

# **Teachers' Retirement System of the State of Illinois**



## **REQUEST FOR PROPOSALS FOR REAL ESTATE CO-INVESTMENT CONSULTING SERVICES**

**Issued January 16, 2018**

**Responses due February 21, 2018 by 2:00 pm CST**

## Table of Contents

<b>I. Introduction .....</b>	<b>3</b>
<b>II. Summary Description of TRS.....</b>	<b>3</b>
<b>III. Services Required.....</b>	<b>4</b>
<b>IV. Proposal Content .....</b>	<b>6</b>
<b>V. Submission of Proposals .....</b>	<b>8</b>
<b>VI. Evaluation Process.....</b>	<b>9</b>
<b>VII. Anticipated Timeline .....</b>	<b>9</b>
<b>VIII. General Conditions .....</b>	<b>10</b>
<b>Appendix A: Vendor Type Verification Form .....</b>	<b>12</b>
<b>Appendix B: Minimum Qualifications.....</b>	<b>13</b>
<b>Appendix C: Reference Authorization Letter .....</b>	<b>14</b>
<b>Appendix D: Questionnaire .....</b>	<b>15</b>
<b>Appendix E: Fee Proposal.....</b>	<b>20</b>
<b>Appendix F: Sample Agreement.....</b>	<b>21</b>

## **I. Introduction**

The Teachers' Retirement System of the State of Illinois (the System or TRS) is requesting proposals to provide real estate co-investment consulting services to assist the System in making prudent investment decisions related to the TRS investment program. The objective of this Request for Proposal is to solicit competitive proposals from qualified firms in sufficient detail to permit objective evaluation of all proposals which may result in a contract to provide real estate co-investment consulting services to the Teachers' Retirement System.

TRS is committed to increasing racial, ethnic, and gender diversity in all aspects of its utilization of vendors to provide goods and services to the System, to the greatest extent feasible, and within the bounds of financial and fiduciary prudence. To that end, the System strongly encourages qualified minority, female, disabled, and veteran-owned firms to submit proposals to this RFP.

A proposer's preparation and submittal of a proposal or subsequent participation in presentations or contract negotiations creates no obligation on the System to award a contract or to pay any associated costs. All proposals and related materials will be retained by the System and will be subject to disclosure as required in accordance with the Illinois Freedom of Information Act.

## **II. Summary Description of TRS**

The General Assembly created the Teachers' Retirement System of the State of Illinois (TRS or the System) in 1939. TRS administers a multiple-employer public pension plan to provide its members with retirement, disability, and death benefits. Membership is mandatory for all full-time, part-time, and substitute Illinois public school personnel employed outside the city of Chicago in positions requiring certification by the Illinois State Board of Education. Persons employed at certain state agencies relating to education are also TRS members. The System serves over 400,000 members and had over \$49.86 billion in assets held in trust for its membership as of September 30, 2017.

The retirement system is administered as a qualified plan under the Internal Revenue Code. TRS benefits and investments are governed by Articles 1, 16, and 20 of the Illinois Pension Code, 40 ILCS 5. Funding comes from member contributions, contributions by TRS-covered employers, the state of Illinois, and investment income. The System's most recent Comprehensive Annual Financial Report as well as a variety of other information about TRS is available on the TRS Web site at [trsil.org](http://trsil.org).

A thirteen-member Board of Trustees (the Board) is responsible for the general administration of the System, including the duties granted to it under Article 16 of the Illinois Pension Code, 40 ILCS 5/16. Under the direction of the Executive Director employed by the Board, the day-to-day administration of the System is delegated to the System's staff.

Using the combined resources of external investment managers, consultants, and internal staff, TRS invests the trust assets in accordance with general fiduciary rules of both state and federal laws and the Investment Policy adopted by the Board. The market value of the TRS total fund on September 30, 2017 was \$49.86 billion. The asset allocation as of September 30, 2017 are as follows:

<b>Asset Class</b>	<b>9/30/17 Total Fund \$ Millions</b>	<b>% of Portfolio</b>
Domestic Equity	\$7,978.5	16.0%
International Equity	10,569.4	21.2%
Global Fixed Income	9,350.7	18.8%
Other Real Assets	1,128.2	2.3%
Real estate	7,020.1	14.1%
Private Equity	6,448.4	12.9%
Absolute Return/GTAA	5,970.6	12.0%
Short-term Investments	1,396.6	2.8%
<b>Total Fund</b>	<b>\$49,862.7</b>	<b>100.0%</b>

### **III. Services Required**

TRS is seeking one or more firms to advise the System on an ongoing, as-needed basis in matters involving the underwriting of real estate co-investments. Responding firms must demonstrate experience and expertise in all matters relative to institutional real estate investment. All responding firms must meet the highest standards of professional competence and ethics.

The services to be provided shall include, but are not limited to, the following:

1. Conduct full due diligence investment reviews of selected investment opportunities that TRS staff finds attractive and have a high likelihood of being authorized. Each review will be customized to address the pertinent issues concerning the particular investment and how it fits within TRS's existing portfolio of investments. Consultant's due diligence procedures may include any or all of the following:
  - Gather and review the investment documents, including offering materials, the buy-sell agreement, financial statements and asset valuation reports, such as discounted cash flow reports from ARGUS (or comparable provider).
  - Request and review other information relevant to the due diligence investigation that might otherwise not be provided by the sponsor / general partner, such as financial

statements and other data supporting claimed track records, valuations and relevant investment experience.

- Conduct in-depth analyses, reference checks and due diligence reviews of the prospective general partner, target market and the property characteristics.
  - Analysis of asset / investment cost basis vs. development cost.
  - Analyze and independently verify claimed performance and track record by investigating the general partner's similar investments made.
  - Analyze and provide feedback on debt and anticipated terms.
  - Conduct onsite visit of the target asset or representative asset within a portfolio of assets (if applicable and feasible within available time constraints).
  - Maintain complete, written records and files of all due diligence procedures.
2. Prepare and furnish a written report documenting the results of the due diligence review. The report will contain a summary of the proposed investment and the general partner; the proposed investment strategy including projected hold period; the terms of the investment; the expected rate of return; the merits of the investment; any issues and concerns surrounding the investment and how they might be resolved; issues and provisions that should be subject to negotiation; and appropriateness of the investment for TRS. This report should include a fairness opinion on the purchase price being paid for the asset / investment and an overall recommendation.
  3. Advise staff of the business terms of the investment and review of the transaction documentation to ensure that such terms are properly reflected and that the documentation reflects key elements sought by sophisticated limited partners in today's marketplace.
  4. Review, analyze and assess:
    - Transaction documents related to TRS's investment in each of the direct investments including any offering materials;
    - Investment summary, market summary, cash flow projections, and comparable market / sales data;
    - Performance reports, financial statements and other related materials provided to TRS by the general partners of the partnerships, or the property representatives; and
    - TRS's contributions and commitments to the partnerships as well as any distributions from the partnerships that TRS may receive.

5. Communicate with the general partners of the partnerships and such other parties as reasonably necessary to understand and to evaluate each partnership's investment strategy, activities, current performance and prospects.
6. Advise staff on the structuring and negotiation of provisions to be incorporated in the terms of direct investment agreements specifically relate to governance, including those provisions which govern the format, frequency, and scope of reports.

## **IV. Proposal Content**

At a minimum, the proposal must include the following information to be considered for the engagement. For ease of review, each requirement should be addressed in a separate section preceded by an index tab to identify the subject of the section. The proposal should be formatted on consecutively numbered pages and include a table of contents. Failure to provide information in the prescribed format may result in rejection of the proposal. All responses will be subject to verification for accuracy. **Proposals containing false or misleading information will be rejected.**

### **1. Cover Letter**

A cover letter, which will be considered an integral part of the proposal package, in the form of a standard business letter, must be signed by an individual authorized to bind the proposer contractually. This cover letter must indicate the signer is so authorized, and must indicate the signer's title or position. An unsigned proposal will be rejected. The cover letter must also include:

- a. A statement that the proposal meets all requirements of this RFP, and that the offer tendered by the proposal will remain in full force and effect until, and may be accepted by the Board of Trustees of the Teachers' Retirement System of the State of Illinois, at any time prior to December 31, 2018.
- b. A statement certifying that the proposer either: (a) it is not required to register or (b) it is registered as a business entity with the State Board of Elections pursuant to the Procurement Code, 30 ILCS 500/20-160 and acknowledges a continuing duty to update such registration pursuant to the Procurement Code; and that proposer acknowledges that any Agreement awarded as a result of this RFP is voidable under Section 50-60 of the Procurement Code if the proposer fails to comply with the business entity registration requirements. **30 ILCS 500/20-160; 30 ILCS 500/50-60.**
- c. A statement that the proposal is being made without fraud or collusion; that the proposer has not offered or received any finder's fees, inducements, or any other form of remuneration, monetary or non-monetary, from any individual or entity; and that the proposer has not conferred or promised to confer, on any individual or entity, any payment, loan, advance, services, or any other form of remuneration in connection with the award of this engagement.

- d. A disclosure of any current business relationship or any current negotiations for prospective business with TRS, or with any member of the Board of Trustees or TRS staff, or any party currently rendering services to TRS.
- e. A statement that the proposer is willing to enter into an agreement in the form attached to the RFP as Appendix F including all certifications and representations contained therein, and that the proposer acknowledges and understands that certain provisions in the sample agreement mandated by Illinois state law to be included in contracts with agencies of the State of Illinois are not subject to negotiation.
- f. A statement that the proposer acknowledges that all documents submitted in response to this RFP may be subject to disclosure under the Illinois Freedom of Information Act and/or the Illinois Open Meetings Act.
- g. An attestation by the signer that the information provided in the Proposal is true and accurate, and that the signer is aware that pursuant to the Illinois Pension Code, 40 ILCS 5/1-135, any person who knowingly makes any false statement or falsifies or permits to be falsified any record of a retirement system or pension fund created under this Code (i.e., the System) in an attempt to defraud the retirement system or pension fund is guilty of a Class 3 felony.

## **2. Vendor Type Verification Form**

Proposers must complete and return the Vendor Type Verification form in the form contained in Appendix A.

## **3. Statement of Minimum Qualifications**

Proposers must complete and return the Minimum Qualifications Certification in the form contained in Appendix B.

## **4. Reference Checks**

Reference checks may be conducted for each finalist. Please provide reference authorization letter in the format prescribed in Appendix C.

## **5. Questionnaire**

The questionnaire contained in Appendix D to this RFP must be completed and returned as part of the proposal.

## **6. Fee Proposal**

Proposers must submit their fee in the format prescribed in Appendix E. Any deviation from the prescribed format which in the opinion of TRS is material may result in the rejection of the proposal. The proposed fee shall include all costs and expenses for providing the services to TRS

as described in this RFP. Once finalists are selected, fees may be subject to a “best and final” offer process to be determined at the discretion of the System.

The fee proposal must expressly state that the proposed fees are guaranteed for the three-year term of any resulting contract.

## V. Submission of Proposals

All proposals must be received at the address designated below **no later than 2:00 P.M. CST on February 21, 2018**. Submit five hard copies of your proposal and one copy on CD-ROM or thumb drive in a sealed package to:

Heidi Darow, Purchasing Officer  
Teachers’ Retirement System of the State of Illinois  
P.O. Box 19253  
2815 West Washington Street  
Springfield, IL 62794-9253

One of the hard copies must be marked as the “Master Copy” and submitted in a loose-leaf, three-ringed binder which displays the proposer’s name on the outside front cover. **Do not submit the Master Copy with spiral binding.**

Clearly identify the outside of the sealed proposal package with the proposer’s name and return address in the upper left hand corner and the statement “**SEALED PROPOSAL – DO NOT OPEN** – Response to Request for Proposals for Real estate Co-Investment Consulting Services, Issued January 16, 2018.” Failure to clearly identify the outside of the proposal package may result in the rejection of the proposal. TRS is not responsible for receipt of any proposal which is improperly labeled.

TRS accepts no responsibility for lost and/or late delivery of proposals. Whether mailed, hand-delivered, or delivered by carrier, the proposer is responsible for timely delivery on or before the above date and time. **Proposals that arrive late for any reason whatsoever, including mail delay or any other cause beyond the control of the proposer, will not be considered and will be returned unopened.**

Except as specifically requested by TRS, submission of proposals or any portion thereof via facsimile transmission, electronic, or magnetic media will not be allowed.

The proposals become the property of TRS upon submission. All costs for developing proposals and attending presentations and/or interviews are entirely the responsibility of the proposer and shall not be chargeable to TRS.

Only one proposal from an individual, firm, partnership, corporation, or combination thereof, will be considered for this assignment.

## **VI. Evaluation Process**

### **Pre-Evaluation Review**

Each proposal package will be date-stamped when received. Each proposal package will be inspected to ascertain that it is properly sealed and labeled. Proposals not passing this inspection may not be accepted. All proposals will be reviewed to determine if they contain all the required submittals specified in this RFP. Those not submitting all required information in the prescribed format will be rejected.

### **Proposal Evaluation**

Proposals that pass the pre-evaluation review will undergo an evaluation process conducted by TRS staff. Proposals will be evaluated based on criteria including:

- Understanding of the services requested
- Soundness of the approach and quality of the proposed services
- Firm qualifications including established record of success in similar work
- Individual qualifications of the assigned staff
- Proposed deliverables
- Cost

During the evaluation process, proposers may be requested to provide additional information and/or clarify contents of their proposal. Other than information requested by TRS, no proposer will be allowed to alter the proposal or add new information after the filing date.

Finalists may be scheduled for one or more oral presentations or interviews with TRS staff. Not all proposers may be asked to participate. Finalist interviews may be scheduled at the TRS office or on-site at the finalist's office at the discretion of TRS. Reference checks may be conducted for each finalist. TRS may require contract and fee negotiations to be completed prior to any presentation. Once finalists are selected, fees may be subject to a "best and final" offer process to be determined at the discretion of the System.

## **VII. Anticipated Timeline**

*Subject to change at TRS discretion*

Date RFP Issued	January 16, 2018
Deadline for Submitting RFP Response	February 21, 2018
Proposal Evaluation	February/March 2018
Finalist Interviews	March/April 2018

Finalist Presentations, if any (Board Meeting)	May 24-25, 2018
Firm(s) Selected	May 25, 2018
Contract Term Commences	July 1, 2018

## VIII. General Conditions

### 1. Clarification of the RFP

To maintain the integrity of the RFP process, interested proposers are expected to respond to this RFP to the best of their understanding without asking questions or requesting clarification. If a proposer discovers an error in this RFP, the proposer should immediately notify TRS of such error in writing to Heidi Darow at the following email address: purchasing@trsil.org. If deemed necessary or appropriate in the System’s discretion, TRS may clarify or modify any part of this RFP by posting notice on the TRS Web site prior to the proposal deadline.

### 2. Restrictions on Communication

Proposers must not discuss or share the contents of their proposals with other potential proposers. TRS policy and the Illinois state ethics law strictly limit communication during the search process. **Any attempt to initiate contact with TRS staff or TRS Trustees, other than as specifically stated in this RFP, may disqualify the proposer from further consideration.**

### 3. Reservation of Rights

TRS reserves the right to withdraw this RFP, to accept or reject any or all proposals submitted, and to waive any immaterial deviation, defect, or irregularity, whenever it would be in the best interest of TRS to do so. Waiver of an immaterial deviation shall in no way modify the Request for Proposal or excuse a proposer from full compliance with all RFP requirements.

Proposals that contain false or misleading statements or that provide references which do not support an attribute or condition claimed by the proposer will be rejected. Issuance of the Request for Proposal creates no obligation to award a contract or to pay any costs incurred in the preparation of a proposal. Nothing in this RFP or any resulting contract shall preclude TRS from procuring services similar to those described herein from other sources.

### 4. No Confidentiality

Proposals and all materials submitted in response to this RFP cannot be considered confidential. All proposals and related materials will be retained by TRS and will be subject to disclosure as required in accordance with the Illinois Freedom of Information Act, 5 ILCS 140.

## **5. Equal Opportunity**

TRS does not discriminate because of race, color, religion, creed, sex, sexual orientation, age, marital status, military status, certain unfavorable discharges from military service, political affiliation, citizenship, ancestry, national origin, physical or mental handicap or disability or any other characteristic protected by law. It is the System's intent to comply with all state, federal, and local equal employment and opportunity laws and public policies.

## **Appendix A: Vendor Type Verification Form**

Please complete the information below as it applies to you/your company. This form must be included with your proposal.

Female Owned Business - Must be 51% independently owned by a female \_\_\_\_\_

Minority Owned Business - Must be 51% independently owned by a minority \_\_\_\_\_

Persons with Disability Business - Must be 51% independently owned by a disabled person \_\_\_\_\_

Veteran Owned Business - Must be 51% independently owned by a veteran \_\_\_\_\_

None of the above \_\_\_\_\_

\_\_\_\_\_

Representative Signature

Date

## Appendix B: Statement of Minimum Qualifications

(Firm Name) \_\_\_\_\_ certifies that it meets the following minimum qualifications.

Please initial each as applicable.

1. \_\_\_\_\_ The firm and/or its principals have experience providing real estate co-investment consulting services to clients, in aggregate, with primary real estate portfolio AUM and / or commitments of at least \$1 billion.
2. \_\_\_\_\_ The firm agrees to propose the required services on a non-discretionary, fee only basis.
3. \_\_\_\_\_ Primary consultant proposed to be assigned to the TRS account has a minimum of three years of experience providing real estate co-investment consulting services to public and/or private pension funds or other highly comparable, relevant experience.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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

**Appendix C: Reference Authorization Letter**  
*[On prospective vendor letterhead]*

[Month, Day, Year]

[Reference Name]

[Reference Title]

[Company Name]

[Reference Address]

[City, State, Zip]

Dear [Reference Name]:

*(Prospective Vendor Name)* has submitted a proposal to the Teachers' Retirement System of the State of Illinois ("System") with regard to providing real estate co-investment consulting services. The System is conducting its due diligence with regard to *(Prospective Vendor Name)*. Through this written authorization, *(Prospective Vendor Name)* hereby authorizes any individual, business, corporation, retirement system, state agency, or other entity to release any facts and information it may have concerning *(Prospective Vendor Name)*, its principals, employees and agents, to the System.

A copy of this authorization may be used as if it were an original. Thank you for your assistance.

Sincerely,

*(Prospective Vendor Name)*

*(Authorized Signature and Title)*

## Appendix D: Questionnaire

The following real estate co-investment consulting services questionnaire must be completed and included with your response to this RFP. Type your responses in the same order as the questionnaire, listing the question first followed by your answer.

### A. General Business Information

1. **History of the Firm:** Briefly summarize the history of your firm. Identify the initial year you or your firm provided co-investment consulting services to public pension or other institutional investors/plans. Within the last five years, have there been any significant developments in your organization, such as changes in ownership, restructuring, or personnel reorganizations?
2. **Organizational Chart:** Provide a current functional organizational chart of your firm depicting the co-investment advisory unit (Identify as **Exhibit #1**). Include your parent property, if any, subsidiaries, if any, and describe their primary lines of business. If your firm offers or manages multiple funds, please include the funds on the firm's organizational chart.
3. **Firm's Lines of Business:** List your firm's lines of business and approximate contributions of each business to your organization's total revenue. If you are an affiliate or subsidiary of an organization, what percentage of the firm's total revenue does your division generate?
4. **Firm's Investment Functions:** Describe investment functions at your firm.
5. **Firm's Future Business Plans:** Describe your future business plans with regard to real estate investment management, specifically addressing the firm's plans with respect to co-investment services.
6. **Litigation:** Within the last ten years, has your organization, any employees, officers, or principals been involved in any business litigation or other legal proceedings related to your consulting/advisor activities? In addition, has your organization even been investigated by a federal or state licensing or regulatory authority? If so, provide an explanation and indicate the disposition.
7. **Direct or Indirect Compensation:** Are there any circumstances, specifically related to your investment advisory activities, under which your firm, its officers or employees receive direct or indirect compensation from investment managers or general partners? If so, describe.
8. **Breadth of Real Estate Investing:** Has the firm participated in real estate investments other than co-investments (e.g., investments in real estate funds or un-sponsored direct investments in real estate)? If so, please briefly describe the nature of these investments.

9. **Firm’s Co-Investment Program & Conflicts of Interests:** Briefly describe the firm’s co-investment program. Describe how the co-investment group fits within the context of the firm. What conflicts of interests could exist between the co-investment group and other parts of the firm? Please detail any existing or potential conflicts between your consulting activities, services performed for other clients, personal investment activity, and other current or potential relationships. How are these potential conflicts, if any, managed?
10. **Registered Investment Advisor:** Are you a registered investment advisor with the SEC? If so, please provide a copy of your most recent FORM ADV, part II.

**B. Personnel**

1. **Co-Investment Staffing:** Describe how you staff co-investment projects and/or accounts.
2. **Current Co-Investment Team:** Provide the following information for your firm’s current team of co-investment professionals. Please add additional rows as necessary.
3. **Compensation Arrangement for Professional Staff:** Describe your firm’s compensation arrangement for professional staff. How does this arrangement encourage the retention of key individuals and maintain a proper alignment of interests?

Name	Title	Role	Years With firm	Years of Co-Investment Experience	Number of Co-Investments Executed	Dollar Value of Co-Investments Executed	Percentage of Time Dedicated to Co-Investments	Academic Institution	Degree	Year

4. **Workload Control Policies:** What policies are in effect to control the workload as it relates to the number of clients serviced by each co-investment professional or account manager? Is there a limit on the number of accounts that a co-investment professional or account manager may handle? Identify the plans for additions to professional staff in relation to growth of accounts or assets.
5. **Co-Investment Team Compensation Arrangements:** Give a brief description of your firm’s compensation arrangements for co-investment professionals. Do they participate in equity ownership? If ownership is not available, is there a specific arrangement for sharing in the profits earned by the enterprise (e.g., salary, bonus, group/individual performance incentives, profit sharing, etc.)? What other incentives are provided to attract and retain top quality employees and co-investment professionals at your firm?

**C. Client Relationships**

- 1. Current Co-Investment Clients:** Provide the following information about clients for which your firm currently consults on an advisory basis or has discretionary management authority (excluding commingled co-investment clients or fund of funds with a co-investment allocation) for co-investment management services.

Name of Client	Client Type	Co-Investment Authorization (\$ MM) *	Advisory/ Discretionary	Co-Investment Focus	Partnerships/ Directs

- 2. Allocation Policy (if applicable):** How does your firm allocate co-investment opportunities between your separate account co-investment clients, the fund-of-funds with a co-investment allocation, and the co-investment funds that you manage? Describe how co-investment opportunities are allocated among clients and whether any clients or funds have preference or priority. Specifically, how would you manage conflicts of interest for deal flow allocation in the following situations:
  - Co-investments in which both you and the plan invest in the sponsor’s fund
  - Co-investments in which only one party invests in the fund
  - Co-investments in which neither you nor the plan invests in the fund
- 3. Interaction Within Your Firm and With the Plan:** Describe how the co-investment team members will interact with the real estate fund investment activities of your firm and those of the plan. How will the “information loop” work and benefit the plan’s core real estate investment program?
- 4. Direct Responsibility for Account:** If your firm is awarded a contract, who would have direct responsibility for the TRS Account? What other accounts (by name) will the individual retain? What percentage of their time would be devoted to TRS’s account? Where would they be physically located? Who would be their backup? What is the maximum number of accounts this person would be assigned?
- 5. Biographies:** Provide biographies of the key individuals who would be assigned to the TRS account (Identify as **Exhibit #2**).
- 6. Turnover of Technical/Support Staff:** Provide data relating to the number of and turnover ratios of technical/support staff over the last five years.
- 7. Turnover of Professional Staff:** Provide data relating to the number of and turnover of management and professional staff over the last five years. Include names of staff and identify their replacement, if any.

8. **Conflicts:** Explain, in detail, any potential conflicts that would be created by contracting with the TRS, including other client relationships, fund-of-funds discretionary investing, that may impact services/advice to TRS.
9. **References:** Please identify three clients as references for whom your firm has provided Real estate co-investment consulting services, whom we may contact (Identify as **Exhibit #3**).

#### **D. Investment History**

**Non-Principal Investment Experience:** Describe other non-principal investment experience of the firm and that of the individual co-investment principals (e.g., corporate finance advisory experience, mergers and acquisitions advisory experience, institutional marketing, and commercial lending, etc).

#### **E. Investment Process: Strategy, Deal Flow, Initial Screening, Investment Evaluation and Selection**

1. **Proposed Co-Investment Strategy:** Building on the firm's outlook for the market for North American co-investment opportunities, provide your insight into the direction and development of this market and how a relationship with the plan will be structured to capitalize on such opportunities. Also, feel free to discuss specific or generic transactions.
2. **Deal Flow: Describe the Number of Co-Investments Reviewed By the Firm.**
  - a. How many co-investment opportunities have been evaluated per year since 2005?
  - b. What are the reasons for transactions not closing? If possible, quantify.
  - c. Briefly describe your firm's experience and capabilities with co-investments for each real estate investment / asset type.
3. **Due Diligence:** Describe your approach to the investment selection / due diligence process. Include the following:
  - a. Your firm's criteria for investing in real estate and include the relative importance of the criteria.
  - b. The objective and subjective standards used to evaluate investment opportunities and fund managers.
  - c. Your firm's internal approval process for co-investment selection or recommendation.
  - d. Provide an example of two full due diligence reports that have been submitted to a client for a real estate direct co-investment (to include the firm model an investment recommendation, Identify as **Exhibit #4**).
4. **Initial Screening – Co-Investment Due Diligence:** Describe your approach to the real estate co-investment due diligence process. Discuss and/or provide the following:

- 4.1. Describe your due diligence process. What parts of the sponsor's due diligence do you typically review in depth? How does your due diligence differ from the sponsor's? How is your firm's approach unique?
- 4.2. Describe the diligence performed on the sponsor fund and the level of detail reviewed?
- 4.3. Discuss how you perform an independent analysis of the investment opportunity and attempt to validate (or not) the general partners claims and assumptions?
- 4.4. Provide a copy of the firm's co-investment due diligence procedures (Identify as **Exhibit #5**).
- 4.5. Provide a copy of the firm's co-investment due diligence questionnaire and information request list (Identify as **Exhibit #6**).
- 4.6. What is the typical length of time to complete due diligence for a co-investment? How does this fit with the sponsor's transaction schedule?
- 4.7. Do you have an advisory board specifically for your co-investment program? If so, what is their role and describe the investment committee process.
- 4.8. Describe your legal due diligence process. Do you use your own inside or outside counsel for all transactions? If in-house, please identify your legal staff and their alternative investment and co-investment expertise (include biographies). Do you use independent legal counsel? If so, please identify those firms you use most often.

## **Appendix E: Fee Proposal**

TRS will evaluate fee structures for full retainer services as well as unbundled services. Please quote your current fees in hard dollars for the following services. Please detail the scope of services to be provided under such an arrangement and provide quotes for any additional services.

- A. Fee for full diligence on a single real estate co-investment opportunity.
- B. Fee for cursory review of the sponsor materials for a general assessment of risks only.
- C. Fee for different engagements by asset class (i.e. Infrastructure)
- D. Hourly billing rates for special projects or services

TRS pays for its services using hard dollars only. Will your firm agree that neither the firm nor any employee or owner of the firm will receive any commission or fee, directly nor indirectly, arising from securities in which TRS invests?

Are all related travel expenses of the investment consultant pertaining to attendance at board meetings and onsite meetings included in your fee proposal?

## **Appendix F: Agreement for Real Estate Co-Investment Consulting SAMPLE AGREEMENT**

THIS REAL ESTATE CO-INVESTMENT CONSULTING AGREEMENT (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Teachers’ Retirement System of the State of Illinois (the “System”), a retirement system established under and pursuant to the laws of the State of Illinois, and \*[INSERT NAME/ADDRESS/LEGAL STATUS OF CONTRACTOR], a \*[INSERT LEGAL STATUS OF CONTRACTOR] (“Contractor”).

WHEREAS, the System has need to obtain the professional services of an investment consultant to assist the System in achieving its investment objectives to ensure prudent management of TRS trust assets; and

WHEREAS, the System has determined through the Request for Proposal (RFP) process that Contractor meets all qualifications described in the RFP to perform the services set forth herein;

NOW THEREFORE, Contractor agrees to provide the following professional services to the System pursuant to the terms of this Agreement as more fully detailed below:

**Services:** Under the direction of the Board, Executive Director, Chief Investment Officer or a designee, Contractor shall provide real-estate co-investing consulting services to the system including, but are not limited to, the following: [AS PER RFP]

**Term of the Agreement:** The Professional services under this Agreement shall be provided between date of execution and June 30, \_\_\_\_\_ unless earlier terminated in accordance with this Agreement. The term of this Agreement may not be extended.

**Compensation:**

- a) [AS AGREED]
- b) Such fee shall include all normal business expenses, including all overhead expenses associated with Contractor’s business, such as clerical time and overtime, computer usage, telephone calls, tele-facsimiles, photocopying, and mailing an express delivery expenses.
- c) All out-of-pocket expenses attributable to performance of services under this Agreement and attendance of Contractor’s personnel at all regular meetings of the System’s Board of Trustees and the Investment Committee thereof, including without limitation, transportation, lodging, and meals during the period of travel, shall be at Contractor’s own expense, and the System shall have no obligation to reimburse Contractor for any such out-of-pocket expenses.

- d) Unless otherwise agreed upon and stated herein, this Agreement does not allow for reimbursement of any expenses incurred by Contractor, including but not limited to telephone, facsimile, Internet, or other communications device, computer, postage, delivery, copying, travel, transportation, lodging, food and per diem, clerical time, and overtime.

**Billing:** Contractor shall submit quarterly invoices for services provided hereunder in accordance with terms outlined below:

- a) By submitting an invoice, Contractor certifies that the professional services provided meet all requirements of the Agreement, that the amount billed is as allowed in the Agreement, and that any expenses billed are reimbursable under this Agreement.
- b) Invoices shall be signed by Contractor and shall set out Contractor's social security number or FEIN.
- c) Invoices submitted by Contractor for the professional services performed prior to July 1 must be presented to the System no later than July 15 of that year in order to ensure payment under this Agreement. Failure by Contractor to seek payment of invoices prior to July 15 may require Contractor to seek payment in the Illinois Court of Claims.
- e) Contractor shall not bill for any taxes unless accompanied by proof that TRS is subject to the tax. If necessary, Contractor may request the applicable Illinois tax exemption number and federal tax exemption information.

**Payment:** Payments will be paid in accordance with the Prompt Payment Act, 30 ILCS 540. Payment will be made in the amount earned to date of invoice, less previous partial payments. Final payment may be adjusted by the System if such adjustment is supported by a System audit. All recordkeeping shall be in accordance with sound accounting standards. TRS shall not be liable to pay for supplies or equipment provided or services rendered, including related expenses, incurred prior to the execution of this Agreement by all parties and the beginning of the term of this Agreement.

**Compliance with Investment Law and Policies:** In acting as an investment consultant hereunder, Contractor, its employees, agents, and subcontractors shall act at all times in accordance with all applicable requirements of the Illinois Pension Code, 40 ILCS 5/1, and 40 ILCS 5/16-179, and any other applicable requirements under the laws of the State of Illinois, and all federal, state, and local laws, rules, ordinances, regulations, orders, federal circulars, and all license and permit requirements in the performance of this Agreement. Contractor shall, at all times during the term of this Agreement, maintain compliance with all applicable tax requirements and be current in payment of such taxes. Contractor acknowledges receipt of the System's investment policy (the "Investment Policy") in effect as of the date of this Agreement, which document is attached hereto and fully incorporated herein as Appendix A. Contractor understands and agrees that such Investment Policy is subject to change and agrees that it shall act at all times in accordance with any written investment policies of the System in their most current version, which documents, in their most current version, shall be deemed fully incorporated herein by reference.

**Fiduciary:** In addition to, but not in lieu of any and all applicable fiduciary standards imposed under federal or state law, Contractor is a fiduciary with respect to the System and Contractor shall perform its duties under this Agreement with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in an enterprise of like character and with like aims. Termination of this Agreement does not release Contractor from any of its fiduciary duties and obligations with respect to the System.

**Confidential Data and Information:** Contractor, including its personnel, agents, and subcontractors, may have access to, collect, or receive confidential data, member records, or other information owned or maintained by the System in the course of carrying out its responsibilities under this Agreement. The System hereby designates all information received or accessed pursuant to this Agreement as confidential unless otherwise designated in writing by the System. Contractor shall not unnecessarily communicate such data or information within Contractor's operations. No such data or information shall be used for competitive purposes nor disclosed or disseminated except as authorized by law and with the written consent of the System, either during the period of this Agreement or thereafter. Contractor must return all such data and information, in whatever form it is maintained, promptly at the end of the Agreement or earlier at the request of the System, or shall notify the System in writing of its destruction. The foregoing obligations do not apply to confidential data or information lawfully in the receiving party's possession prior to acquisition under this Agreement, received in good faith from a third party not subject to any confidentiality obligation, that is or becomes publicly known through no breach of confidentiality obligation, or that is independently developed by the receiving party without the use or benefit of the System's data or information.

**Affiliates:** Contractor shall disclose the names and addresses of (i) itself; (ii) any entity that is a parent of, or owns a controlling interest in Contractor; (iii) any entity that is a subsidiary of, or in which a controlling interest is owned by, Contractor; (iv) any persons who have an ownership or distributive income share in Contractor that is in excess of 7.5%; or (v) who serves as an executive officer of Contractor.

**Amendment and Changes:** This Agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to this Agreement must be in writing and fully executed by the parties.

**Applicable Law:** This Agreement and Contractor's obligations and services hereunder are hereby made and must be performed in compliance with all applicable federal and state laws. This Agreement shall be construed and governed in accordance with the laws of the State of Illinois to the extent that such laws are not pre-empted by the laws of the United States of America. By entering into this Agreement, Contractor agrees to submit to the exclusive jurisdiction of the state and federal courts of Illinois and agrees that any action or proceeding against the System arising out of or in connection with this Agreement shall be instituted in the Illinois Court of Claims. The System shall not enter into binding arbitration to resolve any dispute arising out of this Agreement. The System does not waive sovereign immunity by entering into this Agreement.

**Bankruptcy:** Contractor shall promptly notify the System if Contractor becomes insolvent, files a petition in bankruptcy, becomes a party to an involuntary bankruptcy proceeding, or makes an

assignment for the benefit of creditors. In such an event, the System may immediately cancel all or any portion of this Agreement upon written notice.

**Certifications and Conflicts:** Contractor certifies that it is not legally prohibited from contracting with TRS or the State of Illinois, has no known conflicts of interest, and further specifically certifies, on behalf of itself and its officers, employees, agents, affiliates, and subcontractors, as follows:

- a) **Educational Loan:** Contractor, in accordance with the Educational Loan Default Act, is not in default on an educational loan. **5 ILCS 385.**
- b) **Ethics:** Contractor acknowledge that employees and trustees of TRS are subject to the State Officials and Employees Ethics Act, that TRS has adopted a gift ban more restrictive than required by state law, and agrees to refrain from bestowing or offering gifts of any monetary or non-monetary value to TRS employees or trustees. **5 ILCS 430.**
- c) **Bribery:** Contractor has not been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other state, nor made an admission of guilt of such conduct that is a matter of record. **30 ILCS 500/50-5.**
- d) **Felony:** If Contractor has been convicted of a felony, at least five years has passed after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. **30 ILCS 500/50-10.**
- e) **Sarbanes-Oxley:** If Contractor has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, 815 ILCS 5, at least five years has passed from the date of conviction. Contractor is not barred from being awarded a contract under 30 ILCS 500/50-10.5, and acknowledges that TRS shall declare this Agreement void if this certification is false. **30 ILCS 500/50-10.5.**
- f) **Debt Delinquency:** Contractor and its affiliates are not delinquent in the payment of any debt to the State, or if delinquent, have entered into a deferred payment plan to pay off the debt. Contractor further certifies that it is not barred from being awarded a contract under 30 ILCS 500/50-11, and acknowledges that TRS may declare this Agreement void if this certification is false, or if Contractor later becomes delinquent and has not entered into a deferred payment plan to pay off the debt. **30 ILCS 500/50-11; 30 ILCS ILCS 500/50-60.**
- g) **Illinois Use Tax:** Contractor is not barred from being awarded a contract under 30 ILCS 500/50-12, and acknowledges that TRS may declare this Agreement void if this certification is false. Contractor shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provisions of the Illinois Use Tax Act, and acknowledges that failure to comply can result in this Agreement being declared void. **30 ILCS 500/50-12.**

- h) **Environmental Protection:** Contractor has not committed a willful or knowing violation of the Environmental Protection Act (EPA) relating to civil penalties within the last five years, and is therefore not barred from being awarded a contract. If this certification is later determined to be false, Contractor acknowledges that the System may declare this Agreement void. **30 ILCS 500/50-14.**
- i) **Lead Poisoning:** Contractor is not in violation of the Illinois Procurement Code provision prohibiting owners of residential buildings who have committed a willful or knowing violation of the Lead Poisoning Prevention Act from doing business with the State until the violation is mitigated. **30 ILCS 500/14.5, 410 ILCS 45.**
- j) **Conflict of Interest:** Contractor does not have any public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest which does or may conflict in any manner with Contractor's obligations under this Agreement. Contractor has disclosed, and agrees it is under a continuing obligation to disclose to TRS, financial or other interests, public or private, direct or indirect, that may be a potential conflict of interest or which would prohibit Contractor from entering into or continuing to perform under this Agreement. Contractor further certifies that, in the performance of this Agreement, no person having any such interest shall be employed by Contractor. If any elected or appointed State officer or employee, or spouse or minor child of same has any ownership or financial interest in Contractor or this Agreement, Contractor certifies that it has disclosed that information to TRS, and any waiver of the conflict has been issued in accordance with applicable law and rule. Membership in the Teachers' Retirement System of the State of Illinois does not constitute a conflict of interest within the meaning of this paragraph. **30 ILCS 105/8.40, 30 ILCS 500/50-13, 30 ILCS 500/50-15, 30 ILCS 500/50-35.**
- k) **Inducement:** Contractor has not offered or paid any money or valuable thing to induce any person not to bid for a State contract, and has not accepted any money or valuable thing, or acted upon the promise of same, for not bidding on a State contract. **30 ILCS 500/50-25.**
- l) **Non-Solicitation:** Contractor has not employed or retained any property or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and has not paid or agreed to pay any property or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement.
- m) **Revolving Door:** Contractor is not in violation of the "revolving door prohibition" on procurement activity relating to a State agency. **30 ILCS 500/50-30.**
- n) **Anticompetitive Practices:** Contractor will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anticompetitive practice among any bidders, offerors, contractors, proposers, or employees of the State. **30 ILCS 500/50-40, 30 ILCS 500/50-45, 30 ILCS 500/50-50.**

- o) **Business Entity Registration:** Contractor certifies either: (a) it is not required to register or (b) it is registered as a business entity with the State Board of Elections pursuant to the Procurement Code, 30 ILCS 500/20-160 and acknowledges a continuing duty to update such registration pursuant to the Procurement Code. Contractor acknowledges that this Agreement is voidable under Section 50-60 of the Procurement Code if Contractor fails to comply with the business entity registration requirements. **30 ILCS 500/20-160; 30 ILCS 500/50-60.**
- p) **ERI:** Contractor has informed the System in writing if Contractor was formerly employed by the System and received an early retirement incentive prior to 1993 under 40 ILCS 5/14-108.3 or 16-133.3 of the Illinois Pension Code, and acknowledges that contracts made without the appropriate filing with the Auditor General are not payable from the “contractual services” or other appropriation line items. Contractor has not received an early retirement incentive in or after 2002 under 40 ILCS 5/14-108.3 or 40 ILCS 5/16-133.3 of the Illinois Pension Code, and acknowledges that contracts in violation of Section 15a of the State Finance Act are not payable from the “contractual services” or other appropriation line items. **30 ILCS 105/15a.**
- q) **Drug Free Workplace:** Contractor will provide a drug free workplace and will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance during the performance of this Agreement. This certification applies to contracts of \$5,000 or more with individuals, and to entities with 25 or more employees. **30 ILCS 580.**
- r) **International Boycott:** Neither Contractor, nor any substantially owned affiliate, is or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or applicable regulations of the U.S. Department of Commerce. This certification applies to contracts that exceed \$10,000. **30 ILCS 582.**
- s) **Forced Labor:** In accordance with the State Prohibition of Goods from Forced Labor Act, no foreign-made equipment, materials, or supplies furnished under this Agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. **30 ILCS 583.**
- t) **Child Labor:** In accordance with the State Prohibition of Goods from Child Labor Act, no foreign-made equipment, materials, or supplies furnished under this Agreement have been or will be produced in whole or part by the labor of any child under the age of 12. **30 ILCS 584.**
- u) **Bid Rigging/Rotating:** Contractor has not been convicted of bid rigging or bid rotating or any similar offense of any state or of the United States. **720 ILCS 5/33E-3, E-4.**
- v) **Nondiscrimination/Equal Employment Opportunity:** Contractor will comply with applicable provisions of the State and Federal constitutions, laws, and regulations pertaining to unlawful discrimination, harassment, and equal employment opportunity,

including but not limited to the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, the Public Works Employment Discrimination Act, and the Illinois Human Rights Act. **42 USC 12101 et seq., 775 ILCS 5, 775 ILCS 10.**

- w) **Discriminatory Club:** Contractor does not pay dues or fees, or subsidize or otherwise reimburse its employees or agents for any dues or fees to any discriminatory club. **775 ILCS 25.**

**Employment Status:** Contractor and all personnel that Contractor assigns to perform services under this Agreement are not employees of the System and amounts paid pursuant to this Agreement do not constitute compensation paid to any employee of the System. The System assumes no liability for actions of Contractor or its personnel under this Agreement and this Agreement is not subject to the State Employee Indemnification Act, as amended, 5 ILCS 350.

**Entire Agreement:** This Agreement, together with any exhibits or attachments hereto, constitutes the entire agreement between the parties concerning the subject matter of this Agreement, and supersedes all prior proposals and contracts between the parties concerning the subject matter of this Agreement. Any provision of this Agreement officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the System's and Contractor's terms, conditions, and attachments, the System's terms, conditions, and attachments shall prevail.

**Execution of Originals:** This Agreement may be executed in two or more counterparts, any one of which shall be an original without reference to the others.

**FEIN Certification:** Under penalties of perjury, Contractor certifies that the legal name of business, taxpayer identification number, and legal status listed below are correct.

Contractor's legal name of business: \_\_\_\_\_

Taxpayer Identification Number: \_\_\_\_\_

Legal status of business: \_\_\_\_\_

*[Add if legal status of business is a limited liability property]*

Tax classification:  D = Disregarded Entity  
 C = Corporation  
 P = Partnership

**Finder's Fee:** Contractor certifies that no finder's fee or finder's commission, or third-party placement, marketing, solicitor's, consulting, or contingency fee, or any other consideration has been paid or shall be paid to any individual or organization, other than a bona fide employee working solely for Contractor, resulting from or related to the establishment of this investment

consulting relationship with the System. Contractor shall fully disclose any direct or indirect fees, commissions, penalties, or other compensation, including reimbursement for expenses that may be paid by or on behalf of Contractor in connection with the provision of services to the System, and acknowledges a continuing duty to update such disclosure promptly after a modification of those payments or an additional payment.

**Inability to Perform:** Contractor agrees that if, due to death, illness, departure, or any other occurrence, any principal or principals of Contractor become unable to perform the services set forth in this Agreement, neither Contractor nor the surviving principals shall be relieved of their obligations to complete performance hereunder. Contractor may substitute other professionals to perform such services only upon approval of the System. Contractor shall immediately notify the System of any occurrence resulting in the inability of any principal or principals of Contractor to perform the services set forth in this Agreement, in which event the System, at its own option, may immediately terminate this Agreement upon written notice to Contractor.

**Indemnification:** Contractor shall indemnify, defend, save and hold harmless the System, its board members, trustees, officers, agents and employees, in both individual and official capacities, from and against any and all suits, actions, claims, demands, damages, losses, costs, and expenses, including attorney's fees, which are the result of an error, omission or negligent act of Contractor or any of its employees or agents arising out of or resulting from the provision of Goods and/or performance of services under this Agreement, except where such is due to the active negligence of the party seeking to be indemnified. This paragraph is applicable to the full extent allowed by the laws of the State of Illinois and not beyond any extent that would render this paragraph void or unenforceable.

**Independent Contractor:** Contractor is an independent contractor in the performance of this Agreement, and is not an agent, employee, partner, or in joint venture with the System. All payments by the System shall be made on that basis. Contractor and its employees are not employees of the System and amounts paid pursuant to this Agreement do not constitute compensation paid to an employee of the System. All personnel performing services pursuant to this Agreement are employees of Contractor, are treated as employees of Contractor for tax reporting purposes, and are provided all benefits of such employment that are provided or accrue to Contractor's employees, including, without limitation, health insurance, life insurance, disability insurance, workers' compensation, vacation, paid holidays, sick leave, and the like. The System assumes no liability for actions of Contractor or its employees under this Agreement and this Agreement is not subject to the State Employee Indemnification Act, 5 ILCS 350.

**Insurance:**

- a) Contractor shall, at its sole cost and expense, procure and maintain on its own behalf, worker's compensation insurance in amounts equal to all statutory requirements. Contractor shall also carry, on its own behalf, commercial general liability insurance of at least \$5 million per occurrence. Contractor shall also carry, on its own behalf, professional liability insurance of at least \$5 million. Contractor shall furnish the System a true and correct copy of each paid-up policy evidencing such insurance, or a certificate of the insurer certifying that such policy has been issued, as soon as practicable following execution of this Agreement. Contractor shall also provide renewal certificates of insurance so long as

this Agreement is in effect. Each policy shall provide that it may not be canceled or materially changed without sixty days prior written notice to the System.

- b) Contractor shall promptly notify the System in writing of any claims under any required insurance policies which, if valid, would have the effect of materially reducing the amount of insurance available under such policies or reducing the amount of insurance available under such policies to an amount lower than the limits provided herein and of any material developments relating to such claims.
- c) Contractor expressly understands and agrees that insurance coverage required by this Agreement or otherwise provided by Contractor shall in no way supersede, reduce, or otherwise limit Contractor's obligation to indemnify, defend, and hold harmless the System, its board members, officers, agents and employees, in both individual and official capacities, as provided in this Agreement.

**Nonexclusive Agreement:** Contractor understands, acknowledges, and agrees that Contractor does not have an exclusive agreement with the System to provide the supplies, equipment, and/or services hereunder, and that the System may engage others to provide the same or similar goods and/or services without any obligation to Contractor.

**Notices:** Notices and any other communication provided for herein shall be given in writing to the contacts designated below by registered or certified mail, return receipt requested, by receipted hand delivery, by courier (UPS, Federal Express, or other similar and reliable carrier), by email, or by fax showing the date and time of successful receipt. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either party may change the following contact information:

Contractor: [Property Name]  
Attention:  
[Mailing Address]  
[City, State Zip Code]  
Phone:  
Fax:  
Email:

TRS: Teachers' Retirement System of the State of Illinois  
Attention: Heidi Darow, Purchasing Officer  
2815 W. Washington St., P.O. Box 19253  
Springfield, Illinois 62794-9253  
Phone: 217-814-2049  
Fax: 217-753-0969  
Email: [Purchasing@trsil.org](mailto:Purchasing@trsil.org)

**No Waiver:** Except as specifically waived in writing, failure by either party to exercise or enforce a right or obligation under this Agreement shall not affect any subsequent ability to exercise or enforce a right or obligation.

**Performance Review:** Contractor's performance of services pursuant to this Agreement is subject to annual review by the System's investment staff according to pre-established criteria, with the results of such performance review presented to the Investment Committee of the System's Board of Trustees.

**Record Retention – Right to Audit:** Contractor and its subcontractors agree to comply with Section 20-65 of the Illinois Procurement Code, 30 ILCS 500/20-65, and shall maintain adequate books and records relating to the performance of this Agreement and necessary to support amounts charged to the System under this Agreement. Books and records, including information stored in databases or other computer systems, shall be maintained by Contractor and its subcontractors for a period of three years from the later of the date of final payment under the Agreement or completion of the Agreement. Such three-year period shall be extended for the duration of any audit in progress at the time of that period's expiration. Such books and records shall be available for review or audit by the Auditor General, other governmental entities with monitoring authority, and the System, upon reasonable notice and during normal business hours. Contractor and its subcontractors shall cooperate fully with any such review or audit. Failure to maintain such books and records shall establish a presumption in favor of the System for the recovery of any funds paid by the System under this Agreement for which adequate books and records are not available. Contractor shall not impose a charge or pass on fees or costs for review or audit of such books and records. Contractor shall take reasonable steps to ensure that its subcontractors are in compliance with this section.

**RFP or Bid:** The System's Request for Proposal (RFP), Invitation to Bid, or any similar document soliciting contractors for the work set forth herein, and Contractor's response thereto, are hereby incorporated by reference into this Agreement as though fully set forth herein. To the extent that there are any conflicts between the RFP or bid document and this Agreement, this Agreement shall prevail.

**Severability:** Any provision, covenant, or condition of this Agreement which is held by a court of competent jurisdiction to be invalid or not enforceable in any jurisdiction, shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**Subcontracting and Assignment:** This Agreement may not be assigned, transferred, or subcontracted in whole or in part by Contractor without the prior written consent of the System. Contractor shall describe, as a supplemental provision to this Agreement, the names and addresses of all authorized subcontractors utilized by Contractor in the performance of this Agreement, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to this Agreement. For purposes of this section, subcontractors are those specifically hired to perform all or part of the work or to provide equipment or supplies covered by the Agreement. In the event the System gives such consent, this Agreement shall apply to and bind the party or parties to whom such work is assigned, transferred, or subcontracted as fully and completely as Contractor is hereby bound and obligated.

**Termination:**

- a) This Agreement may be terminated at any time by the mutual consent of the System and Contractor.
- b) Either party may, without the consent of the other party, terminate this Agreement upon 15 days' prior written notice to the other party.
- c) Notwithstanding any contrary provision in this Agreement, this Agreement may be terminated at the option of the System whenever the System determines that such termination is in its best interests, upon 15 days' prior written notice to Contractor.
- d) Upon notice of termination, Contractor shall cease work under this Agreement except work that TRS directs in writing to be completed, and take all necessary or appropriate steps to limit disbursements and minimize costs, and cooperate in good faith with TRS during the transition period between notification of termination and substitution of any replacement contractor. Contractor shall be entitled to payment for satisfactory supplies, equipment and/or services provided under the Agreement. In the event the System and Contractor cannot agree to the amount of payment due Contractor, Contractor will receive a percentage of payment provided under the Agreement equal to the percentage of work completed prior to termination of the Agreement. Contractor shall immediately return to TRS any payments for supplies, equipment, or services that were not rendered by Contractor.
- e) Termination of this Agreement shall not relieve either party of any obligations hereunder which were incurred prior to the date upon which the termination is effective.

**Use and Ownership:** All work performed or created by Contractor under this Agreement, whether written documents or data, goods, or deliverables of any kind, shall be deemed work-for-hire under copyright law and all intellectual property and other laws, and the System is granted sole and exclusive ownership to all such work, unless otherwise agreed to herein. Contractor hereby assigns to the System all right, title, and interest in and to any such work including any related intellectual property rights, and/or waives any and all claims that Contractor may have to such work including the so-called "moral rights" in connection with the work. Confidential data or information contained in such work shall be subject to all confidentiality provisions of this Agreement.

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

[SIGNATURE BLOCK]