

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
PHASE II SYSTEMS DBA PUBLIC AGENCY RETIREMENT SERVICES**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 21st day of January, 2020 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and PHASE II SYSTEMS, a California corporation DBA PUBLIC AGENCY RETIREMENT SERVICES ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide Internal Revenue Code section 115 ("Section 115") trust fund administration and investment management services, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the Scope of Services, attached hereto as Exhibit "A," and Consultant's Proposal, attached hereto as Exhibit "B," both incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. City will compensate Consultant in accordance with the fee schedule set forth in Exhibit "C," attached hereto and incorporated herein by this reference. Such fees will be remitted to Consultant directly from the City's Section 115 trust account.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City Manager, or his or her designee, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. Unless otherwise agreed to in writing by the parties, the professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue unless terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in

accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company approved to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, limited contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: The policies shall not terminate, be suspended, or voided, nor shall they be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City; except ten (10) days written notice for non-payment of premium.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-Limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail

over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

PARS
4350 Von Karman Ave., Suite 100
Newport Beach, CA 92660
Tel: (800) 540-6369 ext. 115
Attn: Daniel Johnson, President

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5241
Attn: Kelly Telford

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

6.5. Drug-Free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "D" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all

costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant and the City hereby indemnify each other and hold the other harmless, including their respective elected officials, officers, directors, employees, agents, and attorneys, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of, and to the extent caused by, Consultant's or the City's, negligent acts, errors or omissions with respect to the performance of their respective duties hereunder.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or

subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. Binding Effect. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

6.21. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.22. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.23. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.24. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.25. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy

in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.26. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.27. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.28. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONSULTANT

Tod Hammer
Signature

Date: 1/29/2020

TOD HAMMERAS, CHIEF FINANCIAL OFFICER
[Name and Title]

[REDACTED]
Social Security or Taxpayer ID Number

CITY OF COSTA MESA

Lori Ann Farrell Harrison
Lori Ann Farrell Harrison
City Manager

Date: 2/11/20

ATTEST:

Brenda Green 2/18/2020
Brenda Green
City Clerk




APPROVED AS TO FORM:



Kimberly Hall Barlow
City Attorney

Date: 2/11/20


APPROVED AS TO INSURANCE:



Ruth Wang
Risk Management

Date: 2/7/2020


DEPARTMENTAL APPROVAL:



Kelly Telford
Finance Director

Date: 2/6/2020

APPROVED AS TO PURCHASING:



Kelly Telford
Finance Director

Date: 2/6/2020

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

- a. Consultant shall provide Section 115 pension trust administration and investment management services as outlined below.
- b. Consultant shall, itself or through U.S. Bank and HighMark Capital Management:
 - i. Offer an IRS-approved irrevocable funding vehicle to protect the City's assets.
 - ii. Implement the trust program within 90 days of executing contracts.
 - iii. With City staff, develop an Investment Policy for the Section 115 Pension Trust Fund.
 - iv. Provide a full-service program that includes trust administration, trustee and investment management services.
 - v. Work directly with City staff to prepare asset allocation guidelines for the trust based on the City's investment objectives and risk tolerance and compliance with the City's Investment Policy.
 - vi. Provide education/presentations regarding the pension trust program to Council and other City staff.
 - vii. Assist with GASB 74/75 reporting.
 - viii. Provide quarterly and annual comparative performance analyses and evaluation reports of the investments of the trust.
 - ix. Coordinate all contributions into the trust and process any requests for appropriate distribution.
- c. Consultant shall provide also the following services for the Costa Mesa Public Agencies Post-Employment Benefits Trust:
 - i. **Plan Installation Services:**
 - 1. Meeting with appropriate City personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
 - 2. Providing the necessary analysis and advisory services to finalize these elements of the Plan;
 - 3. Providing the documentation needed to establish the Plan to be reviewed and approved by City's legal counsel. Resulting final Plan documentation must be approved by the City prior to the commencement of PARS Plan Administration Services outlined below.

ii. Plan Administration Services:

1. Monitoring the receipt of Plan contributions made by the City to the trustee of the PARS Public Agencies Post-Employment Benefits Trust ("Trustee"), based upon information received from the City and the Trustee;
 2. Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the City and/or Trustee;
 3. Coordinating the processing of distribution payments pursuant to authorized direction by the City, and the provisions of the Plan, and, to the extent possible, based upon City-provided data;
 4. Coordinating actions with the Trustee as directed by the Plan Administrator within the scope this Agreement;
 5. Preparing and submitting a monthly report of Plan activity to the City, unless directed by the City otherwise;
 6. Preparing and submitting an annual report of Plan activity to the City;
 7. Facilitating actuarial valuation updates and funding modifications for compliance with GASB 45/75, if prefunding OPEB obligations;
 8. Coordinating periodic audits of the Trust;
 9. Monitoring Plan and Trust compliance with federal and state laws.
- iii. Consultant is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

DATA REQUIREMENTS

Consultant will provide the services under this Agreement contingent upon receiving the following information:

1. Executed Legal Documents:
 - a. Certified Resolution
 - b. Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
 - c. Trustee Investment Forms
2. Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
 - a. Agency name
 - b. Contribution amount

- c. Contribution date
 - d. Contribution method (Check, ACH, Wire)
3. Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
- a. Agency name
 - b. Payment reimbursement/distribution amount
 - c. Applicable statement date
 - d. Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
 - e. Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)
4. Other information pertinent to the services as reasonably requested by Consultant and Actuarial Provider.

EXHIBIT B
CONSULTANT'S PROPOSAL

PUBLIC
AGENCY
RETIREMENT
SERVICES

PARS

TRUSTED SOLUTIONS. LASTING RESULTS.



CITY OF COSTA MESA

RFP No.19-03: Section 115 Trust Fund Administration & Investment Management Services

Date Due: September 24, 2018 by 11:00am

Proposer: PARS (Public Agency Retirement Services)

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September 19, 2018

City of Costa Mesa
City Hall
Office of the Clerk
77 Fair Drive
Costa Mesa, CA 92628

RFP #19-03: Section 115 Trust Fund Administration & Investment Management Services

Dear Sir/Madam,

Public Agency Retirement Services (PARS) is proud to submit the enclosed proposal to provide Section 115 Trust Fund Administration & Investment Management Services for the City of Costa Mesa. Our IRS-approved, Section 115 Pension Rate Stabilization Program (PRSP) will provide the City with comprehensive administration, trustee, fiduciary investment management & advisory, compliance monitoring, and reporting services to prefund its pension obligations.

PARS, the pioneer of pension prefunding, will serve as the program's consultant and trust administrator, U.S. Bank will serve as trustee, and HighMark Capital Management (HighMark) will serve as investment advisor/manager. Together, our firms are the best qualified to perform the requested services due to the following key features:

- **Experienced, Industry Leading Trust Administrator** – With over 330 Section 115 Trust accounts under administration, including over 170 California public agencies (with 81 cities) for Pension prefunding, PARS is both the pioneer and #1 provider of Section 115 pension prefunding trust administration in the nation.
- **Strong, Secure Trustee** – The City's assets will be safeguarded by U.S. Bank, the 5th largest bank in the nation. U.S. Bank holds over \$3.5 billion in Section 115 Trust assets, making it one of the largest trustees for these type of assets in the country.
- **Successful, Highly-Respected Investment Management** – As a sub-advisor to U.S. Bank, HighMark will provide hands-on investment management/advisory services for the City. The firm, which has 99 years of experience and manages over \$14 billion in assets (including \$1+ billion in Section 115 Trust assets), provides the highest levels of investment fiduciary protection and offers multiple investment options to fit the City's current and changing needs.
- **Innovative Trust Design** – The PARS PRSP is structured as a unique, industry-leading "combination" trust approach which allows both pension and/or OPEB to be pre-funded within one single trust. This structure helps to bring economies of scale and cost efficiencies to the City, while still allowing for local control and customization.

PARS is committed to meeting the needs of the City and will provide a full team of highly experienced personnel to manage your account. This team, which will be based at PARS' Newport Beach headquarters will be led by:

Dennis Yu, PARS Executive Vice President

4350 Von Karman Ave, Suite 100

Newport Beach, CA 92660

Phone: (800) 540-6369 Ext. 104

Email: dyu@pars.org

As President of PARS, I have the authority to legally bind the firm. Thank you for your thoughtful consideration of our proposal response.

Sincere regards,

A handwritten signature in black ink, appearing to read 'Daniel Johnson', with a long horizontal flourish extending to the right.

Daniel Johnson
President, PARS



**VENDOR APPLICATION FORM
FOR
RFP NO. 19-03
SECTION 115 PENSION TRUST FUND**

TYPE OF APPLICANT: NEW CURRENT VENDOR

Legal Contractual Name of Corporation: Phase II Systems DBA Public Agency Retirement Services (PARS)

Contact Person for Agreement: Shauna Volcan, PARS Vice President, Implementation

Corporate Mailing Address: 4350 Von Karman Ave, Suite 100

City, State and Zip Code: Newport Beach, CA 92660

E-Mail Address: svolcan@pars.org

Phone: (800) 540-6369 Ext. 132

Fax: (949) 250-1250

Contact Person for Proposals: Dennis Yu, PARS Executive Vice President

Title: Executive Vice President

E-Mail Address: dyu@pars.org

Business Telephone: (800) 540-6369 Ext. 104

Business Fax: (949) 250-1250

Is your business: (check one)

NON PROFIT CORPORATION FOR PROFIT CORPORATION

Is your business: (check one)

CORPORATION LIMITED LIABILITY PARTNERSHIP

INDIVIDUAL SOLE PROPRIETORSHIP

PARTNERSHIP UNINCORPORATED ASSOCIATION

Names & Titles of Corporate Board Members

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

As a policy, PARS does not release the names of its Board members. However, below is a list of the individuals who are able to bind the firm to a contract:

Names	Title	Phone
<u>Daniel Johnson</u>	<u>President</u>	<u>(800) 540-6369 Ext 115</u>
<u>Tod Hammeras</u>	<u>Chief Financial Officer</u>	<u>(800) 540-6369 Ext 119</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

Federal Tax Identification Number: 33-0542454

City of Costa Mesa Business License Number: None

(If none, you must obtain a Costa Mesa Business License upon award of contract.)

City of Costa Mesa Business License Expiration Date: _____

EX PARTE COMMUNICATIONS CERTIFICATION

Please indicate by signing below one of the following two statements. **Only sign one statement.**

I certify that Proposer and Proposer's representatives have not had any communication with a City Councilmember concerning **RFP No. 19-03 SECTION 115 PENSION TRUST FUND** at any time after **08/27/18**.



Signature

Date: 9/13/18

Daniel Johnson

Print

OR

I certify that Proposer or Proposer's representatives have communicated after **08/27/18** with a City Councilmember concerning **RFP No. 19-03 SECTION 115 PENSION TRUST FUND**. A copy of all such communications is attached to this form for public distribution.

Signature

Date: _____

Print

DISQUALIFICATION QUESTIONNAIRE

The Contractor shall complete the following questionnaire:

Has the Contractor, any officer of the Contractor, or any employee of the Contractor who has proprietary interest in the Contractor, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or safety regulation?

Yes _____ No X

If the answer is yes, explain the circumstances in the following space.

DISCLOSURE OF GOVERNMENT POSITIONS

Each Proposer shall disclose below whether any owner or employee of Contractor currently hold positions as elected or appointed officials, directors, officers, or employees of a governmental entity or held such positions in the past twelve months. List below or state "None."

None.

COMPANY PROFILE & REFERENCES**Company Profile**Company Legal Name: Phase II Systems DBA Public Agency Retirement Services (PARS)Company Legal Status (corporation, partnership, sole proprietor etc.): CorporationActive licenses issued by the California State Contractor's License Board: N/ABusiness Address: 4350 Von Karman Ave, Suite 100, Newport Beach CA 92660Website Address: www.pars.orgTelephone Number: (800) 540-6369 Facsimile Number: (949) 250-1250Email Address: dyu@pars.orgLength of time the firm has been in business: 34 years Length of time at current location: _____Is your firm a sole proprietorship doing business under a different name: _____ Yes No

If yes, please indicate sole proprietor's name and the name you are doing business under: _____

Is your firm incorporated: Yes _____ No If yes, State of Incorporation: CaliforniaFederal Taxpayer ID Number: 33-0542454Regular business hours: M-F 8-5.30pmRegular holidays and hours when business is closed: New Year's Day, President's Day, Memorial Day, Independence day
Labor Day, Thanksgiving and day after, Christmas and 2 additional days over holiday period. Office closed weekends
and after 5.30pm weekdaysContact person in reference to this solicitation: Dennis Yu, PARS Executive Vice PresidentTelephone Number: (800) 540-6369 Ext 104 Facsimile Number: (949) 250-1250Email Address: dyu@pars.orgContact person for accounts payable: Phillip Muschetto, PARS Vice President, Plan AccountingTelephone Number: (800) 540-6369 Ext 106 Facsimile Number: (949) 250-1250Email Address: pmuschetto@pars.orgName of Project Manager: Dennis Yu, PARS Executive Vice PresidentTelephone Number: (800) 540-6369 Ext 104 Facsimile Number: (949) 250-1250Email Address: dyu@pars.org

COMPANY PROFILE & REFERENCES
(Continued)

Submit the company names, addresses, telephone numbers, email, contact names, and brief contract descriptions of at least five clients, preferably other municipalities for whom comparable projects have been completed or submit letters from your references which include the requested information.

Company Name: City of Lake Forest Telephone Number: 949-461-3431

Contact Name: Keith Neves Contract Amount: *See below

Email: kneves@lakeforestca.gov

Address: 25550 Commercentre Dr, Suite 100, Lake Forest, CA 92630

Brief Contract Description: Comprehensive Section 115 pension and OPEB prefunding trust services

Company Name: City of Cypress Telephone Number: 714-229-6718

Contact Name: Matt Burton Contract Amount: *See below

Address: 5275 Orange Ave, Cypress, CA 90630

Email: mburton@cypressca.org

Brief Contract Description: Comprehensive Section 115 pension and OPEB prefunding trust services

Company Name: City of Brea Telephone Number: 714-990-7714

Contact Name: Alicia Brenner Contract Amount: *See below

Email: aliciab@cityofbrea.net

Address: 1 Civic Center Circle, Brea, CA 92821

Brief Contract Description: Comprehensive Section 115 pension prefunding trust services

Company Name: City of Westminster Telephone Number: 714-548-3189

Contact Name: Sherry Johnson Contract Amount: *See below

Address: 8200 Westminster Blvd, Westminster, CA 92683

Email: sjohnson@westminster-ca.gov

Brief Contract Description: Comprehensive Section 115 pension prefunding trust services

Company Name: City of Stanton Telephone Number: 714-890-4226

Contact Name: Stephen Parker Contract Amount: *See below

Email: sparker@ci.stanton.ca.us

Address: 7800 Katella Avenue, Stanton, CA 90680

Brief Contract Description: Comprehensive Section 115 pension prefunding trust services

QUESTIONNAIRE

BACKGROUND AND PROJECT SUMMARY SECTION

The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished.

Public Agency Retirement Services (PARS), in collaboration with U.S. Bank and HighMark Capital Management (HighMark) propose a comprehensive solution for the City of Costa Mesa's Section 115 Pension Trust Fund Administration and Investment Management needs. Utilizing PARS' industry-leading Pension Rate Stabilization Program (PRSP), the City can prefund its \$270 million pension liabilities in an IRS-approved Section 115 trust which provides economies of scale for investment, administrative, and trustee services, while at the same time minimizing staff burdens and costs.

By prefunding into the PARS PRSP, the City will be able to:

- Address its long term CalPERS costs and better manage current and future obligations
- Retain local City control of pension assets compared to entrusting the assets with the CalPERS Board of Administration
- Protect its funds from diversion for other uses
- Create a rainy day fund that can be used in an emergency for pension-related costs if revenues are impaired based on economic or other conditions
- Stabilize costs when contribution rate increases occur
- Directly address its pension liability as contributions placed in the trust are set aside into an irrevocable trust
- Achieve better investment returns compared to the general fund through the diversification of investments

With 14 years of Section 115 trust experience and **over 330 clients, including over 170 in CA for pension prefunding**, PARS has developed a unique, full-service program that meets the needs and scope of services requested by the City of Costa Mesa. Specifically, we will provide a program that includes the following services/features:

- Ready-to-use irrevocable Section on 115 multiple employer trust and investment program that is compliant with California and federal law, as well as GASB 67/68 rules
- IRS-approved trust that provides immediate tax-exempt status to client agencies
- Full service program that includes comprehensive trust administration, trustee/custodial and investment management services
- Robust, well-established fiduciary investment structure that aims to minimize/downside investment risk while providing strong investment performance long-term
- Investment policy development, asset allocation assistance and ongoing portfolio analysis to meet the City's objectives
- Regular reporting that includes monthly/annual statements, quarterly/annual comparative performance analyses/evaluations, and periodic in-person reviews
- Education/presentations regarding the pension trust program to Council, Pension Oversight Committee and other City staff

- Streamlined implementation process with signature-ready documents and technical guidance that can be completed within 3-4 business days of executed documents being returned to PARS
- Assistance with the new GASB 67/68 (pension) reporting requirements including certified trust-wide audit performed by White Nelson Diehl Evans with accompanying SOC-1 Type II audit
- Coordination of all contributions into the trust and the processing of any requests for distribution
- Ongoing consulting and technical guidance
- Flexible, discretionary investment options designed by HighMark specifically for prefunding pension liabilities – The City can select from 5 model portfolios as well as a customized option, all of which can be either actively or passively managed
- Hands-on, individualized attention from highly experienced PARS/HighMark services team that has a long, successful track record working with California cities
- Strong, historical investment returns - We provide true, historical 1, 3, 5 and 10 year return information, not composites
- No startup costs, minimum contribution requirements, transaction fees, trading fees or ongoing compliance costs
- Fees that decrease as assets accumulate
- No red tape or fees to enter or leave the trust in addition to a no-cost 30-day termination option
- Local control that enables the City to determine its own target rate of return assumptions, distribution frequencies, and risk tolerance levels
- First-of-its-kind, multiple-employer trust approach that allows pension and OPEB liabilities to be prefunded within the same trust, but with assets accounted for separately (per GASB rules)
- Agent Multiple Employer Trust designation to simplify GASB reporting requirements

COMPANY EXPERIENCE AND QUALIFICATIONS

The information requested in this section should describe the qualifications of the firm or entity, key staff and sub-contractors performing services within the past five years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:

- a. A brief overview and history of your firm, including length of time providing investment advisory services; length of time providing Section 115 Trusts, and list of California local government clients (including contact information) you currently are contracted with to provide Section 115 Trusts.**

Below is an overview and history of the program's trust administrator, PARS, trustee, U.S Bank, and investment manager, HighMark:

PARS (TRUST ADMINISTRATOR)

PARS is a pioneer in the design and administration of governmental retirement plans for public agencies with over three decades of experience in the business. Throughout this time, our company has experienced

continual corporate growth and has built a long track record of service which includes the following key accomplishments:

- Administration of over **1,900** plans for more than **850** public entities
- Has provided retirement plan and trust administration services for the City of Costa Mesa and its part-time, seasonal and temporary employees since 2000, resulting in savings to the City of more than \$500,000 compared to the cost of Social Security
- Development of the first multiple-employer Section 115 Trust Program for pension pre-funding in the nation (2015) and first multiple-employer Section 115 OPEB Trust Program (2004)
- First provider to obtain IRS Private Letter Ruling on a “combination” multiple-employer trust approach (for pension and OPEB pre-funding)
- Market leading Section 115 Pension prefunding trust provider with over 170 clients in CA including 81 cities (12 of which are cities in Orange County)
- Ongoing servicing of over **425,000** public employees
- Vast experience providing integrated retirement solutions and multiple trust programs to agencies – **over 300** of our client agencies have multiple plans with us
- Largest multiple-employer Section 115 trust provider for OPEB and Pension Liabilities nationwide
- Development and administration of multiple employer Section 115 Trust programs for numerous associations and group entities including the Community College League of California, California School Boards Association and California Special Districts Association

Below is a more detailed timeline showing a number of PARS’ key milestones:

PUBLIC
AGENCY
RETIREMENT
SERVICES

PARS

1984 - PARS begins to design and administer niche retirement plans for public agencies.

1990 - PARS creates the Public Agency Retirement System Trust, an IRC Section 401(a) multiple employer retirement trust program. PARS has since developed several other multiple employer trusts for public agencies based on this initial model.

1996 - PARS developed its first trust for prefunding retiree medical benefits in CA.

2000 - The City of Costa Mesa hires PARS to implement and administer an alternative to Social Security program for part-time, seasonal and temporary employees. The program remains successful today.

2003 - PARS begins developing an innovative Section 115 irrevocable trust based on its already established multiple employer trust model.

2006 - PARS receives the first ever IRS PLR (Private Letter Ruling) given on a multiple employer Section 115 trust for post-retirement health care funding. The IRS requests publication of the trust’s details as an example for other OPEB multiple employer trusts.

2015 - PARS establishes a new Section 115 trust that allows prefunding of both pension and OPEB costs. This trust subsequently receives a favorable private letter ruling from the IRS, the first of its kind in the nation.

2016 - PARS has record year adding over 60 clients to its pension prefunding trust, making the firm the clear market leader and program expert.

2017 - The PARS PRSP continues to grow in client numbers and assets. Another

60+ agencies join the program with PARS administering over \$1.5 billion in Section 115 trust assets.

2018 – In total, more than 330 public agencies now utilize PARS to prefund OPEB and Pension liabilities using our Section 115 Trust which has over \$2 billion in assets under administration.

U.S. BANK (TRUSTEE)

Established in 1863, U.S. Bank is the fifth largest bank and highest rated in the country. U.S. Bank has offices throughout the U.S., including many in California, and manages over \$450 billion in assets. U.S. Bank is consistently recognized for its fiscal conservativeness and sound business model which has enabled investments in core business lines such as Institutional Trust and Custody. This division that provides advisory, trustee, and investment management services to PARS clients prides itself on the following qualifications:

- Sixth largest custodian in the United States with more than **2,600** clients in **27** locations
- Provides trust and investment services to over **1,300** government clients
- One hundred years in institutional trust and custody business
- Provided investment management and advisory services since 1914
- One of the largest trustees of Section 115 Retirement Trust assets in the country with **\$3.5 billion** and growing

U.S. Bank has been acting as trustee and investment manager for health funding programs similar to pension and OPEB pre-funding trusts, including VEBAs and HRAs, for **the last 70+ years**. The Bank first began providing trustee/investment services for Section 115 trusts in 2004 when it took on a large school board association trust with PARS as the administrator. In 2012, U.S. Bank became trustee to all of PARS' 850+ clients, including the City of Costa Mesa's PARS Alternate Retirement System program.

In total, the Bank now acts as trustee/custodian to more than 400 Section 115 retirement trust clients, making it one of the largest trustees for pension pre-funding in the nation.

HIGHMARK CAPITAL MANAGEMENT (INVESTMENT MANAGER)

Originally established as Union Bank in 1919, HighMark manages approximately \$14 billion in U.S equity and fixed income strategies for a variety of individual and institutional clients including public agencies, corporate retirement plans, corporate cash portfolios, Taft-Hartley plans, hospital funds, insurance companies, and foundations and endowments.

Since the firm's founding nearly 100 years ago, HighMark has provided innovative financial solutions to its clients and remains committed to outstanding research, disciplined investment processes, and comprehensive risk management. This three pronged approach enables HighMark to deliver insightful investment guidance and superior service while at the same time striving to exceed client expectations and deliver value at every level of the investment relationship.

HighMark has provided fiduciary investment advisory and management services to PARS' clients, including those in our retirement trust programs for over 20 years. Today, HighMark serves over 250 of PARS' Section 115 trust clients, including **all** cities, county and special district clients in California, managing in excess of

\$1 billion in assets. HighMark has served as the investment manager for the City of Costa Mesa's PARS Alternate Retirement System Program since 2000.

- b. Identify the number of projects for which your firm and the principals who will be assigned to work with the City have acted as lead project manager in the past three (3) years. Please indicate numbers of projects both on a firm and an individual basis.**

PARS has administered 1,353 plans over the last 3 years, of which 171 are for Section 115 pension prefunding trust services.

Lead project manager for the City's account, PARS Executive Vice President Dennis Yu, has served as the primary consultant for 173 plans in the last 3 years, of which 41 are for pension prefunding.

- c. Briefly discuss and provide examples that illustrate the firm's resources, commitment and demonstrated ability to complete all components of the service in a timely manner, including but not limited to, attending meetings, advising staff on matters specific to the scope of service, preparing and presenting reports to City staff and members of the City Council, and assisting with due diligence and disclosure processes relevant to the scope of services.**

As the market leader and largest provider of multiple employer pension prefunding trust services in the nation with over 170 clients, PARS has developed a program that will meet all of the services requested by the City and more. From this initial RFP stage onwards, the City will have direct access to its dedicated services team which is comprised of PARS Executive Vice President, Dennis Yu, PARS Supervisor of Consulting, Jennifer Meza, HighMark Senior Portfolio Manager, Keith Stribling, PARS Vice President of Plan Implementation, Shauna Volcan and PARS Vice President of Plan Accounting, Phillip Muschetto. This team, with support from numerous employees working behind the scenes at PARS and HighMark's headquarters, is committed to providing all PRSP services in a timely manner and will ensure ongoing support and assistance throughout implementation and the ongoing administration of the plan.

Specifically, we will provide the following resources for the City and its staff:

- Direct contact information (phone and email) for all members of the client service team
- In-person plan and investment reviews
- Attendance at City Council and Pension Oversight Committee meetings when requested
- Preparation of education materials and presentations for City Council and staff
- Ongoing consulting support and technical guidance to ensure the City continually meets its goals and objectives
- Ongoing compliance monitoring and assistance with the new GASB 67/68 reporting requirements
- Hands-on investment support including IPS development, asset allocation recommendations and ongoing portfolio management
- Monthly, quarterly, annual and ad hoc reporting
- Guaranteed response to most questions/issues within 24 hours. (In a situation where there is a highly unusual request that requires more extensive research, we will be in regular contact with staff to keep you informed on when we expect an answer/resolution)

- d. If you will utilize any subcontractors for the servicing of the trust, please describe your relationship and provide background and experience of all services providers for the trust program (trust administration, trustee and investment management services), including number of years the subcontractor has provided investment advisory services.**

PARS will handle all day-to-day administration of the program in-house as we have done since we first began administering retirement healthcare trusts in 1996. PARS does not contract out administrative tasks to other companies, with the following exceptions of legal and audit work:

- PARS legal counsel for its PRSP is Pillsbury Winthrop Shaw Pittman LLP, one of the largest law firms in the nation. The firm provides ongoing legal and compliance support related to federal law and was involved both with the development of our trust agreements/documents, as well as with coordination of obtaining the IRS PLR. PARS has worked with Pillsbury since 2013.
- The PARS Trust auditor is White Nelson Diehl Evans LLP. White Nelson Diehl Evans LLP is built upon over 75 years of knowledge and expertise in business practices, economic trends, and the ever-changing tax scene. They also have a strong base of clients among governmental agencies, in both the auditing and consulting arenas and have served as the auditor of the PARS Trust programs since 1997.

A mentioned above, U.S. Bank will provide trustee services for the City's trust account and HighMark will serve as investment manager. However, both of these firms operate independently and are not subcontractors of PARS. Information on the background and experience of U.S. Bank and HighMark can be viewed in the response to question a. above.

- e. Describe any SEC, FINRA, or regulatory censure or litigation involving your firm, subcontractor, or its employees in last three years.**

There has been no SEC, FINRA, or regulatory censure involving PARS, its subcontractors or employees in the last 3 years.

LITIGATION - On May 19, 2017 three plan participants of a plan for which Phase II Systems (d.b.a. "PARS") is the Trust Administrator filed a Lawsuit against their employer the City of Oxnard (the "City") and PARS claiming that their benefits were reduced in error and seeking to be compensated for the difference between the benefit and the reduced amount plus the cost of the suit, reasonable attorneys' fees and other relief the Court deems proper. On June 26, 2017 another participant of the same plan filed a separate Lawsuit against his employer the City of Oxnard and PARS claiming that his benefits were reduced in error and seeking to be compensated for the difference between the benefit and the reduced amount plus the cost of the suit, reasonable attorneys' fees and other relief the Court deems proper. At all times PARS acted at the direction of the City and vehemently denies any liability for these matters. PARS did not believe it should be a party to these lawsuits and worked with the City's counsel to defend both PARS and the City. A settlement agreement between the initial three plan participants was reached and the case was dismissed with prejudice on May 23, 2018. A settlement agreement with the final participant was reached in June 2018 and the case was dismissed with prejudice on July 12, 2018.

f. Provide at least five references that received similar services from your firm. The City of Costa Mesa reserves the right to contact any of the organizations or individuals listed. Information provided shall include:

- Client name,
- Project description,
- Project start and end dates
- Client project manager name, telephone number, and e-mail address.

CLIENT NAME & SERVICE DATES	CLIENT PROJECT MANAGER	SERVICES PROVIDED
<p>CITY OF LAKE FOREST</p> <p>PARS Client: 1992 - Present</p>	<p>Keith Neves, Deputy City Manager/Finance Director 25550 Commercentre Dr, Suite 100 Lake Forest, CA 92630</p> <p>P: 949-461-3431 E: kneves@lakeforestca.gov</p>	<ul style="list-style-type: none"> • Comprehensive Section 115 Pension and OPEB trust services including trust administration, fiduciary investment management, trustee/custodial, reporting, accounting, compliance monitoring, implementation & document management • Administration of alternative to Social Security Program for part-time, seasonal and temporary employees
<p>CITY OF CYPRESS</p> <p>PARS Client: 1994 - Present</p>	<p>Matt Burton, Director of Finance and Administrative Services 5275 Orange Ave, Cypress, CA 90630</p> <p>P: 714-229-6718 E: mburton@cypressca.org</p>	<ul style="list-style-type: none"> • Comprehensive Section 115 Pension and OPEB trust services including trust administration, fiduciary investment management, trustee/custodial, reporting, accounting, compliance monitoring, implementation & document management • Previously administered multiple early retirement incentives for the City
<p>CITY OF BREA</p> <p>PARS Client: 2004 - Present</p>	<p>Alicia Brenner, Sr. Management Analyst 1 Civic Center Circle Brea, CA 92821</p> <p>P: 714-990-7714 E: aliciab@cityofbrea.net</p>	<ul style="list-style-type: none"> • Comprehensive Section 115 Pension trust services including trust administration, fiduciary investment management, trustee/custodial, reporting, accounting, compliance monitoring, implementation & document management
<p>CITY OF WESTMINSTER</p> <p>PARS Client: 1996 - Present</p>	<p>Sherry Johnson, Finance Director 8200 Westminster Blvd Westminster, CA 92683</p> <p>P: 714-548-3189 E: sjohnson@westminster-ca.gov</p>	<ul style="list-style-type: none"> • Comprehensive Section 115 Pension trust services including trust administration, fiduciary investment management, trustee/custodial, reporting, accounting, compliance monitoring, implementation & document management • Administration of alternative to Social Security Program for part-time, seasonal and temporary employees

		<ul style="list-style-type: none"> • Previously administered multiple early retirement incentives for the City
<p>CITY OF STANTON</p> <p>PARS Client: 2010 - Present</p>	<p>Stephen Parker, Assistant City Manager 7800 Katella Avenue Stanton, CA 90680</p> <p>P: 714-890-4226 E: sparker@ci.stanton.ca.us</p>	<ul style="list-style-type: none"> • Comprehensive Section 115 Pension trust services including trust administration, fiduciary investment management, trustee/custodial, reporting, accounting, compliance monitoring, implementation & document management • Administration of alternative to Social Security Program for part-time, seasonal and temporary employees
<p>CITY OF TUSTIN</p> <p>PARS Client: 2012 - Present</p>	<p>Jenny Leisz, Deputy Director, Finance 300 Centennial Way Tustin, CA 92780</p> <p>P: 714-573-3079 E: jleisz@tustinca.org</p>	<ul style="list-style-type: none"> • Comprehensive Section 115 Pension and OPEB trust services including trust administration, fiduciary investment management, trustee/custodial, reporting, accounting, compliance monitoring, implementation & document management • Previously administered early retirement incentive for the City

A full PARS Section 115 trust client list can be viewed in the Appendix under “*Client List.*”

METHODOLOGY SECTION

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP.

PARS’ proposed trust solution to meet the services requested by the City of Costa Mesa is a Section 115, IRS-approved irrevocable multiple-employer trust which brings investment, administrative and legal economies of scale to the program’s member agencies. The program is formulated as an aggregation of individual employer plans which means there is no sharing of assets or risks. This model follows the same concept that PARS has utilized successfully for its pension/OPEB prefunding clients since 2004 and is currently being used by some the largest cities, counties, and school districts in the country.

Our program is structured with the following characteristics:

- **SEPARATE ACCOUNTS:** Separate accounts (or sub-trusts) are maintained for each employer and assets are segregated by individual agency. In addition, agencies can create separate sub-accounts by PERS plan (e.g., Misc., Safety, etc.) or enterprise funding if required.
- **SEPARATE LIABILITIES:** Employer contributions provide benefits only for employees of that employer. This means there is **no cross-liability or joint liability** among participating public agencies, and **no sharing of investment earnings or losses.**

- **ECONOMIES OF SCALE:** By using a multiple employer trust approach, the City benefits from the cost, legal, and administrative efficiencies associated with joining other public entities.
- **LOCAL CONTROL:** There is no central authority placing mandates on the trust that may not be in the best interests of the City.
- **TAILORED INVESTMENTS:** Assets can be pooled for investment purposes based on asset allocation risk models to fit with the City’s risk tolerance level.
- **COMBINATION TRUST:** PARS’ trust approach allows both Pension and/or OPEB obligations to be funded in one single trust. Assets are held in separate sub-accounts but aggregated for fee reduction purposes.

ADVANTAGES OF MULTIPLE- EMPLOYER TRUST

PARS recommends the use of its “turn-key” innovative Section 115 multiple employer trust program because this approach is simpler and lower in cost than a single-employer trust, and also brings the following key features:

	MULTIPLE EMPLOYER	SINGLE EMPLOYER
SET-UP	No set up is required as trust already exists	Set up of new trust takes time and would require costly legal review
IRS PRIVATE RULING	Yes. Already obtained and covers entire trust	No. Can no longer be obtained
DOCUMENTS	Existing master plan/trust documents are used which have already been vetted by every joining agency	Must be developed/created by attorney or a prototype used
ONGOING WORKLOAD OF CITY	Little. Significant economies of scale and administrative efficiencies are gained through a multiple employer trust approach	Cost and effort to administer and audit – stand-alone trust can create significant work Additional GASB reporting disclosures may be required
COMPLIANCE	Assistance provided by Trust Administrator, PARS	Responsibility of employer and its attorney
INVESTMENTS	Both pooled and customized options available	Only customized options available
ECONOMIES OF SCALE	Yes	No
FEES	Lower due to economies of scale and can decrease with asset growth	Higher due to limited scale

a. State whether your Section 115 Trust program has approval from the IRS in the form of a Private Letter Ruling.

PARS received a “first of its kind” Private Letter Ruling (PLR) from the IRS in June 2015 for its innovative “combination” trust vehicle which allows local government agencies to set aside funds to prefund pension and/or OPEB obligations. The PLR confirms the tax-exempt treatment of PARS PRSP assets for each participating agency and is a major benefit of our program given that it provides an added layer of protection for the City.

A copy of PARS’ PLR can be viewed in the Appendix under “IRS PLR.”

b. State whether your firm requires a minimum investment amount to open a Section 115 Trust – and, if so, the amount.

There is **no** minimum investment amount required to open a PARS Section 115 Irrevocable Pension Trust account, nor any annual required contribution. With our program, the City has full flexibility to make contributions of any amount, at any time.

c. Please provide actual 1, 3 and 5-year return history.

The annualized returns (as of 6/30/18) for the 5 pre-established portfolios developed by HighMark are as follows:

Active Portfolios:

PORTFOLIO	1 YEAR	3 YEARS	5 YEARS
CAPITAL APPRECIATION	9.66%	7.64%	9.00%
BALANCED	7.93%	6.58%	7.47%
MODERATE	6.42%	5.82%	6.59%
MOD. CONSERVATIVE	3.80%	4.22%	4.84%
CONSERVATIVE	1.88%	3.04%	3.51%

Passive (Index) Portfolios:

PORTFOLIO	1 YEAR	3 YEARS	5 YEARS
BALANCED	6.93%	6.35%	7.25%
MODERATE	5.77%	5.56%	6.36%
MOD. CONSERVATIVE	3.23%	3.96%	4.62%
CONSERVATIVE	1.48%	2.65%	3.18%

d. Describe the level of assistance your firm provides regarding investment strategy selection and investment policy development.

As the program’s investment manager, HighMark will assist the City with the investment of its assets by providing asset allocation recommendations and investment policy development assistance prior to program inception.

Prior to making any asset allocation recommendations, designated Portfolio Manager Keith Stribling, who also works on the City’s Alternative to Social Security Plan, will gain an in-depth understanding of the City’s circumstances. Keith will focus on determining a diversified, multi-asset portfolio structure that represents an optimal asset mix based on your time horizon, risk tolerance level, and liquidity needs. Primary consideration for asset allocation is given to the following:

- INVESTABLE CASH FLOW – How does the City plan to prefund its pension liabilities?
- RETURN EXPECTATIONS – What are the target rate of return assumptions for the plan?
- RISK TOLERANCE – What is the comfort level with investments and varying risk?
- INCOME AND LIQUIDITY NEEDS – What are needs for income to pay current liabilities?
- INVESTMENT RESTRICTIONS – What type of investments would be not permitted by the City

After receiving input from staff, Keith will develop an investment policy statement (IPS) unique to the City, which will serve as the foundation for all investment decisions moving forward. Once the IPS has been completed, it must be reviewed and approved by the designated Plan Administrator before going into effect.

INVESTMENT OPTIONS

The PARS PRSP was designed to give client agencies maximum investment flexibility. Utilizing HighMark as discretionary investment manager, the City has the following choices related to the investment of its funds.

1. FIVE RISK TOLERANCE LEVELS

The City can participate in one of five risk tolerance levels that have been developed specifically for clients in PARS’ Section 115 Irrevocable Trust Programs. The five portfolios include: (a) actively-managed underlying mutual funds intended to outperform benchmarks or (b) low-cost Index/Exchange-Traded Funds (ETFs) which are baskets of stocks tracking the composition and performance of most leading market indices.

The following table provides shows the tactical asset allocation targets for each of the five portfolios (as of 6/30/18):

STRATEGY	EQUITY	FIXED INCOME	CASH
CAPITAL APPRECIATION	76%	22%	2%
BALANCED	61%	36%	3%
MODERATE	51%	46%	3%
MODERATELY CONSERVATIVE	31%	66%	3%
CONSERVATIVE	16%	78%	6%

A full breakdown of the funds within the pre-established portfolios can be viewed in the Appendix under "Investment Portfolios."

2. CUSTOMIZED APPROACH

Still using a discretionary trustee approach, the City can customize its own portfolio under the investment and fiduciary advice of HighMark to include: (a) any pre-approved funds available under an open architecture trading platform, (b) any combination of active and index funds in the pre-established portfolios, or (c) any individual securities/bonds. This customized option, which requires a \$5 million asset balance or more, gives the City full flexibility of its investments.

e. Describe the full scope of consulting services you provide in analyzing funding options and designing a funding program.

PARS will work closely with City staff from the outset to analyze and implement a trust program that will help the City address its rising pension liabilities. Lead Consultant Dennis Yu will oversee implementation, design and administration of the City's trust account and can provide the following consulting services from the initial program development phase onwards:

- Discussion of plan and trust design options
- Analysis and review of various funding options
- Assistance with developing and modifying funding policies
- Analysis and discussion of actuarial issues and valuations
- Monitoring/updates of legislation, laws, and regulations impacting pension pre-funding
- Development of materials and presentations to assist the City, its Council, and Pension Oversight Committee in understanding pension pre-funding/trust services
- On-site reviews to discuss modifications to funding and investment strategies based on changing program, and/or budgetary circumstances

STAFFING

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform. Include a resume for each designated individual.



DENNIS YU, CEBS, PARS EXECUTIVE VICE PRESIDENT

ROLE - Dennis will serve as the Account Executive and primary point of contact to facilitate services to the City – from program initiation to ongoing administration. He will consult with the City on all aspects of the plan and will provide ongoing account management as he does for your Alternative to Social Security plan for part-time, seasonal and temporary employees. The City will have direct access to Dennis on all matters and he will be available to meet with staff as often as requested.

EXPERIENCE - Dennis has worked for PARS since 1994 and is responsible for developing customized retirement plans and trusts, including the design of our Pension pre-funding trust (PARS PRSP). He has also worked

with many agencies to implement their Section 115 Pension and/or OPEB trust accounts and has been involved in the development of more than 300 PARS retirement plans developed for cities and special districts throughout California.

Dennis has also been a speaker at various conferences, including League of Cities, CalPELRA, NPELRA, CSDA, and PELRAC on topics such as retirement trusts, post-retirement health care trusts, defined benefit plan design, and early retirement incentives.

EDUCATION - Dennis has a BA in Economics from the University of California, Irvine, where he graduated cum laude. He also completed an MBA from the UCLA Anderson School of Management as well as the Certified Employee Benefits Specialist (CEBS) designation and Certificate of Achievement in Public Plan Policy (CAPPP) through the Wharton School at the University of Pennsylvania.



JENNIFER MEZA, CEBS, SUPERVISOR, CONSULTING, PARS

ROLE - Jennifer will be directly involved with ongoing client services related to the City's PRSP account. After implementation, she will be the internal point of contact for staff and will work alongside Dennis to manage any administrative issues that arise. Jennifer's primary role is to ensure that the City's needs are met and she will provide ongoing technical support regarding reporting, contributions, distributions, and other trust account activities.

EXPERIENCE - Jennifer has 15 years of customer service experience in various private sector industries including 5 years in the retirement plan industry. She joined PARS in February of 2013 as an Administration Specialist and then transitioned to her current position in PARS' Client Services Department in November 2013.

EDUCATION - Jennifer has a bachelor's degree in Business Administration from the California State University, Fullerton. She has also received her Certified Employee Benefit Specialist (CEBS) designation from the International Foundation of Employee Benefits and the Wharton School of Business.



KEITH STRIBLING, CFA, DIRECTOR & SENIOR PORTFOLIO MANAGER, HIGHMARK

ROLE - As a Senior Portfolio Manager, Keith is responsible for managing investment portfolios on behalf of PARS' Section 115 Pension Trust clients, retirement plans, foundations, not-for-profit organizations, and high net worth investors. On plan inception, he will meet with staff to discuss the City's investment needs, and will craft an Investment Policy Statement which will serve as the underlying investment guide to the City's account. The City will have direct access to Keith at all times, and he will be available to provide ongoing investment advice at the City's request.

EXPERIENCE - Keith joined HighMark in 1995 and has been working with California public agencies for many years. Prior to joining HighMark, Keith worked in the derivatives arbitrage group at First Boston and in foreign currency arbitrage at Shatkin Trading. He has worked in the investment industry for 33 years.

EDUCATION - Keith has a BA from Stetson University and is also a Chartered Financial Analyst (CFA) charterholder.

SHAUNA VOLCAN, VICE PRESIDENT, IMPLEMENTATION, PARS

ROLE - Shauna will manage implementation of the City's plan, as well as monitor document compliance on an ongoing basis. If legal, legislative, and regulatory changes are identified that impact the PARS trust or the City's account, Shauna will coordinate with our legal counsel in providing updated drafts/required amendments of the trust and plan documents for review by your legal counsel. Shauna has served PARS clients in this role since our Section 115 trust was established in 2004, and has managed implementation of all 330+ client accounts since this time.

EXPERIENCE - Shauna has worked at PARS for 17 years. During this time, she has been closely involved in developing documents and forms for our Section 115 Irrevocable Trust programs and has overseen the implementation and compliance of more than 500 retirement plans. Shauna worked for 15 years in the legal field before coming to PARS in 2001.

EDUCATION - Shauna has a BA in Spanish from California State University, Long Beach.

PHILLIP MUSCHETTO, VICE PRESIDENT, PLAN ACCOUNTING, PARS

ROLE - As Vice President of Plan Accounting, Phillip is responsible for monitoring contributions and distributions, as well as performing periodic accounting and reporting for the City's Pension trust account. Phillip also oversees the annual trust wide audit performed on the PARS Trust.

EXPERIENCE - Phillip joined PARS 15 years ago. Working his way up through the Accounting Department, Phillip is now responsible for updating and allocating monthly transactions within the PARS database to more than 1,000 plans. He also oversees the reconciliation of all contributions, distributions, earnings, and expenses.

EDUCATION - Phillip has a BA in Finance from California State University, Long Beach, and an MBA in Accounting from National University.

FINANCIAL CAPACITY

Provide the Proposer's latest audited financial statement or other pertinent information such as internal unaudited financial statements and financial references to allow the City to reasonably formulate a determination about the financial capacity of the Proposer. Describe any administrative proceedings, claims, lawsuits, or other exposures pending against the Proposer.

PARS is a privately held company with multiple individual stakeholders. As a policy, PARS does not disclose financial information, but we have been a growing, financially stable company since inception. PARS enjoys a strong reputation of integrity and high-quality services which has resulted in the consistent growth in the number of plans serviced and assets under administration for the last 34 years. There are no administrative proceedings, claims, lawsuits, or other exposures pending against PARS.

The program trustee, U.S. Bank is a publicly traded bank with public financial statements. The Bank is recognized as one of the nation's strongest financially performing banks and ranked among the top holding companies based on several key measures of profitability and efficiency. The senior unsecured debt ratings

established for U.S. Bank by Moody's, Standard and Poor's, and Fitch reflect the rating agencies' recognition for consistent financial performance of the bank and the quality of its balance sheet. U.S. Bank as excluded from Moody's downgrade of 15 of the largest banks during the recession. While other financial institutions experienced the effects of the financial climate, U.S. Bank's financial ratios continue to rank among the best in the banking industry and be in excess of "well-capitalized" requirements during this period.

A copy of U.S. Bank's financial statement, in addition to a Dun & Bradstreet report on PARS can be viewed in the Appendix under "*Financial Statements.*"

COST PROPOSAL

All Proposers are required to submit a detailed Cost Proposal to be included with their Proposal. Pricing instructions should be clearly defined to ensure fees proposed can be compared and evaluated. Proposals shall be valid for a minimum of 180 days following submission and should address the following components:

a. Identify any start-up fees.

There are **no** start-up fees or minimum annual fees associated with the PARS PRSP.

b. Provide all fees for the proposed investment services, including administration and management fees, trustee and investment management services, fees for consulting, etc.

Fees for the PARS PRSP are broken down into trust administration (paid to PARS), and discretionary trustee/investment management costs (paid to U.S. Bank and shared with HighMark Capital Management). A full breakdown of these program fees are listed below. **Please note there are no start-up or termination costs associated with our program, in addition to no transaction or trading fees.**

TRUST ADMINISTRATION/CONSULTING FEES

Trust administration fees provide for all plan administration services, including compliance monitoring, consulting, recordkeeping, funding analysis, and reporting.

COMPANY	ONGOING FEE
PARS	0.25% for assets under \$10 million 0.20% for assets \$10-15 million 0.15% for assets \$15-50 million 0.10% for assets over \$50 million

DISCRETIONARY TRUSTEE/INVESTMENT MANAGEMENT FEES

Trustee and investment management fees are comprehensive and include investment policy development, asset allocation recommendations, asset management, and all custodial services.

COMPANY	ONGOING FEE
U.S. BANK/HIGHMARK	0.35% for assets under \$5 million* 0.25% for assets \$5—\$10 million 0.20% for assets \$10—\$15 million 0.15% for assets \$15—\$50 million 0.10% for assets over \$50 million

**Please note that all fees are waived on the portfolio's money market fund. The 0.35% fee represents the highest weighted investment management fee that can be charged, but as of 6/30/18 actual fees for the 5 pre-established portfolio options ranged from 0.33% - 0.34%.*

FUND FEES

The only additional fees not listed above are the embedded fund fees which are charged on the funds within each portfolio. Listed below are the embedded fund fees for the pre-established portfolio options as of June 30, 2018. ***Please note that these fund level fees are already netted out of reported performance returns and are not additional fees charged on top of the asset based fees listed above.***

INVESTMENT PORTFOLIO	OPERATING EXPENSE RATIO	
	ACTIVE	PASSIVE
CAPITAL APPRECIATION	0.55%	0.15%
BALANCED	0.53%	0.13%
MODERATE	0.51%	0.12%
MODERATELY CONSERVATIVE	0.48%	0.10%
CONSERVATIVE	0.45%	0.08%

- c. **State the kind of expense structure that the investments in your investment platform may include (i.e., no load, proprietary funds, institutional shares, etc.). Describe any additional fees to be netted from the investment performance and any minimum fees.**

The PARS PRSP investments platforms may include mutual funds, ETFs, index funds, separately managed accounts, individual stocks and bonds, or other investment vehicles permitted by the trust agreement. These investments use the following types of expense structure:

- Institutional share class funds
- No loads or commissions
- No revenue sharing, 12(b) fees

The expenses of the underlying fund fee in each portfolio are netted out of investment performance. There are no additional fees netted from investment performance such as securities lending, directed brokerage, sub-administration fees, shareholder servicing fees, or commissions.

d. Describe any surrender, withdrawal, or deferred sales charges within your products.

There are no any surrender, withdrawal, or deferred sales charges related to any of the products offered as part of the PARS PRSP.

e. Describe any fee related to transfer of assets and restrictions or costs related to termination of a contract with your firm.

There is no fee or restriction associated with the transfer of assets or termination of contract from the PARS PRSP. PARS simply requires 30 days' notice in order to transfer your assets to a like Section 115 trust (in accordance with IRS rules).

f. Outline billing and payment expectations, including timing and method of payment.

Trust administration and trustee/investment management fees are calculated and charged on a monthly basis. These fees are typically taken out of plan assets unless the City requests otherwise.

DISCLOSURE

Please disclose any and all past or current business and personal relationships with any current Costa Mesa elected official, appointed official, City employee, or family member of any current Costa Mesa elected official, appointed official, or City employee. Any past or current business relationship may not disqualify the firm from consideration.

Since 2000, PARS has provided administration and management of the City's Alternative to Social Security Program for part-time, seasonal and temporary employees. We have no personal or family relationships with any current Costa Mesa elected official, appointed official, or City employee.

EXCEPTIONS TO SAMPLE PROFESSIONAL SERVICE AGREEMENT

The firm selected by the City will be required to execute a Professional Service Agreement with the City. A sample of the Agreement is enclosed as Appendix A, but may be modified to suit the specific services and needs of the City. If a Proposer has any exceptions or conditions to the Agreement, these must be submitted for consideration with the Proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement. See No. 12 of this RFP below.

The proposal is submitted contingent on the City's consideration of the following exceptions and/or deviations to certain terms and conditions set forth in the City's sample Professional Services Agreement:

SECTION 5.0: INSURANCE - PARS satisfies the insurance limits and requirements as set forth in Section 5.0, with the exception of the following:

Section 5.1 – Minimum Scope and Limits of Insurance. Lloyds of London, our professional liability insurance provider is not an "admitted" carrier but is an approved Surplus Lines Carrier in California.

Section 5.1(a) – Commercial General Liability policy includes limited contractual liability.

Section 5.2 – Endorsements. Endorsements will be provided in accordance with policy provisions.

Section 5.2(b) – Notice. The policies shall not terminate, be suspended, or voided, nor shall they be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City; except ten (10) days written notice for non-payment of premium.

SECTION 6.9: INDEMNIFICATION - PARS requests that this section be replaced in its entirety with the following paragraph from our standard contract for trust administration services:

“Consultant and the City hereby indemnify each other and hold the other harmless, including their respective officers, directors, employees, agents, and attorneys from any claim, loss, demand, liability, or expense, including reasonable attorneys’ fees and costs, incurred by the other as a consequence of, to the extent, Consultant’s or the City’s, as the case may be, negligent acts, errors or omissions with respect to the performance of their respective duties hereunder.”

EXHIBIT C

FEE SCHEDULE

Consultant will be compensated for performance of services, as described in Exhibits A and B, based upon the following schedule:

An annual asset fee shall be paid from Plan assets based on the following schedule:

<u>For Plan Assets from:</u>			<u>Annual Rate:</u>
\$1	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and above		0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula: [Annual rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

EXHIBIT D

CITY COUNCIL POLICY 100-5

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;
 - B. Establishing a Drug-Free Awareness Program to inform employees about:

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

1. The dangers of drug abuse in the workplace;
 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- C. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- D. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
1. Abide by the terms of the statement; and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- E. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- F. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- G. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.