



**REQUEST FOR PROPOSAL FOR  
INVESTMENT FEES AND EXPENSES  
RECALCULATION AND VERIFICATION SERVICES**

**June 3, 2019**

**TEXAS MUNICIPAL RETIREMENT SYSTEM**

P.O. Box 149153  
Austin, TX 78714-9153

**TEXAS MUNICIPAL RETIREMENT SYSTEM  
REQUEST FOR PROPOSAL**

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**TEXAS MUNICIPAL RETIREMENT SYSTEM  
REQUEST FOR PROPOSAL  
INVESTMENT FEES AND EXPENSES RECALCULATION AND VERIFICATION**

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**1. GENERAL INFORMATION FOR THE BIDDER**

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**1.1. Purpose of Request**

The Texas Municipal Retirement System ("TMRS" or "the System"), a \$28.9 billion public pension fund, is seeking proposals from qualified consultants to recalculate, verify, and validate investment management fees, management fee expense offsets, partnership expenses, expenses, and performance fees, incentive fees, or carried interest (together "Fees and Expenses") for Private Credit and Private Equity funds held primarily in limited partnership, closed-end and evergreen structures, on a retrospective basis. Qualified consultants are invited to respond to this RFP.

**1.2. Contacts with TMRS Personnel**

Direct all questions and correspondence regarding this RFP to:

<b>Contact Person for All Matters Relating to this RFP</b>	
<b>Name &amp; Title</b>	Sandra Vice, Director of Internal Audit
<b>Email</b>	RFP-Inv-Fees@tmrs.com
<b>Telephone</b>	512-225-3759
<b>Physical Address</b>	1200 North IH-35 Austin, TX 78701
<b>Mailing Address</b>	P.O. Box 149153, Austin, TX 78714-9153

From the date of the issuance of this RFP until the selection of a Firm is completed and announced, Firms that intend to submit a Proposal should not contact any TMRS Staff or Board Trustee other than to submit written questions to the "Contact Person." Communicating directly or indirectly with any other TMRS staff or Board Trustee regarding the RFP process during this RFP process may result in immediate disqualification.

**1.3. Intent to Respond**

If your firm chooses to respond to this RFP, please submit the Intent to Respond, Appendix F, via email to the Contact Person by **5:00 PM CST, June 12, 2019**. Failure to submit your Intent to Respond will disqualify your firm from submitting a response to this RFP.

## 1.4. RFP Questions

Only written questions submitted by the “Firm Questions on RFP Due to TMRS” date, set forth in Section 1.5, will be accepted. Written answers to such questions shall be sent to those Firms who have submitted an Intent to Respond.

## 1.5. RFP Important Dates

Proposals are due by **5:00 PM CDT on Monday, July 1, 2019** marked to the attention of the Contact Person in Section 1.2. It is the responsibility of the Firm to ensure the proposal arrives on or before the time and date in the RFP Schedule below. TMRS reserves the right to reject any or all proposals submitted. To be considered, Firms must meet the requirements as noted in Section 4.

R F P S c h e d u l e		
Deliverable	Date	Time
RFP Issued	June 3, 2019	
Intent to Respond Closing Date	June 12, 2019	5:00 pm CDT
Firm Questions on RFP Due to TMRS	June 17, 2019	5:00 pm CDT
TMRS Answers to RFP Questions Sent to Firms	June 24, 2019	
RFP Proposal Due Date	July 1, 2019	5:00 pm CDT
Selection of Consultant	July 31, 2019	
Commencement of Work	Upon contract agreement	

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## 2. BACKGROUND INFORMATION

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### 2.1. TMRS Governance

TMRS was created by the Texas Legislature in 1947 and began operations in 1948. TMRS is a statewide governmental pension plan qualified under Section 401(a) of the Internal Revenue Code (“IRC”) and is not subject to Title I of the Employees Retirement Income Security Act of 1974 (ERISA). TMRS is created by statute and administered in accordance with Title 8, Subtitle G, Chapters 851 through 855 of the Texas Government Code (the “TMRS Act”) and other applicable provisions of Title 8 of the Texas Government Code. TMRS administrative rules, adopted by the Board, may be found under the Texas Administrative Code, Title 34.

The TMRS Act places the general administration and management of the System with the six-member Board of Trustees (the "Board"). The Governor, with advice and consent of the Senate, appoints the Board. The Board delegates the daily administrative functions of TMRS to its Executive Director. The Executive Director is responsible for employment of the System's staff and for the operation of the System within the scope of the TMRS Act and the Board's regulations.

The Investment Policy Statement (January 1, 2019), which governs the investment of assets for TMRS, states the Board is responsible for the administration of the System and its investment program. Responsibility for the investment of TMRS funds is vested in the Board. The Board delegates day-to-day management of the investment program through the Executive Director to the Chief Investment Officer (CIO) and investment staff. Information on TMRS' organizational structure and key personnel can be found in Appendices A and B of this RFP.

## **2.2. TMRS Investments and Consultants**

TMRS held investments of \$28.9 billion in fair value as of December 31, 2017. For additional information, refer to TMRS Comprehensive Annual Financial Report (CAFR), which is posted on the TMRS website, [www.tmr.com](http://www.tmr.com), under the "investments" tab.

The Board appoints the investment consultants, investment managers, and custodian bank and approves the Investment Department's annual operating budget. The following are the custodian bank and investment consultants that TMRS currently uses.

- State Street Bank & Trust Company serves as the System's Custodial Bank and Accounting Agent and is the official "book of record" for TMRS' investments.
- The System retains investment consultants RVK for Private Credit and the StepStone Group for Private Equity to assist TMRS staff with the management of the TMRS investment portfolio.

### **2.2.1. Private Credit Portfolio**

The objective of the Private Credit portfolio (referred to in TMRS documents as "Non-core Fixed Income" asset class) is to diversify the risk of the overall investment program and is designed to provide both income and capital appreciation while exceeding its benchmark performance, net of fees, over rolling five year periods. Allocations may be managed actively and/or passively through multiple managers.

TMRS has committed \$6.08 billion in Private Credit capital ranging from \$50M to \$375M per

vehicle as of 2018 Quarter 4. The portfolio currently includes 24 investment vehicles, most of which are invested through a commingled investment structure (e.g., limited partnerships or commingled investments trusts), with some invested through separately managed accounts. The Private Credit portfolio categories to be considered for this engagement are:<sup>1</sup>

- Opportunistic Credit (25%)
- Direct Lending (21%)
- Bank Loan/Collateralized Loan Obligation (15%)

### **2.2.2. Private Equity Portfolio**

The objective of the Private Equity asset class is to enhance the total fund performance through investment in non-publicly traded securities and generating a long-term rate of return that exceeds that of publicly-traded equities. Private Equity investments are commingled funds structured as closed-end limited partnerships. TMRS has committed \$2.16 billion in Private Equity capital ranging from \$12.5M to \$200M per vehicle as of 2018 Quarter 4. The Private Equity portfolio currently includes 28 managers for 40 investment vehicles. The portfolio is diversified geographically and by sector, with an emphasis on U.S.A. and IT, general services, and industrial sectors. The strategies and sub-strategies diversification by commitment for Private Equity vehicles are:

- Growth equity/Venture Capital (55%)
  - Late State Venture Capital
- Buyout (23%)
  - Small Buyout
  - Middle-market Buyout
  - Large Buyout
- Special situations (22%)
  - Distressed/restructuring
  - Mezzanine

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<sup>1</sup> Other Private Credit portfolio categories out-of-scope for this engagement are Structured Credit (18%), Emerging Market Debt (11%), and High Yield (10%).

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## 3. SCOPE OF SERVICES

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### 3.1. General

TMRS is seeking proposals to retain a qualified consultant to calculate previously paid Fees and Expenses for a select sample from its Private Credit and Private Equity portfolios. An engagement on Private Credit funds would be performed in year one and an engagement on Private Equity funds would be performed in year two. These engagements are to be performed in accordance with the provisions in this RFP.

**Important Notice:** A Firm that has experience and is qualified to perform this engagement for only one of the two asset classes may still submit a proposal. TMRS may select one Firm for both engagements or two Firms for one engagement each. In either case, only one engagement will be conducted per year.

### 3.2. Engagement Objectives and Deliverables

The objectives of the engagements are as follows:

- Year One: Recalculate Fees and Expenses for selected Private Credit funds and present a summary report verifying that each fund manager correctly billed management Fees and Expenses as set forth in the signed fund documents, as may have been amended from time to time.
- Year Two: Recalculate Fees and Expenses for selected Private Equity funds and present a summary report verifying that each general partner correctly billed Fees and Expenses as set forth in the signed fund documents, as may have been amended from time to time.

For the engagement deliverables, the Firm shall submit a written draft report on Private Credit and a separate report on Private Equity to TMRS that includes a summary of work performed and results. For each asset class, TMRS will review the draft report and provide questions and comments to be considered and addressed in the written final report.

All work related to each engagement, including the written final report, shall be completed within six months of the date of the execution of the contract. TMRS may request that the Firm attend a meeting of the Internal Audit Committee and/or the Board of Trustees to present results; TMRS will provide at least 30 days prior notice of requested meeting date(s).

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## 4. DETAILED PROPOSAL REQUIREMENTS

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### 4.1. Submission of Proposals

The following material must be received by the TMRS Contact Person electronically and in hard copy by **5:00 p.m. CDT on Monday, July 1, 2019** for a proposing Firm to be considered:

**4.1.1. Transmittal Letter.** A signed letter of transmittal briefly stating the Firm's understanding of the work to be done, the commitment to perform the work within the time period, a statement why the Firm believes itself to be best qualified to perform the engagements, and a statement that the proposal is a firm and irrevocable offer. The Firm must also clearly state whether the proposal is for both engagements or specify whether it is for the Private Credit or Private Equity engagement.

**4.1.2. Detailed Proposal.** The detailed proposal (both Technical and Fees) should follow the order set forth in Section 4.2 and 4.3 of this RFP, except that information the Firm considers confidential should be apart from public information and clearly labeled confidential.

**Copyrighted Material:** Please note that the Texas Public Information Act requires that TMRS must comply with copyright law and is not required to furnish copies of records that are copyrighted, but must allow inspection of copyrighted material unless an exception applies to the information.

**4.1.3. Required Materials.** Responses should be in the following formats:

#### 4.1.3.1. Hard Copy

**Please submit six (6) hard copy Proposals.** Please label one "Original". Submissions should be on 8-1/2 x 11 inch paper in at least 12 point font and should be tab-indexed corresponding to sections listed below (please note the information set forth above in 4.1.2 regarding *Copyrighted Material*). The Proposal should also include the following:

- Schedule of pages containing confidential and/or proprietary information (see Section 7), and
- An executed Statement of Officer Regarding Proposal, Financial Standing, and Confidential and Proprietary Information (Exhibit 1), signed in blue ink.

#### 4.1.3.2. Electronic

**Please submit three (3) electronic Proposals,** each in CD/DVD format in Microsoft Word/PDF, submitted in an envelope labeled with the firm name and "INVESTMENT FEES AND EXPENSES RFP – Electronic Copies", with each CD and/or DVD labeled as indicated below:

- One containing all information, labeled “Investment Fees and Expenses RFP – Complete”
- One containing **only** information you consider confidential and proprietary, labeled “Investment Fees and Expenses RFP – Confidential Information”
- One containing **only** information you consider not to be confidential and proprietary, labeled “Investment Fees and Expenses RFP – Publicly Available Information”

All Proposals must address all of the requirements of this RFP, though Firms may elect to submit responses for any or both asset classes. TMRS is not responsible for receipt of any Proposal that is not labeled, packaged or delivered properly. All RFP materials shall include complete, properly executed, and detailed supporting documentation as required. Firms shall mail or deliver its sealed Proposal to TMRS at the address set forth in Section 1.2 above so that it is received by TMRS by the submission deadline. The Firm agrees that it shall not discuss any aspect of its Proposal with any other Firm that may also be responding to this RFP.

## **4.2. Technical Proposal Mandatory Requirements**

The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Firm. The Technical Proposal should demonstrate the qualifications of the Firm and of the proposed staff to be assigned to this engagement. It should also address Sections 4.2.1 through 4.2.3 below.

### **4.2.1. Firm Qualifications**

The Firm is required to:

- 4.2.1.1. Provide a brief profile of the Firm, including the year of formation, types of services offered, size and location of the Firm, the size of the Firm's management fee experts (e.g., is this a distinct group within your Firm), and the location of the office from which the work on these engagements is to be performed.
- 4.2.1.2. Demonstrate that the Firm possesses strong knowledge of recalculation, verification, and validation of Private Credit and/or Private Equity Fees and Expenses in all relevant legal structures (i.e. limited partnerships, investments trusts, etc.) as demonstrated by prior experience, particularly with pension/retirement systems, endowments, or foundations.
- 4.2.1.3. Describe your Firm's competitive advantage.
- 4.2.1.4. List institutional clients served by your Firm relating to this type of service including:

- Name and type of organization (i.e., public fund, corporate plan, endowment)
- Total assets under management
- Asset allocation
- Dates of service

4.2.1.5. List and describe the Firm's relationships, if any, involving current TMRS employees or Board members listed as Key Personnel in Appendix B with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed engagements.

4.2.1.6. Affirm that it maintains--or asserts it will obtain if the selected, Firm-- insurance coverage, as specified in Standard Terms and Conditions (Appendix C).

#### **4.2.2. Business References**

The Firm should list three clients for which the Firm performed similar services in the last five years. Each business reference should include the following:

- Client's name and address
- Principal client contact name, title, email, and phone number
- A brief statement on scope of work
- Assets under management
- Client type (e.g., public pension, endowment, private pension)

By submitting a proposal, the Firm authorizes TMRS to contact the clients listed for comments regarding the services.

#### **4.2.3. Team Qualifications and Experience**

4.2.3.1. The Firm shall identify proposed team members by name and title, and describe their competency, knowledge, and qualifications with particular emphasis on experience related to recalculating, verifying, and validating Fees and Expenses for Private Credit and/or Private Equity funds of the structures previously mentioned.

4.2.3.2. For each team member, provide their tenure with your Firm. Provide information on the Firm's turnover over the past five years. Please note that Team members mentioned in response to this RFP can only be changed with the express prior written permission of TMRS, which retains the right to approve or reject replacements.

#### 4.2.4. Specific Recalculation and Verification Approach

The proposal should set forth a work plan to perform the services required, including an explanation of the methodology to be followed. Respondents to the RFP are required to provide the following information on their approach:

- 4.2.4.1. Method for selecting the sample funds from the Private Credit and/or Private Equity portfolios to recalculate and verify Fees and Expenses.
- 4.2.4.2. Method for obtaining the information and data needed to perform the engagement.
- 4.2.4.3. Process for recalculating and verifying Fees and Expenses.
- 4.2.4.4. Description of methods for documenting and demonstrating recalculations and verifications.
- 4.2.4.5. Assumptions on availability of client staff, client's role, and estimates on client time needed to conduct the engagements.
- 4.2.4.6. Identify and describe any anticipated potential issues (including those due to difficulty accessing fund manager supporting data), the Firm's approach for resolving these problems, and any special assistance requested from TMRS.

#### 4.2.5. Sample Reports and Deliverables

Provide two sample reports resulting from similar services performed by your Firm. Redactions to protect sensitive and confidential information are permitted.

### 4.3. Fixed Fees and Hourly Rates (Appendices D and E)

#### 4.3.1. Total All-inclusive Fixed Fee Pricing

The fixed fee proposal is to contain all direct and indirect costs, including out-of-pocket expenses (see Appendix D) relative to performing the following engagements:

- 4.3.1.1. **Year One:** two, three, and four Private Credit funds as described in this RFP and cost for each additional fund thereafter.
- 4.3.1.2. **Year Two:** two, three, and four Private Equity funds as described in this RFP and cost for each additional fund thereafter.

#### **4.3.2. Hourly Staff Rates**

The fee proposal should include a schedule of professional hourly rates that support the fixed price. The schedule should include rates by staff level (manager, supervisor, and staff) multiplied by the number of hours anticipated for each (see Appendix E).

#### **4.3.3. Out-of-Pocket Costs**

TMRS is not responsible for expenses incurred in preparing and submitting a response to this proposal. Such costs should not be included in the proposal. TMRS will not reimburse for out-of-pocket costs. Out-of-pocket costs should be included in professional fees.

#### **4.3.4. Additional Services**

If it should become necessary for TMRS to request the Firm to render any additional services to either supplement the services requested in this RFP or to perform additional work as a result of the specific recommendations included in any report issued as a result of this engagement, then such additional work shall be performed only if set forth in a separate engagement letter or statement of work between TMRS and the Firm. Any such additional work agreed to between TMRS and the Firm shall be performed at the same hourly rates as set forth in the schedule of rates in Appendix E.

#### **4.3.5. Manner of Payment**

The Firm shall not invoice TMRS more than monthly. Invoices will be paid within 30 days of receipt.

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## 5. REVIEW AND EVALUATION OF PROPOSALS

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### 5.1. Evaluation Process

Proposals submitted will be evaluated by select members of TMRS staff, with recommendation of finalists made to the Executive Director. Proposals will be evaluated on the quality of responses to all items included in Section 4 as follows:

<b>Weighted Factors for Evaluating Responses</b>	
<b>Firm qualifications and business references (Sections 4.2.1 and 4.2.2)</b>	25%
<b>Team assigned to engagement qualifications and experience (Section 4.2.3)</b>	25%
<b>Engagement approach, including timeframes and sample reports (Sections 4.2.4 and 4.2.5)</b>	30%
<b>Fee proposal (Section 4.3)</b>	20%

- 5.1.1. During the evaluation process, TMRS reserves the right to request additional information or clarification from Firms, or to allow corrections of errors or omissions where it may serve the System's best interest.
- 5.1.2. By submitting a response to this RFP, the respondent agrees to accept the terms and conditions contained in this RFP, including the Standard Terms and Conditions set out in Appendix C.
- 5.1.3. TMRS reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the Firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the fully executed contract between TMRS and the Firm selected.
- 5.1.4. TMRS reserves the right to use the Proposals to hire a Firm to provide additional services as TMRS deems necessary on a non-exclusive basis upon mutual agreement of the scope and fees.

## 5.2. Oral Presentations

At the discretion of TMRS, Firms submitting proposals may be requested to make an oral presentation and participate in a question and answer session, estimated at one to two hours, as part of the evaluation process. Not all Firms may be asked to make such oral presentations.

## 5.3. Final Selection

The TMRS Executive Director will select a Firm with input from TMRS staff. It is anticipated that a Firm will be selected by July 31, 2019. Following the notification to the selected Firm, it is expected that an agreement for the agreed upon services will be executed by August 16, 2019. These dates are estimates and are subject to change without notice.

## 5.4. Right to Reject Proposals

Submission of a proposal indicates the Firm accepts the conditions contained in this RFP unless clearly and specifically noted in the proposal submitted and confirmed in the fully executed agreement between TMRS and the Firm selected. TMRS reserves the right, in its sole discretion, to accept or reject any or all proposals to negotiate modifications or revisions to a response, and to negotiate with any Firms responding to the RFP.

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## 6. TERM OF ENGAGEMENT

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### 6.1. Engagement Length

- 6.1.1. Each of the two engagements will be for a one year period. TMRS will enter into EITHER (1) a two year agreement for one engagement per year, OR (2) two, one year agreements with one or more Firms to complete one engagement in year one, and one engagement in year two.. These agreements are subject to the satisfactory negotiation of terms, including a price acceptable to both TMRS and the selected Firm.
- 6.1.2. TMRS reserves the right to terminate any engagement at any time, including all future engagements, with or without cause, upon written notice to the Firm, in which event compensation will be paid only for services rendered through the date of termination.

### 6.2. Subcontracting

If the Firm plans to subcontract any portion of the audit work, that fact, and the name of the proposed subcontracting Firms, must be clearly identified in the Firm's response to the RFP. Following the award of the audit contract, no additional subcontracting will be allowed without the express prior written consent of the System.

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## 7. NOTICE REGARDING THE TEXAS LAW AND THE TEXAS PUBLIC INFORMATION ACT

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TMRS is a statewide public retirement system created under the laws of the State of Texas, and as such, there are constitutional and statutory limitations on the authority of TMRS to enter into certain terms and conditions. Firms participating in the proposal process understand and agree that TMRS is limited on terms and conditions it may accept, including, but not limited to, terms and conditions relating to liens on TMRS assets and property; granting control of litigation or settlement to another party; liability for acts or omissions of third parties, payment of attorneys' fees, dispute resolution; indemnification obligations; jurisdiction, venue, and confidentiality. The contract will be governed by Texas state law.

Firms submitting proposals pursuant to this request should understand and acknowledge that their proposals may be subject to release under the Texas Public Information Act (TPIA). However, certain information may be confidential and fall under exceptions to disclosure, including, but not limited to copyrighted information, proprietary information, trade secrets, audit working papers, and where disclosure might cause substantial competitive harm. Guidance on determining whether information is excepted from disclosure under the TPIA may be found in the Texas Public Information Handbook:

[https://www.texasattorneygeneral.gov/AG\\_Publications/pdfs/publicinfo\\_hb.pdf](https://www.texasattorneygeneral.gov/AG_Publications/pdfs/publicinfo_hb.pdf)

However, TMRS cannot prevent the disclosure of public documents and may be required by law to release documents that the Firm considers to be confidential and proprietary. By execution of the Statements of Officers (Exhibit 1), the Firm warrants and represents that all information that it, in good faith and with legally sufficient justification, considers to be properly excepted from disclosure under the TPIA will be clearly labeled as confidential upon submission to TMRS. The Firm's signature further reflects that all documents submitted and not marked "confidential" shall be considered to be public information. All public information submitted by the Firm, and information that is considered to be public because it is not designated by the Firm as confidential, in response to this RFP may be fully disclosed by TMRS without liability and without prior notice to or consent of the Firm or any of its subcontractors or agents.

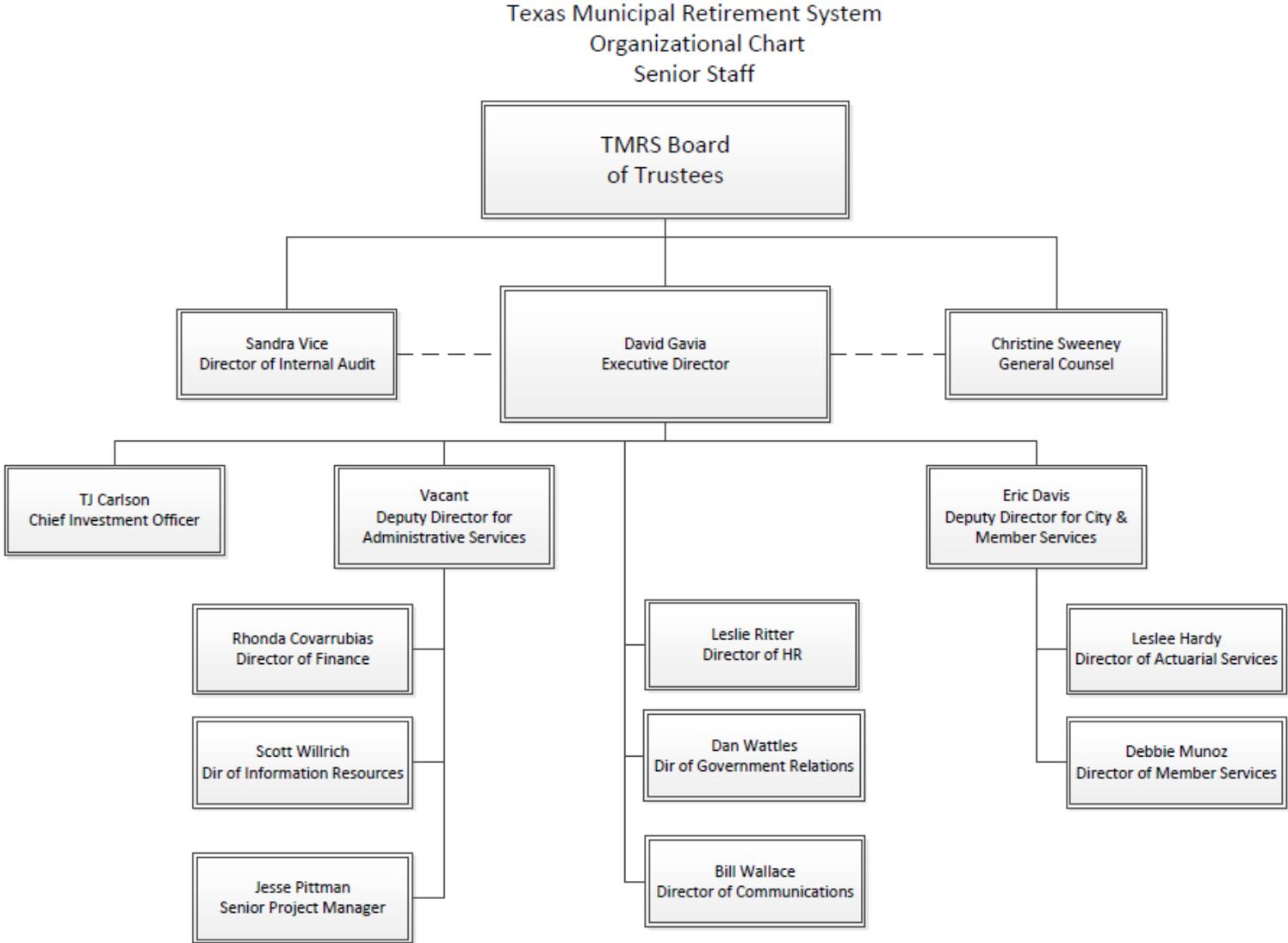
In order to protect and prevent inadvertent disclosure of confidential information submitted in support of its Proposal in accordance with the TPIA, the Firm is required to supply a separate schedule of all pages considered by the Firm, in good faith and with legally sufficient justification, to contain any confidential and/or proprietary information in addition to the CD

(or DVD) discussed above. The Firm must supply its confidential and/or proprietary information to TMRS in this manner each time it submits information to TMRS, whether in its initial Proposal or in any supplemental information submitted to TMRS.

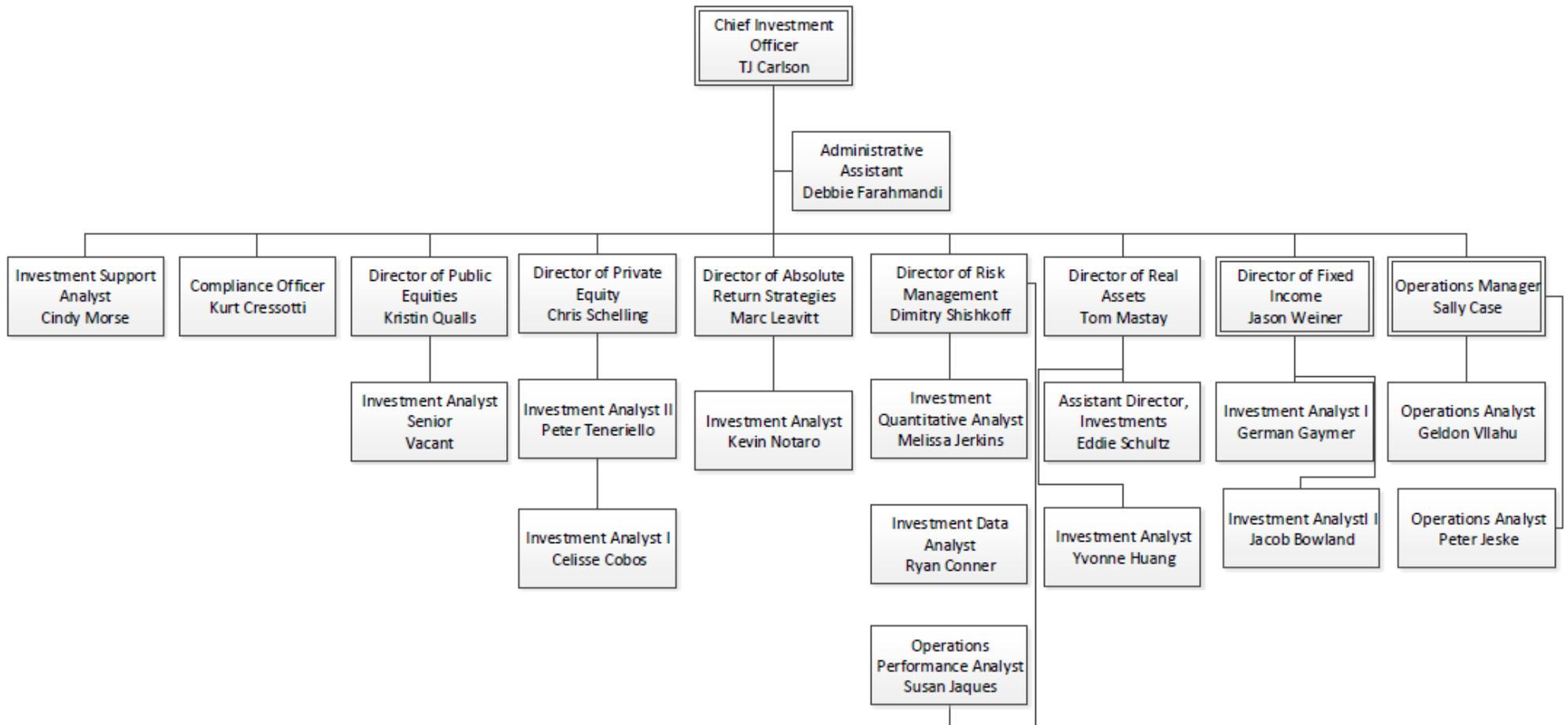
By submitting a Proposal, the Firm acknowledges and agrees that (i) TMRS shall have no liability to the Firm or to any other person or entity for disclosing information in accordance with the TPIA, and (ii) TMRS shall have no obligation or duty to advocate the confidentiality of the Firm's material to the Texas Attorney General, to a court, or to any other person or entity. In the event of a TPIA request, it is the Firm's sole obligation to advocate the confidential or proprietary nature of any information it provides to TMRS.

The Firm further understands and agrees that, upon TMRS' receipt of a TPIA request for the Firm's information, TMRS will provide the requestor the information provided on the Firm's "Public Information" CD (or DVD). If the Firm fails to submit its confidential and/or proprietary information as described herein, TMRS shall consider all of the information to be public, and it will be released without notification to the Firm upon receipt of a TPIA request.

# Appendix A: TMRS ORGANIZATION CHART



## TMRS Investment Department



## **Appendix B: LIST OF KEY PERSONNEL**

### **TMRS Board of Trustees**

Bill Philibert, Chair	James "Jim" Paul Jeffers
David Landis, Vice-Chair	Julie Oakley
Jesus A. Garza	Jim Parrish

### **TMRS Executive Management**

David Gavia	Executive Director
TJ Carlson	Chief Investment Officer
Eric W. Davis	Deputy Director for City & Member Services
Christine Sweeney	General Counsel
Sandra Vice	Director of Internal Audit
Rhonda H. Covarrubias	Director of Finance
Leslie Ritter	Director of Human Resources
Leslee Hardy	Director of Actuarial Services
Debbie Munoz	Director of Member Services
Bill Wallace	Director of Communications
Dan Wattles	Director of Government Relations
Scott Willrich	Director of Information Resources

### **TMRS Investment Department**

Jason Weiner	Director of Fixed Income
German Gaymer	Fixed Income Investment Analyst I
Jacob Bowland	Fixed Income Investment Analyst I
Chris Schelling	Director of Private Equity
Peter Teneriello	Private Equity Investment Analyst II
Celisse Cobos	Private Equity Investment Analyst I
Sally Case	Operations Manager
Geldon Vllahu	Operations Analyst
Peter Jeske	Operations Analyst
Susan Jaques	Operations Performance Analyst

## Appendix C: STANDARD TERMS AND CONDITIONS

### CONSULTING SERVICES AGREEMENT

This **SERVICES AGREEMENT** (this "**Agreement**") is entered into by and between the Texas Municipal Retirement System, a Texas public retirement system ("**TMRS**"), and \_\_\_\_\_, Inc., a \_\_\_\_\_ corporation ("**Consultant**"), and will be effective for all purposes as of the date this Agreement is signed by the latter party to do so below ("Effective Date").

TMRS and Consultant agree as follows:

#### 1. SERVICES.

**1.1 Services to be Provided by Consultant.** Consultant will perform the services ("**Services**") set forth in the attached **Exhibit A** and incorporated for all purposes, to the satisfaction of TMRS.

**1.2 TMRS Information Required.** TMRS will promptly provide to Consultant the information, resources, cooperation and other assistance reasonably necessary to perform the Services.

**1.3 Consultant Personnel.** Consultant personnel providing the Services will be \_\_\_\_\_.

**2. TERM.** The term of this Agreement shall commence on the Effective Date and shall continue for one year unless otherwise terminated pursuant to Section 12 below. TMRS, may, at its option, extend the term of this Agreement for one additional year upon notice to Consultant. Termination will terminate any Statement of Work entered into by the parties pursuant to this Agreement, unless otherwise stated in the notice of termination at TMRS's sole option and all work will cease.

**3. COMPENSATION.** Consultant's fees for the Services are set forth in the "Statement of Work" attached as Exhibit A and incorporated into this Agreement for all purposes. TMRS shall pay Consultant compensation for performance of the Services within thirty (30) days after receipt of invoice with appropriate documentation. There will be no reimbursable travel or delivery expenses to provide the Services.

Invoices must include dates of Service and details of Services provided by individual personnel. Payment for delivery of Services rendered shall not be unreasonably withheld or delayed. If TMRS

disapproves any amount submitted for payment by Consultant, TMRS shall give Consultant specific reasons for disapproval in writing. Upon resolution of any disputed charges, Consultant shall re-invoice such remaining charges to TMRS.

**4. RELATIONSHIP OF THE PARTIES.** For all purposes of this Agreement, and notwithstanding any provision of this Agreement to the contrary, Consultant is an independent contractor and is not an employee, partner, joint venturer, or agent of TMRS. Consultant shall make no representation that Consultant is an employee of TMRS. Consultant will not bind or attempt to bind TMRS to any agreement or contract. As an independent contractor, Consultant is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort related to its business, including, but not limited to, workers' compensation insurance.

Consultant may not subcontract any of the Services without prior written approval by TMRS. TMRS reserves the right to approve the subcontractors and to require that Consultant replace any subcontractor, at TMRS's sole discretion.

## **5. WARRANTIES, REPRESENTATIONS & DISCLAIMERS**

**5.1 Consultant.** In this Section 5.1, the term "Consultant" includes all Consultant Personnel. Consultant warrants and represents the following:

**5.1.1 Compliance with Laws and Policy.** That Consultant shall perform the Services and conduct all operations in conformity with all federal, state, and local laws, rules, regulations, and ordinances applicable to Consultant in its capacity as a service provider.

**5.1.2 Licenses and Certifications.** That Consultant has or will obtain at its own cost, prior to providing the Services, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, required for the performance of the Services.

**5.1.3 Performance.** That the Consultant Personnel providing the services under this Agreement have the experience, and knowledge necessary to qualify Consultant for the particular duties to be performed under this Agreement. Consultant warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional industry standards.

**5.1.4 Authority.** That if (i) it is a corporation or limited liability company, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has

received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Consultant has been duly authorized to act for and bind Consultant; or (ii) if it is a partnership, limited partnership, or limited liability partnership, then it has all necessary partnership power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Consultant has been duly authorized to act for and bind Consultant.

**5.1.5 Conflict of Interest.** That Consultant has no direct or indirect personal or private commercial or business relationship, unrelated to the services that Consultant is providing through this Agreement, with any other party to a transaction with TMRS that could reasonably be expected to diminish the independence of judgment being provided in the performance of Consultant's responsibilities to TMRS. Consultant has no personal or private business or commercial relationship with any third party, including a TMRS Trustee or employee that has not been disclosed by Consultant to TMRS that would violate professional standards or create any appearance of impropriety. That Consultant presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Consultant's ability to perform the Services.

**5.1.6 Disaster Recovery.** Consultant represents and warrants that it has redundant data storage and backup and disaster recovery procedures and plans that meet industry standards, and that it regularly monitors these systems to ensure that all data is secure and protected from foreseeable disasters. Consultant warrants that any internet or software-based products that Consultant makes available to TMRS under this Agreement will have down time no less than what is considered reasonable under industry standards. In the event of a disaster that creates a situation where Consultant cannot provide services to TMRS in the time required pursuant to this Agreement, Consultant shall immediately provide alternative staff or services in another office and make every effort to provide the services as required. Consultant shall provide information to staff in other offices on a regular basis to allow for alternate persons or resources to be available to TMRS, if necessary, within 48 hours.

**5.1.7 No Violations.** The terms of this Agreement do not violate any obligations by which Consultant is bound, whether arising by contract, operation of law, or otherwise. This Agreement constitutes a legal, valid and binding agreement of Consultant enforceable against Consultant in accordance with its terms except as limited by bankruptcy, insolvency, receivership and similar laws of general application. The execution, delivery and performance of this Agreement have been duly authorized by all necessary action on the part of Consultant.

**5.1.8 No Gifts.** Consultant has not given, offered to give, nor does it intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a TMRS trustee or employee in connection with this Agreement, except as permitted under the TMRS Code of Ethics, Chapter 572, Government Code or Chapter 36, Penal Code.

**5.1.9 Other.** Consultant does not boycott Israel and will not boycott Israel during the term of this Agreement.

**5.1.10 Notice of Change.** Consultant agrees to notify TMRS immediately if any of the representations or warranties described in this Section 5.1 change or are no longer true.

## **5.2 TMRS. TMRS warrants and represents the following:**

**5.2.1 Authority.** It is a public retirement system of the State of Texas and that it is lawfully authorized to enter into this Agreement. The Executive Director of TMRS has the requisite authority to act for and bind TMRS.

**5.2.2 Information Accuracy.** To ensure the most accurate and updated information, Client will submit to Consultant all information in Client's control necessary for Consultant to perform the services covered by this Agreement.

## **6. DELIVERABLES AND USE OF DOCUMENTS.**

**6.1 TMRS Information.** The documents and other tools furnished to Consultant by TMRS and used by Consultant in performing the work shall remain the exclusive property of TMRS ("TMRS Information").

**6.2 Licenses.** TMRS grants to Consultant a license to use such TMRS Information to provide the Services. Any Consultant work product which the parties expressly agree is created solely and exclusively to be owned by TMRS (the "Deliverables"), if any, shall become the property of TMRS.

**6.3 Return of Materials.** Upon termination or expiration of this Agreement, Consultant shall surrender to TMRS all TMRS Information and Deliverables, whether complete or incomplete, on which Consultant worked prior to the termination of this Agreement.

**7. CONFIDENTIALITY.** Consultant acknowledges and agrees that certain information received from TMRS or from certain third party vendors, consultants, investment funds, and/or investment managers (individually a "Third Party" and collectively, the "Third Parties") relating to TMRS, its members (including retirees, annuitants and beneficiaries) or its assets or investments may be proprietary, confidential, or privileged commercial and financial property of TMRS or such Third Parties. Consultant agrees that all information relating to TMRS (including, without limitation,

information relating to TMRS' assets, investments, or the operations of its investment program) received by Consultant (whether received from TMRS or from any Third Party) (collectively, "Confidential Information") shall be received in confidence and shall be perpetually kept confidential by Consultant.

Confidential Information may not be used by Consultant except for the sole purpose of providing the Services to TMRS under the Agreement, as amended from time to time. Consultant covenants and agrees that it will not use any Confidential Information for any other purpose. Consultant agrees not to disclose any Confidential Information to any person (other than Consultant's employees responsible for matters relating to TMRS) or entity without the prior written consent of the TMRS Executive Director or his designee, provided that Consultant may disclose such Confidential Information to the extent that Consultant is required by law, regulation, or an order of a court of competent jurisdiction to disclose such Confidential Information, in which event Consultant shall provide TMRS with prompt notice, if legally permissible, of such requirement so that TMRS may seek an appropriate protective order or other appropriate remedy (as to which Consultant agrees to reasonably cooperate). If any third person or entity requests or seeks to compel Consultant to disclose or produce any information, including without limitation any Confidential Information, provided to Consultant by, through, or on behalf of TMRS, or claims an entitlement to any such information on the grounds that such information is alleged or claimed to be generally available to the public or to constitute in whole or in part a public record, document or report under applicable law, Consultant agrees to notify TMRS within two (2) business days of such request and to provide TMRS adequate opportunity to request a legal opinion or to consent to or seek to prevent such disclosure through protective order or other appropriate remedy.

Consultant acknowledges that all reports created by it for TMRS and other information provided by it to TMRS are presumed to be public records and may be subject to public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (the "**PIA**"), unless an exception applies, and that oral discussions regarding the reports, information, and advice rendered by Consultant may be conducted in meetings of the TMRS Board of Trustees or its committees that are open to the public under the Texas Open Meeting Act ("**TOMA**"), Chapter 551 of the Texas Government Code. Consultant acknowledges and agrees that TMRS shall have no liability to Consultant or any other person or entity for disclosing information in accordance with the PIA or the TOMA.

Notwithstanding the provisions of this Agreement regarding "Dispute Resolution," Consultant further acknowledges and agrees that any misuse of TMRS' Confidential Information would cause

substantial and irreparable harm to TMRS and that a court of competent jurisdiction may immediately enjoin any material breach of the provisions of this Agreement regarding use of Confidential Information without requiring proof of irreparable injury as same should be presumed.

**8. INDEMNITY.** CONSULTANT SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND TMRS, ITS TRUSTEES, OFFICERS, EMPLOYEES, AGENTS AND REPRESENTATIVES, FROM AND AGAINST ALL LIABILITIES, DAMAGES, CLAIMS, DEMANDS, ACTIONS (LEGAL OR EQUITABLE), AND ALL REASONABLE COSTS AND EXPENSES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES, OF ANY KIND OR NATURE (COLLECTIVELY "LOSS" OR "LOSSES"), ARISING FROM CONSULTANT'S ACTUAL OR ALLEGED (A) NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CONSULTANT, OR ANY ONE OR MORE OF ITS EMPLOYEES, OFFICERS, DIRECTORS, AFFILIATES, CONTRACTORS, LICENSEES OR AGENTS; (B) INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR MISAPPROPRIATION OR THEFT OF TRADE SECRETS BY CONSULTANT, ITS PRINCIPALS, PARTNERS, MEMBERS, DIRECTORS, TRUSTEES, OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES; OR (C) INJURY TO OR DEATH OF ANY INDIVIDUAL, OR ANY LOSS OF OR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY, CAUSED BY THE NEGLIGENCE OF CONSULTANT OR ANY OF ITS AGENTS, SUBCONTRACTORS OR EMPLOYEES. TMRS WILL HAVE THE RIGHT TO APPROVE THE TERMS OF ANY SETTLEMENT OR COMPROMISE THAT RESTRICTS ITS RIGHTS GRANTED UNDER THIS AGREEMENT OR SUBJECTS IT TO ANY ONGOING OBLIGATIONS.

**9. INSURANCE.** Consultant shall, at its sole cost and expense, secure and maintain as a minimum, from the effective date and thereafter during the term of this Agreement, for its own protection and the protection of TMRS, the following insurance coverage with insurance companies:

- a. Errors & Omissions (professional liability) insurance with a limit of no less than \$1,000,000 per claim made and \$2,000,000 annual aggregate;
- b. Commercial general liability, on ISO "occurrence" form or its equivalent, with a limit of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate covering bodily injury and tangible property damage claims; this coverage shall not contain an endorsement excluding contractual or completed operations liability;
- c. Umbrella liability insurance with a minimum of \$5,000,000 per incident which shall be excess of commercial general liability coverage required herein; and
- d. Workers' compensation coverage – minimum coverage for employer liability as determined by law.

If the policy is a claims-made policy and such policy is cancelled or non-renewed during the term of this Agreement, Consultant also agrees to provide, at its sole expense, certificates

evidencing continuing coverage or tail coverage, with extended reporting, under such insurance policy for not less than three (3) years after the termination or expiration of this Agreement. Consultant shall deliver or cause to be delivered to TMRS not later than the thirtieth day after the effective date of this Agreement, and annually thereafter, certificates of insurance, with ISO form endorsements (CG 20 10 or CG 20 37 or equivalent), evidencing the coverage, which includes products and completed operations, required herein. Consultant shall provide thirty (30) days' written notice to TMRS prior to any material alteration, reduction, cancellation or change by endorsement of the coverage evidenced by such certificate. Insurance coverages are to be provided by Texas admitted insurance companies with a Best's rating of at least A-: VII, unless otherwise approved in writing by TMRS. Consultant's insurance shall be primary and any insurance or self-insurance maintained by TMRS shall be excess and not contribute with the coverage maintained by Consultant. When any of the foregoing insurance coverages are required to remain in force after final payment, an additional certificate with appropriate endorsements evidencing continuation of such coverages shall be submitted along with the application for final payment. All coverages for subcontractors shall be subject to all of the requirements stated herein. The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of the Consultant, nor has TMRS assessed the risk that may be applicable to Consultant, which shall assess its own risks and may maintain higher limits and/or broader coverages as it deems appropriate or prudent.

#### **10. RIGHT TO AUDIT**

Consultant shall maintain adequate records to establish compliance with this Agreement until the later of a period of seven (7) years after termination of this Agreement or until full, final and unappealable resolution of all compliance or litigation issues that arise under this Agreement. Consultant shall grant access to all paper and electronic records, books, documents, accounting procedures, practices and any other items relevant to the performance of this Agreement to the internal auditors or contract management of TMRS, and such other persons or entities designated by TMRS for the purposes of inspecting, compliance checking and/or copying such books and records during regular office hours at a mutually agreed time.

**11. FORCE MAJEURE.** Neither TMRS nor Consultant shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

**12. TERMINATION.** TMRS may terminate this Agreement with or without cause upon written notice to the Consultant, or, if there is any change in Consultant's personnel assigned to the TMRS account, immediately. Consultant may terminate this Agreement with Cause upon thirty days prior written notice and time to cure by TMRS. "Cause" shall mean failure to make payments as set forth in a Statement of Work or Section 3. TMRS will not be required to pay or reimburse Consultant for any services performed or for expenses incurred by Consultant after the date set forth in the termination notice that could have been avoided or mitigated by Consultant. The parties hereby agree that Sections 7, 8, 9, 10, 15.1, and 15.2 shall survive termination or completion of this Agreement.

**13. NOTICE.** Any notices required under this Agreement shall be made in writing, email or postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by email, or three days after deposit in the United States Mail:

If by hand delivery:  
TMRS  
1200 N IH 35  
Austin, Texas 78701

[Consultant]

If by hand delivery or US MAIL:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

If by US MAIL:  
TMRS  
P. O. Box 149153  
Austin, Texas 78714-9153

If by Email:  
[name]@tmrs.com

## **15. MISCELLANEOUS PROVISIONS.**

**15.1 Governing Law & Venue.** In any lawsuit or legal dispute arising from this Agreement, the parties agree that the laws of the State of Texas shall govern, without regard to the principles of conflicts of laws. Subject to TMRS' sovereign immunity, to the extent it is necessary to resolve in a court any dispute under this Agreement, and if resolution by a court is consistent with the provisions hereof, courts of the State of Texas shall have jurisdiction over any and all disputes between the parties hereto, whether in law or equity, and exclusive venue in any such dispute shall be laid in Travis County, Texas.

**15.2 Dispute Resolution.** This Agreement is subject to Chapter 2260, Texas Government Code. The dispute resolution provisions in Chapter 2260 will be used by TMRS and Consultant to attempt to resolve any claim for breach of contract made by Consultant that cannot be resolved in the ordinary course of business. The Executive Director of TMRS or his designee will examine Consultant's claim and any counterclaim and negotiate with Consultant in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Agreement by TMRS nor any other conduct, action or inaction of any representative of TMRS relating to the Agreement constitutes or is intended to constitute a waiver of TMRS' sovereign immunity to suit; and (ii) TMRS has not waived its right to seek redress in the courts or a jury trial.

**15.3 No Waiver.** No action or failure to act by a party hereto shall constitute a waiver of a right or duty afforded under this Agreement, or constitute approval or acquiescence in a breach of this Agreement, except as may be specifically set forth in this Agreement.

**15.4 Invalidity of Prior Agreements.** This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the parties with reference to the Services described herein and expresses the entire agreement and understanding between the parties with reference to said Services. This Agreement cannot be modified or changed by any oral promise made by any person, officer, or employee of either party, nor shall any written modification of it be binding on TMRS until approved in writing by authorized representatives of both TMRS and Consultant.

**15.5 Amendment.** This Agreement may be amended only by a written instrument executed by the parties hereto.

**15.6 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

**15.7 Exhibits.** Exhibit A to this Agreement is hereby incorporated and made a part hereof as if fully set forth herein.

**15.8 Severability.** If any provision of this Agreement is held to be invalid or unenforceable in whole or in part, this instrument shall in all other respects remain in full force and effect as if the invalid provision had never been included, and the remaining provisions shall be construed as

consistently as possible with the Agreement's original purpose.

**15.9 No Assignment by Consultant.** Consultant may not assign, transfer, or convey this Agreement or assign, transfer or delegate any of its rights, duties, or obligations hereunder, and any such attempted assignment by Consultant shall be void. This Agreement shall be binding upon TMRS and Consultant, and, their respective successors and permitted assigns.

**15.10 Negotiated Agreement.** To the fullest extent permitted by applicable law, the parties hereto acknowledge that the terms of this Agreement are the result of negotiations, and therefore agree that this Agreement shall be construed without regard to, or aid of, any canon or rule requiring construction against the party causing this Agreement to be drafted.

**IN WITNESS WHEREOF,** the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

**CONSULTANT**

**TEXAS MUNICIPAL RETIREMENT  
SYSTEM**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**NAME:** David R. Gavia

**TITLE:** \_\_\_\_\_

**TITLE:** Executive Director

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## Appendix D: SCHEDULE OF PROPOSED FIXED-FEE COST

The Firm must state a firm, fixed price for the services as described in, and in accordance with the RFP.

<b>1. Private Credit</b>	<b>Fixed-fee Cost</b>
a. Two Funds	\$
b. Three Funds	\$
c. Four Funds	\$
d. Each Additional Fund	\$
<b>2. Private Equity</b>	
a. Two Funds	\$
b. Three Funds	\$
c. Four Funds	\$
d. Each Additional Fund	\$

## Appendix E: SCHEDULE OF HOURLY RATES

**Note:** Add rows as needed to reflect actual team and may adjust titles as needed.

PRIVATE CREDIT	Hourly Rate	Hours per Fund by Role			
		Two	Three	Four	Each Additional Fund
<b>Manager:</b> (name)	\$0.00	0.0	0.0	0.0	0.0
<b>Supervisor:</b> (name)	\$0.00	0.0	0.0	0.0	0.0
<b>Staff:</b> (name)	\$0.00	0.0	0.0	0.0	0.0
(name)	\$0.00	0.0	0.0	0.0	0.0
<b>Other:</b> (name/title)	\$0.00	0.0	0.0	0.0	0.0
<b>TOTAL</b>	N/A	0.0	0.0	0.0	0.0

PRIVATE EQUITY	Hourly Rate	Hours per Fund by Role			
		Two	Three	Four	Each Additional Fund
<b>Manager:</b> (name)	\$0.00	0.0	0.0	0.0	0.0
<b>Supervisor:</b> (name)	\$0.00	0.0	0.0	0.0	0.0
<b>Staff:</b> (name)	\$0.00	0.0	0.0	0.0	0.0
(name)	\$0.00	0.0	0.0	0.0	0.0
<b>Other:</b> (name/title)	\$0.00	0.0	0.0	0.0	0.0
<b>TOTAL</b>	N/A	0.0	0.0	0.0	0.0

## Appendix F: INTENT TO RESPOND (Template)

[FIRM'S LETTERHEAD]

[DATE]

Sandra Vice  
Internal Audit Department  
Texas Municipal Retirement System  
P.O. Box 149153  
Austin, Texas 78714-9153

*Via Email: [RFP-Inv-Fees@tmrs.com](mailto:RFP-Inv-Fees@tmrs.com)*

### **NOTICE OF INTENT**

Dear Ms. Vice:

Our Firm will be submitting a proposal for audit services to the Texas Municipal Retirement System (TMRS), as set forth in the request for proposal (RFP) dated June 3, 2019.

By our signature below, we affirm that we meet the mandatory requirements as set forth in Section 4 and as noted below:

- a. Our Firm confirms attendance at TMRS Board and/or Committee meetings if requested with 30 days advance notice.
- b. Our Firm has no conflict of interest with regard to any other work performed by the Firm for TMRS.
- c. Our Firm will adhere to the instructions in this RFP on preparing and submitting the proposal.
- d. Our Firm has a record of quality work as can be confirmed from our business references.
- e. Our Firm's professional personnel, to be assigned to this engagement, have the experience necessary to perform the required services successfully.

- f. Our Firm has conducted at least two similar engagements for pension/retirement systems, endowments, or foundations in the past five years.
- g. Our Firm maintains--or asserts it will obtain and maintain if the selected Firm--insurance coverage, as specified in Standard Terms and Conditions (Appendix C).

Our completed proposal will be sent to you by no later than **5:00 p.m. CDT on Monday, July 1, 2019.**

Sincerely,

[FIRM]

Contact information for our Firm is as follows:

\_\_\_\_\_  
Firm Representative's Name

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Phone Number

## EXHIBIT 1

### Statement of Officer Regarding Proposal, Financial Standing, and Confidential and Proprietary Information

The undersigned hereby represents that the undersigned is duly authorized to sign this statement on behalf of [\_\_\_\_\_] (the "Firm") and that the undersigned:

- (i) Has completely read and understands the sections of the Texas Municipal Retirement System's Request for Proposal for Investment Fees and Expenses Recalculation and Verification (the "RFP").
- (ii) Hereby certifies that the information presented in the Firm's Proposal is complete, true, accurate, and in full compliance with the RFP, except as specifically indicated in the Proposal.
- (iii) Hereby certifies that the Firm is in good financial standing, not in any form of bankruptcy, and current in the payment of all taxes and fees.
- (iv) Has reviewed the information that the undersigned believes, in good faith and with legally sufficient justification, is the Firm's confidential and/or proprietary information, and certifies that the Firm has submitted its confidential and proprietary information with its proposal to TMRS in accordance with the RFP instructions.
- (v) Understands that each time the Firm submits information to TMRS, the Firm must submit and label any information that it believes, in good faith and with legally sufficient justification, is confidential and/or proprietary, in accordance with the RFP instructions for submission of confidential and proprietary information.
- (vi) Understands that upon TMRS' receipt of a TPIA request, TMRS will provide the requestor the information provided by the Firm on any CD-ROM/DVD that the Firm has labeled "Publicly Available" information without any prior notification to the Firm.
- (vii) Understands and agrees that, by submitting a Proposal, that (i) TMRS shall have no liability to the Firm or to any other person or entity for disclosing information not marked confidential or in accordance with the TPIA, (ii) all public information submitted by the Firm, and information that is considered to be public because it is not designated by the Firm as confidential, in response to this RFP may be

fully disclosed by TMRS without liability and without prior notice to or consent of the Firm or any of its subcontractors or agents, and (iii) TMRS shall have no obligation or duty to advocate the confidentiality of the Firm's material to the Texas Attorney General, to a court, or to any other person or entity.

- (viii) Understands and agrees that if the Firm is selected to perform services for TMRS, that the Agreement for such services will be on terms and conditions substantially similar to those set forth in the Consulting Services Agreement in Appendix C.

The undersigned has executed this certificate this \_\_\_ day of \_\_\_\_\_, 2019.

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Firm: \_\_\_\_\_