The Arizona Public Safety Personnel Retirement System City of Phoenix Fire Pension Board,

By________________________________
Its________________________________

The Arizona Public Safety Personnel Retirement System City of Phoenix Police Pension Board,

By________________________________
Its________________________________

[FIRM NAME]

By________________________________
Its________________________________
EXHIBIT A -- COMPENSATION

The “AREAS OF PRACTICE AND RATE SCHEDULE” as set forth in Attachment B of the RFP are incorporated into this contract by this reference.
EXHIBIT B -- REIMBURSABLE EXPENSES

Expense Code Set

E100 Expenses
E101 Copying @ $0.15/page
E102 Outside printing
E107 Delivery services/messengers
E109 Local travel (outside of Maricopa County)
E110 Out-of-town travel
E112 Court fees
E113 Subpoena fees
E114 Witness fees
E115 Deposition transcripts
E116 Trial transcripts
E117 Trial exhibits
E118 Litigation support vendors
E119 Experts
E120 Private investigators
E121 Arbitrators/mediators
E122 Local counsel
E123 Other professionals
E124 Other

EXHIBIT C – SAMPLE INVOICE SUMMARY PAGE

LAW FIRM NAME
LAW FIRM ADDRESS

Boards’ Secretary [Retirement Administrator]
City of Phoenix Fire Pension Board
City of Phoenix Police Pension Board
200 West Washington, 10th Floor
Phoenix, AZ 85003-1611

Invoice Date: 
Invoice No: 
Client No: 

Professional Services Period: _______ ____, 2015 through _______ ____, 2018

RE: Case Name/Subject Matter:
Letter of Engagement No:
Contract No:
Project No:

TOTAL FEES $25,000.00
TOTAL DISBURSEMENTS $200.00
TOTAL THIS BILL $25,200.00
PREVIOUS BALANCE $10,000.00
TOTAL PAYMENTS & ADJUSTMENTS ($10,000.00)
TOTAL DUE UPON RECEIPT $25,200.00
EXHIBIT D – FILE HANDLING UPON COMPLETION

OUTSIDE COUNSEL RECORDS
RETENTION/RETURN PROCEDURES

GOVERNING STATUTE:

Within 60 days of the conclusion of the matter for which services were retained, and to further the purposes of ARS § 41-1346, COUNSEL will follow the procedures listed below.

BOARD REQUIREMENTS:

A. Counsel will contact the Board’s Designated Representative to obtain the following information

- Year and box number
- Month and year to be destroyed
- Review of Excel Index
- Completed transmittal form

Note: Contact will be secretary for the attorney you have been working with on the cases you are archiving.

B. Boxes - Contents

- Items must be boxed in bankers’ boxes (#703 boxes preferred).
- Box size must be 10”H x 12”W x 15”D.
- All files should face the same direction/forward.
- No hanging files, notebooks, binder clips or binders in boxes.
- Highlight box number on paperwork before placing paperwork in boxes.
- Not necessary to seal the boxes, as they will be examined at Records Center.
C. Boxes – Outside labeling (See example below)

- Left side of box – year and box number (to be provided by City).
- Right side of box – month/year to be destroyed (to be provided by City).
- See example for marking remainder of box.
- Use Dates from Transmittal Form from the “Date of Records – To and From” columns.

D. Archive Index and Transmittal Forms (See examples below)

- Boards will forward blank index in Excel Format to Law Firm
- Law firm completes and returns an electronic copy of the index containing contents of each box being sent to the Boards.

<table>
<thead>
<tr>
<th>BOX NO.</th>
<th>DATE ARCHIVED</th>
<th>YEARS TO RETAIN</th>
<th>ATTORNEY NAME (DO NOT ABBREVIATE)</th>
<th>TYPE OF CASE</th>
<th>CASE NO.</th>
<th>NAME OF CASE (DESCRIPTION OF BOX CONTENTS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>06-2222</td>
<td>05/07/06</td>
<td>5</td>
<td>Smith &amp; Doe LLC John H. Doe</td>
<td>Litigation</td>
<td>CV2005-5555</td>
<td>Mary Lawsuit v. Bad Company, et al., pleadings, depos, correspondence, attorney notes, legal research, trial exhibits, etc.</td>
</tr>
</tbody>
</table>

- Boards will fax approved “Records Transmittal Form” to law firm to be placed inside box along with index of box contents.
E. Records Center

- When boxes are completed law firm will contact the Records Center at 602-261-8648 to arrange a date to have boxes delivered. (Records Center is located at 2640 South 22nd Avenue, Phoenix.)

Please contact the Board(s) Designated Client Representative(s), with any questions you may have regarding these procedures.
EXHIBIT E – SCOPE OF WORK

Matter: Outside Counsel Services
Billing No.:

- The “SCOPE OF SERVICE” as set forth in Section III of the RFP is incorporated into this contract by this reference. Counsel will provide ongoing advice and analysis on the issues as set forth in that SCOPE OF SERVICE.

- It is understood and agreed that the terms and conditions of the contract will apply. Counsel will be compensated based on the schedule agreed to in this contract and agrees that the rates set forth in Exhibit A shall apply to this contract:

The procedures outlined below should be followed when processing monthly statements:

- Monthly bills will be filed and tracked according to the above contract and the billing number above. It is important that every invoice contain these numbers.

- Documentation supporting all claimed expenditures should be provided along with your invoice. Omission of these items can result in delayed payment or disallowance of expenditure.

- This matter will not be billed through E-billing. Please mail a hard copy of invoices to the address below. Monthly invoices, hard copies of invoices and questions regarding invoices should be directed to:

  Invoice Processor
  c/o Boards' Secretary [Retirement Administrator]
  200 W. Washington St., 10th Floor
  Phoenix, AZ  85003-1611

- A written status report should be sent to the BOARDS' Designated Client Representative(s), as set forth below, monthly or with greater frequency where circumstances warrant.

In connection with this engagement, you will be working with and reporting to the BOARDS' Designated Client Representative(s): [Name], [telephone & email], and all status reports should be directed to:

[address]
ACCELERATED PAYMENT DISCOUNT

COUNSEL agrees that the monthly payment of billed hourly fees will be reduced by 2% if CITY pays COUNSEL within 10 days of receiving COUNSEL’S invoice. If the amount owed COUNSEL is disputed by CITY, then COUNSEL agrees that the monthly payment of undisputed hourly fees may be reduced by 2% if CITY pays COUNSEL the undisputed fees within 10 days of receiving COUNSEL’S invoice, with the remaining fees paid without a discount following resolution of the dispute.