



City of Milwaukee
Employees' Retirement System

Bernard J. Allen
Executive Director

David M. Silber, CFA, CAIA
Chief Investment Officer

Melody Johnson
Deputy Director

February 14, 2025

Mr. Jim Owczarski
City Clerk
Room 205, City Hall

Dear Mr. Owczarski:

Please be advised that a Special Meeting of the Legislative Committee (Committee of the Whole) of the Annuity and Pension Board has been scheduled for Tuesday, February 25, 2025 starting at 9:00 a.m. at the Employees' Retirement System, 789 North Water Street, Suite 300. **If a quorum of the Board is present via teleconference, this meeting will convene as a Special Board Meeting.**

The agenda is as follows:

- I. Amendment of Board Rule II.
- II. Approval of the Request for Proposal for Management Recruiting Services.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernard J. Allen", is written over the typed name and title.

Bernard J. Allen
Executive Director

BJA:jmw

PLEASE NOTE - Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through sign language interpreters or other auxiliary aids. For additional information or to request this service, please call 286-3557.

Succession Plan Outline for ERS Executive Director

Board Decision	CSC Exempt Position <ul style="list-style-type: none"> • MCC 36-15-7 requirements and Board rules govern (see Exhibit 1) • Serves at the pleasure of the Board (6 votes required to terminate appointment) • City employee liability limitation & indemnification per state law • Exempt Position recommended due to fiduciary duty requirements for a \$7.5 billion IRS qualified plan and need to be responsive to Board 	CSC Non-Exempt Position <ul style="list-style-type: none"> • MCC-6-15-7 requirements and CSC hiring rules govern • CSC rules govern termination of employment • City employee liability limitation & indemnification per state law
Board Decision	Do national search <ul style="list-style-type: none"> • Larger talent pool available • National search recommended as best fiduciary practice 	Internal candidates only <ul style="list-style-type: none"> • Smaller pool • Known individuals
Process	Submit request to fill vacancy to F&P and obtain CSC position exemption, if exempt position desired (see Exhibit 2) <i>Time Line: Begin January 2025</i>	
Board Decision	External recruitment firm conducts search <ul style="list-style-type: none"> • Governed by Board contract 	DER runs hiring process <ul style="list-style-type: none"> • Governed by CSC rules
<i>Recommendation: External Recruiter recommended; better market outreach</i>		
Process	Develop RFP for external recruiter, conduct vendor search and contract with finalist (see Exhibits 3,4,5,6&7) <ul style="list-style-type: none"> • Review current job description and recruitment posting/ad, board rules, etc. • Fine tune; what is each Board member looking for in the candidates • Position requirements (experience, education, etc.) <i>Time Line: January-March 2025</i>	
Process	Develop candidate evaluation criteria <ul style="list-style-type: none"> • Questions • References and prior employer / coworkers' evaluations • Evaluate fit to City / ERS culture <i>Time Line: April-May 2025</i>	
Board Decision	Initial interviews may be via teleconference	All interviews are in person
<i>Recommendation: Remote initial interviews recommended for cost reasons; in person finalist interviews</i>		
Board Decision	Hiring committee is committee of the whole <ul style="list-style-type: none"> • Everyone has a say at all stages 	Hiring committee is subset of Board <ul style="list-style-type: none"> • More nimble
<i>Recommendation: Full Board recommended for hiring committee as for previous ED searches; staff does leg work</i>		
Process	Publish job posting	
Process	DER / recruiting firm triages and presents reasonable candidates	
Process	Committee reviews applicants and short lists / ranks	
Process	Committee / recruiting firm (or DER) set up interviews	
Process	Candidates visit office and meet staff	
Process	Committee ranks interviewed candidates and negotiates hiring terms <ul style="list-style-type: none"> • Will require DER and F&P involvement regardless of position type (for approval of salary and benefits) <i>Time Line: June-December 2025</i>	

Draft Amendment to Board Rule II

Creating a New, Section 8

8. PURPOSE

The purpose of this policy is to establish temporary and permanent succession planning procedures and guidelines with respect to the executive management positions in the Employees' Retirement System of the City of Milwaukee (ERS). While leadership change is inevitable in every organization, proper planning and policy development is fundamental to the sustenance of a healthy, thriving organization. Proper planning and policy development in regards to succession issues can help limit the problems of leadership transition and provide a degree of stability.

POLICY

It is the policy of the Annuity and Pension Board (Board) to comply with City of Milwaukee Charter Section 36-1-7 which grants the Board the sole responsibility to hire and assess the permanent leadership needs of the Employees' Retirement System including the selection of an Executive Director and Secretary who is a good fit for the ERS mission, vision, values, goals and objectives and who has the necessary skills to lead the organization.

In this regard, the Board hereby establishes these appropriate procedures and guidelines to ensure that ERS operations are continued without interruption on a short- and long-term basis.

PROCEDURES AND GUIDELINES

1. Priority Functions and Temporary Strategies

- a. The Executive Director and Secretary shall be responsible for managing succession in key staff positions and shall report to the Board as appropriate.
- b. In order to help ensure continuity in the position of Executive Director and Secretary, the Board has established Deputy Director positions. Therefore, the Deputy Directors shall be familiar with all aspects of the administration of ERS including investments and benefit administration.

2. Succession plan in the event of a Temporary Short-Term Absence

- a. Definitions
 - i) A temporary absence is one in which it is expected that the Executive Director and Secretary will return once the events precipitating the absence are resolved. A temporary absence is ninety (90) days or less.
 - ii) An unplanned absence is one that arises unexpectedly, in contrast to a planned leave such as a vacation or a sabbatical.
- b. Temporary Staffing Strategy
 - i) For temporary planned or unplanned absences of five (5) weeks or less, the Temporary Staffing Strategy described above shall be initiated as directed by the Executive Director and Secretary.
- c. Acting Executive Director and Secretary
 - i) For temporary absences between six-to-twelve (6-12) weeks, and considering the accessibility of the Executive Director and Secretary, the Board may appoint an Acting Executive Director and Secretary, or continue to implement the Temporary Staffing Strategy.
- d. Standing Appointees to the Position of Acting Executive Director and Secretary
 - i) The first position in line to be Acting Executive Director and Secretary is a Deputy Director.
 - ii) The second position in line is the Chief Financial Officer.
- e. Cross-Training Plan
 - i) The Executive Director and Secretary shall exercise best efforts to train staff for each of the key functions of the Executive Director and Secretary and ensure that procedures are in place to achieve the objectives of this policy.

- f. Board Oversight and Support of the Acting Executive Director and Secretary
 - i) The Acting Executive Director and Secretary shall have the powers of duties of the Executive Director and Secretary and shall report and be accountable to the Board as would the Executive Director and Secretary.
- g. Communication Plan
 - i) Upon appointment of an Acting Executive Director and Secretary, the Board Chair shall announce ERS temporary leadership to staff and the City.
- h. Salary Adjustments
 - i) There shall be no salary adjustment for the Temporary Staffing Strategy.
 - ii) An appointed Acting Executive Director and Secretary shall be paid as determined by the Board.

3. Succession plan in the event of a Temporary Long-Term Absence

- a. Definition
 - i) A long-term absence is ninety (90) consecutive days or more.
- b. Procedures
 - i) Procedures and conditions to be followed shall be the same as for a temporary short-term absence with the following additions:
 - 1) The Board shall give immediate consideration with the Executive Director and Secretary or Acting Executive Director and Secretary, to temporarily filling the management position left vacant by the Acting Executive Director and Secretary, or reassigning priority responsibilities where help is needed to other staff. This is in recognition that, for a term of ninety (90) days or more, it may not be reasonable to expect the Acting

Executive Director and Secretary to carry the duties of both positions.

4. Succession plan in the event of a Permanent Absence

a. Definition

- i) A permanent absence is one in which it is firmly determined that the Executive Director and Secretary will not be returning to the position.

b. Procedures

- i) Procedures and conditions to be followed shall be the same as for a temporary short-term absence with the following additions:

The Board shall consider the need to hire an interim Executive Director and Secretary

c. Hiring an Interim Executive Director and Secretary

- i) If an Interim Executive Director and Secretary is hired, the Board Chair and legal counsel shall negotiate a contract agreement with a defined scope of work.
- ii) The scope of the agreement with an Interim Executive Director and Secretary shall be determined based on an assessment of the organizations needs at the time of the leadership transition.

d. Responsibilities of the Interim Executive Director and Secretary

- i) An Interim Executive Director and Secretary shall have full authority for day-to-day decision-making and independent action as the regular Executive Director and Secretary.

5. Board Oversight and Support to the Interim Executive Director and Secretary

a. The Interim Executive Director and Secretary reports to the Board Chair.

b. The Board shall be alerted to the special support needs of the Interim Executive Director and Secretary in this temporary role. The Board

Chair shall meet once per month with the Interim Executive Director and Secretary.

- c. The Board Chair will consult with staff and the Interim Executive Director and Secretary to assure a smooth transition within two (2) months and at least quarterly thereafter.

6. Succession Plan for Key Management Positions

- a. The Executive Director and Secretary shall use similar procedures in case of an executive transition that involves any key management positions. (For Example, the Deputy Chief Investment Officer to serve in the absence of the Chief Investment Officer.)
- b. The Executive Director and Secretary shall exercise best efforts to train staff for each of the key functions of the organization and ensure procedures are in place to achieve the objectives of this policy.

7. Executive Director and Secretary Recruitment Procedure

- a. The Board shall ensure that the recruitment is in compliance with Federal Equal Employment Opportunity (EEO) Laws.
- b. Pursuant to Chapter 36-15-7, the Board shall be the body responsible for the oversight of the selection process for the position of Executive Director and Secretary and may create an ad-hoc Committee of Board Members to oversee the search process. A copy of the Executive Director Succession Plan Decision Tree Outline and Job Description is attached as reference for the process and the tasks and skills required for the position.
- c. The Board may, pursuant to Chapter 36-15-7-a, elect to fill the position as either a City Service Exempt or Non-Exempt Position subject to approval of the City Service Commission.
- d. The Board may elect to utilize a hiring/recruitment consultant in combination with or in lieu of the City's Department of Employee Relations. If so, a Request for Proposal (RFP) process shall be utilized to select the consultant. Staff and legal counsel will assist the Board through the RFP process to select the consultant that will conduct the recruitment and selection process. The RFP shall include the method, plan, and timeframe that will be utilized in the search. The Board

should outline the process, including preparation of an updated RFP on file, ranking system, and interview questions for immediate use, if needed.

- e. The consultant will work with the Board to hire a replacement for the Executive Director and Secretary position. Legal counsel and staff will assist the Board and the selected consultant, including creating an offer of employment consistent with the City's Salary Ordinance and Chapter 350 of the City Code of Ordinances.

Request for Proposal (RFP) for Recruiting Services



The response shall be addressed and delivered
via Bonfire

City of Milwaukee
Employees' Retirement System
789 N Water Street, Suite 300
Milwaukee, Wisconsin 53202

**Responses must be received no later than
4:45 P.M., Central Time, on**

Intent to Respond Notification to ERS Due –

Questions must be e-mailed by the date in the Timeline to Mary Turk via
Bonfire

Purpose

The purpose of this RFP is to solicit responses from qualified professionals in the field of executive recruitment to recruit a new Executive Director for the Employees' Retirement System of the City of Milwaukee (ERS). The ERS's Executive Director is responsible for daily operations and also serves as Secretary to the Board. The Scope of Work section outlines the requirements in more detail.

ERS will not be held responsible for any costs incurred by any Proposer for work performed in the preparation and production of their proposal or for any work performed prior to the signing of a contract.

ERS reserves the right to reject any or all proposals in whole or in part or to waive any informality or technicality, irregularity or omission if ERS determines that it is in its best interest to do so.

Background

The Employees' Retirement System (ERS) of the City of Milwaukee manages the System's \$5 billion pension fund. The ERS was created by an act of the Wisconsin Legislature in 1937 to provide retirement-related benefits for members and their beneficiaries. The members of the ERS are employees and former employees of the City and five other agencies including non-certified staff of the Milwaukee Public School. The ERS has approximately 14,000 active and deferred members, and about 13,500 annuitants. More information about the ERS can be found on the web at www.cmers.com.

Timeline

RFP Published:

RFP Questions Due via Bonfire:

Responses to questions issued via Bonfire:

Intention to Respond Due via Bonfire:

RFP Evaluation and Award:

Contract Start Date:

Proprietary Information

Proprietary data or trade secrets should be clearly identified as such in the proposal. ERS will not disclose any portion of the proposals except to members of the evaluation term prior to the contract award. ERS reserves the right to disclose the names of the Proposers, proposals and any other information pertinent to the selection of the Proposer.

Scope of Work

1. Recruit candidates regionally and nationally.
2. Develop interview guides, question and appraisal forms to prepare the Board or its designees for interviewing the finalists.
3. Schedule and arrange interviews and site visits.
4. Conduct a validation process of professional credentials including academic, employment, consumer credit, criminal history and other information deemed relevant by ERS.
5. Advise the Board on salary and benefit expectations and negotiating terms.

Response Format

1. **Letter of Interest:** Provide a letter of interest signed by a Principal or Officer describing in narrative form the firm and its qualifications that will assist ERS in making its selection. This statement should include the specific individuals in the firm who will be assigned to ERS.
2. **Firm Description:** Provide a description and brief history of the firm. Include firm name, location of principal office and branch offices and length of time in business.
3. **Description of Proposed Recruitment:** Provide the search strategy including the proposed resources and parameters for this recruitment.
4. **Litigation/Arbitration:** List information on any involvement in litigation or arbitration with a previous or current client. Explain the circumstances that led to it and describe the resolution.
5. **Insurance:** Provide a Certificate of Liability.
6. **Costs:** Proposals should include all costs associated with providing the services described in the Scope of Services. Proposals may include a compensation approach that includes the hourly rate for each individual who would be assigned to ERS or a cost by category for all major expenses. The firm's normal compensation method, if different from the above approaches, should also be proposed.
7. **References:** Provide a list of three (3) references for similar consulting services provided for at least three (3) clients in the past five (5) years. Include contact name, phone number, email address, service dates and description of services provided. Note that it is the intention of ERS to communicate with references.
8. **LBE/SBE Status:** Identify if the firm is a Local Business Enterprise (LBE) and a Small Business Enterprise (SBE) under the City of Milwaukee programs (Milwaukee Code of Ordinances Sections 350 & 370.)
9. **Exceptions to Sample Contract:** Identify any exceptions requested to the sample contract.
10. Any other information that, in the judgement of the firm, will allow ERS to make a fair assessment of its experience and abilities.

Evaluation Criteria

Price alone will not be the only factor in the award of the proposal. Other factors to be considered are the accuracy and responsiveness of the proposal; the experience, competence and financial condition of the firm; labor force adequate to perform the work; the nature of the firm's organization; quality of performance on similar searches performed and completed by the firm; other projects and services currently under contract; conformity with the specifications of this Request for Proposal; location of the main office of the firm; accessibility to the firm; and, a determination by ERS that the firm has the ability to perform successfully. The contract that will be entered into will be the one most advantageous to ERS all factors considered.

The Annuity and Pension Board will evaluate all submitted proposals along the following criteria including, but not limited to:

- | | |
|---|-----|
| • Proposer experience and references | 40% |
| • Approach, work plan, exceptions to contract | 30% |
| • Cost | 30% |

If a Local Business Enterprise (LBE) is a responsive and responsible bidder, the LBE shall be awarded the contract provided its bid does not exceed the lowest bid by more than 5% and the difference does not exceed \$25,000. If the LBE is certified as a Small Business Enterprise (SBE) with the City of Milwaukee's Office of Small Business Development, the LBE shall be awarded the contract provided its bid does not exceed the lowest bid by more than 10% and the difference does not exceed \$30,000.

Contract for Services

The selected Proposer will be expected to execute a contract for services with the ERS. The Proposer's proposal and this RFP will be attachments to the contract for services. Any situations of conflicting language will be governed by the following priorities:

- Contract for services
- Proposer's proposal
- This RFP

A draft contract is attached as Appendix A.

Submission of a proposal constitutes acceptance of all conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed and expressly excepted in the subsequent contract between the firm and the ERS.

Appendix A

SERVICE AGREEMENT
between
[CONTRACTOR NAME]
and
Employes' Retirement System of the City of Milwaukee

General Service Description: [BRIEF SERVICES DESCRIPTION]

Time of Performance: [START DATE] – [END DATE]

Maximum Compensation Not to Exceed: \$[DOLLAR AMOUNT]

THIS AGREEMENT is effective [DATE] (the "Effective Date"), by and between [CONTRACTOR NAME] ("CONTRACTOR") and the Employes' Retirement System of the City of Milwaukee, a body corporate and politic under the laws of the State of Wisconsin ("ERS").

WHEREAS, CONTRACTOR represents self as being capable, experienced and qualified to undertake and perform those certain services, as hereinafter set forth, as are required in accomplishing fulfillment of the obligations under the terms and conditions of this Agreement as an independent business and not as an employee of the ERS; and

WHEREAS, ERS wishes to retain the services of CONTRACTOR as described herein.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. RETENTION OF SERVICES, STANDARDS, CONTRACT DOCUMENTS.

- 1.1. The ERS hereby agrees to engage CONTRACTOR and CONTRACTOR hereby agrees to personally perform, as an independent contractor and not as an employee of the ERS, the services hereinafter set forth, all in accordance with the terms and conditions of this Agreement.
- 1.2. CONTRACTOR agrees that the performance of CONTRACTOR's work, services and the results produced pursuant to the terms and conditions of this Agreement shall conform to such recognized high professional standards as are prevalent in CONTRACTOR's field of endeavor and like services, and as more specifically set forth in [Exhibit ###].
- 1.3. The following constitute the contract documents (collectively the "Agreement"). If there is a conflict or ambiguity (including but not limited to the Effective date and/or the dates of service), the Agreement shall be governed by these listed documents in descending order of precedence:

First:	Service Agreement (this document)
Second:	[CONTRACTOR'S RFP PROPOSAL] (Exhibit A)
Third:	ERS [RFP Title] dated [DATE] (Exhibit B)

[Type here]

2. TIME OF PERFORMANCE.

- 2.1. The term of this Agreement (“Term”) shall begin on the Effective Date and shall end upon [END DATE], or if applicable, earlier termination pursuant to the provisions of this Agreement.
- 2.2. Continuation of the Agreement, or any subsequent extension beyond December 31st of any year, is contingent upon the proper ERS and City of Milwaukee officials appropriating funds for this purpose.
- 2.3. In addition to all other remedies inuring to the ERS should CONTRACTOR’s obligations and duties under the Agreement not be completed by the end of the Term, CONTRACTOR shall continue to be obligated thereafter to fulfill CONTRACTOR's responsibility to complete the scope of services and to execute any necessary amendments to this Agreement.

3. SCOPE OF SERVICES.

- 3.1. CONTRACTOR shall provide services as specified in [Exhibits###].

4. CONDITIONS OF PAYMENT.

- 4.1. CONTRACTOR shall submit invoices to ERS on a monthly basis. Upon receipt of a properly submitted and approved invoice, CONTRACTOR shall be compensated for services and equipment actually provided at the rates and prices set forth in [Exhibit ###]; however, no payments or disbursements under the Agreement shall be made until satisfactory evidence that compliance with the insurance requirements described in Section 11 has been provided.
- 4.2. All other costs, fees, charges and expenses (including but not limited to travel and administrative costs and fees) not set forth in [Exhibit ###] are excluded hereunder unless ERS agrees to those additional fees by written amendment, before they are incurred.
- 4.3. Total compensation to CONTRACTOR shall not exceed \$[DOLLAR AMOUNT] over the Term, except as provided in section 14.
- 4.4. ERS strives to make timely payment on all invoices. Payment to CONTRACTOR shall be deemed timely if the payment is mailed, delivered, or transferred within 30 calendar days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later. If ERS does not make payment by the 45th calendar day, ERS shall pay simple interest beginning with the 31st calendar day at the rate of 1% per month (unless ERS disputes the amount of the invoice). *Reference* Common Council File No. 101137 adopted January 19, 2011, provisions of state statute section 66.0135.
- 4.5. Compensation for services required under this Agreement shall be contingent upon each activity being reviewed for approval by the ERS and approved by ERS for payment. In the event of a dispute as to the services performed or the compensation to be paid, the decision of the ERS Executive Director or its designee shall prevail.

[Type here]

5. **NOTICES.** Any and all notices shall be in writing and deemed served upon depositing same with the United States Postal Services as "Certified Mail, Return Receipt Requested," addressed to the CONTRACTOR at:

[CONTRACTOR NAME]
[CONTRACTOR STREET ADDRESS]
[CONTRACTOR CITY, STATE ZIP]
Attention: [POINT OF CONTACT]

and to the ERS at:

Employees' Retirement System
789 N Water Street, Suite 300
Milwaukee, WI 53202
Attention: Bernard J. Allen, Executive Director

All other correspondence shall be addressed as above, but may be sent "Regular Mail" and deemed delivered upon receipt by the addressee.

6. **REPORTS.** At such times and in such forms as the ERS may require, there shall be furnished to the ERS Executive Director such statements, records, reports, data, and information as the ERS may request pertaining to matters covered by this Agreement.

7. DOCUMENT OWNERSHIP & CONFIDENTIALITY.

- 7.1. Document ownership. All reports, studies, analysis, memoranda and related data and material as may be developed specifically for ERS during the performance of this Agreement shall be submitted to and be the exclusive property of the ERS, which shall have the right to use same for any purpose without any additional compensation to CONTRACTOR.

7.2. Confidentiality.

- 7.2.1. All of the reports, information, data, documents, etc., whether electronic, hard copy, or in any other format (1) prepared or assembled by CONTRACTOR under this Agreement, (2) provided to CONTRACTOR by ERS, and/or (3) developed by CONTRACTOR based on information provided by the ERS in the performance of this Agreement (collectively referred to herein as "confidential material") are confidential and CONTRACTOR agrees that confidential material shall not be made available to any individual or organization, other than an appropriate agency of the United States Government or as otherwise required by law, without the prior written approval of the ERS Executive Director.

- 7.2.2. Upon termination of this Agreement, CONTRACTOR shall deliver all confidential material of the ERS in its possession to the ERS within thirty (30) business days of such termination and provide ERS with a certification that all of CONTRACTOR's copies of the material delivered to ERS have been destroyed. If there are certain confidential materials that CONTRACTOR cannot practicably return to ERS, or provide a copy to ERS and then provide certification of destruction as described above, or must continue to retain by law or regulation, CONTRACTOR shall provide notice of those retained documents to ERS, and ERS and CONTRACTOR shall

[Type here]

consult regarding the ongoing retention, return and/or destruction of those documents. Irrespective of the foregoing, any confidential materials retained by CONTRACTOR must be maintained subject to the confidentiality restrictions set forth in this Agreement, and subject to the requirements of Section 17 "RECORDS".

- 7.2.3. CONTRACTOR further agrees to abide by all federal, state, and local laws, and best business practices, related to the collection, use, storage, protection and dissemination of personally identifiable information.
- 7.2.4. Notice of Unauthorized Acquisition of Confidential Information. CONTRACTOR shall notify the ERS if it has knowledge of an unauthorized acquisition of confidential information within one business day of such knowledge.

8. CONTRACTOR IS INDEPENDENT CONTRACTOR.

- 8.1. No fringe benefits. Neither CONTRACTOR, nor CONTRACTOR's employees, shall receive or be eligible for any fringe benefits or any other benefits to which ERS salaried employees are entitled to or are receiving.
- 8.2. Taxes, Social Security, Insurance, and Government Reporting. Personal income tax payments, social security contributions, insurance, and all other governmental reporting and contributions required as a consequence of CONTRACTOR receiving payment under this Agreement shall be the sole responsibility of CONTRACTOR. Insurance requirements are set forth in Section 11.
- 8.3. Responsibility for CONTRACTOR's Insurance. CONTRACTOR shall be solely responsible to meet CONTRACTOR's insurance needs as required by the ERS during the terms of this Agreement or any extension thereof.

9. SUBCONTRACTING. CONTRACTOR shall not subcontract for the performance of any of the services set forth in this Agreement without prior written approval obtained from the ERS Executive Director. CONTRACTOR shall be as fully responsible to the ERS for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it, as it is for acts and omissions of persons directly employed by it.

10. INDEMNIFICATION AND DEFENSE OF SUITS.

- 10.1. Defense of suits. In case any action in court or proceeding before an administrative agency is brought against the ERS or any of its officers, agents, or employees for the failure or neglect of CONTRACTOR in whole or in part to perform any of the covenants, acts, matters or things required of CONTRACTOR by this Agreement, or undertaken by CONTRACTOR in fulfillment of this Agreement, or for injury or damage caused by the alleged and/or actual negligence of CONTRACTOR, its officers, subcontractors, agents or employees, CONTRACTOR shall indemnify and save harmless the Employees' Retirement System of the City of Milwaukee, the Annuity and Pension Board, their staffs, present and former employees, officers and directors, agents and representatives from all losses, damages, costs, expenses, judgements, or decrees arising out of such action or proceeding. The ERS shall tender the defense of any claim or action at law or in equity to CONTRACTOR or CONTRACTOR's insurer, and upon such tender it shall be the duty of CONTRACTOR and CONTRACTOR's insurer to defend such claim or

[Type here]

action without cost or expense to the ERS or its officers, agents, or employees. CONTRACTOR shall be solely responsible for the conduct and performance of its services, obligations and duties under the terms and conditions of this Agreement and for the results therefrom.

- 10.2. Indemnification. CONTRACTOR will save and indemnify and keep harmless the Employes' Retirement System of the City of Milwaukee, the Annuity and Pension Board, their staffs, present and former employees, officers and directors, agents and representatives against all liabilities, judgments, costs, attorneys fees, and expenses which may be claimed against, or incurred by, the ERS in consequence of granting this Agreement to CONTRACTOR and which result(s) from negligence and/or willful acts of CONTRACTOR, or the agents, employees, subcontractors, or workmen of CONTRACTOR in any respect whatever.

11. INSURANCE.

11.1. General Insurance Requirements.

- 11.1.1. CONTRACTOR will secure and maintain throughout the duration of the Agreement, insurance of such types and in such amounts as may be necessary to protect itself and the interests of the ERS against all hazards or risks of loss as hereafter specified.
- 11.1.2. The form, limits, and underwriter of all required insurance coverage is subject to ERS approval; however, regardless of any ERS review, it shall be the responsibility of CONTRACTOR to maintain adequate insurance coverage at all times.
- 11.1.3. Failure of CONTRACTOR to maintain the specified coverage or to ensure that any subcontractors maintain the specified coverage will not relieve CONTRACTOR of any contractual responsibility or obligation.
- 11.1.4. All policies are to contain notice requirements that ensure that 60 days advance written notice will be provided to the ERS prior to cancellation, renewal, or alteration of terms and conditions of the policies.
- 11.1.5. Insurers which provide the insurance coverage referenced in this section are to have an A.M. Best rating of no less than A/VIII. CONTRACTOR will provide immediate written notice to the ERS if there is any change in the A.M. Best rating of any insurer.
- 11.1.6. Certificates of Insurance for all of the coverage limits referenced herein must be provided prior to the Effective Date and for each year that the Agreement is in effect.
- 11.1.7. If subcontractors are used, each subcontractor shall meet all requirements in this section 11 (Insurance). It shall be the responsibility of CONTRACTOR to ensure that all subcontractors are in compliance with all insurance and bonding requirements.
- 11.1.8. **All policies other than Workers Compensation/Employers Liability, Professional Liability, Crime and Cyber Risk/Network Security are to include the Employes' Retirement System of the City of Milwaukee, the Annuity and Pension Board, their staffs, present and former employees, officers, directors,**

[Type here]

agents and representatives as additional insureds. CONTRACTOR shall ensure that the additional insured status is shown on the Certificates of Insurance and shall provide a copy of the endorsements.

11.1.9. No payments or disbursements under the Agreement shall be made until satisfactory evidence that compliance with the insurance requirements described in this section has been provided by CONTRACTOR to ERS.

11.1.10. All policies shall be written on an occurrence form, other than professional liability and Crime and Cyber Risk/Network Security as noted below.

11.2. Commercial Automobile Liability.

Combined Single Limit	\$1,000,000 each accident
Uninsured Motorists/Underinsured Motorists Protection	\$1,000,000 per occurrence
Medical Expense	\$10,000 each person

In addition to those requirements noted above in sections 11.1.1-11.1.10:

- If CONTRACTOR owns or has any long term leased vehicles, coverage must be for Any Auto (Symbol 1). If there are no owned or long term leased vehicles, then coverage must be for Hired and Non-Owned Auto Liability (Symbols 8 and 9).
- Coverage shall include contractual liability for risks assumed in this contract.
- Coverage shall apply to the risks associated with or arising out of the services provided under this contract.
- If Federal or State government(s) require a Motor Carrier filing, such filing shall be made available to City upon request.
- Coverage shall be modified to include a Waiver of Subrogation in favor of the Employees' Retirement System of the City of Milwaukee, the Annuity and Pension Board, their staffs, present and former employees, officers, directors, agents and representatives.

11.3. Commercial General Liability.

Commercial General Liability	\$1,000,000 each occurrence
General Aggregate – other than Products/Completed Operations	\$2,000,000 aggregate
Personal & Advertising Injury Limit	\$1,000,000 each occurrence
Products - Completed Operations Aggregate	\$2,000,000 aggregate

In addition to those requirements noted above in sections 11.1.1-11.1.10:

- Coverage must be equivalent to ISO form CG0001 or better.
- Coverage must be occurrence based.
- Coverage will apply on a primary and non-contributory basis. We suggest the following wording:

“If you have agreed in a written contract that this policy will be primary and without right of

[Type here]

contribution from any insurance in force for an Additional Insured for liability arising out of your operations, and the contract was executed prior to the bodily injury, property damage, personal injury or advertising injury, then this insurance will be primary over, and we will not seek contribution from, such insurance.”

- Coverage shall apply to the risks associated with or arising out of the services provided under this contract.
- Coverage shall be modified to include a Waiver of Subrogation in favor of the Employees’ Retirement System of the City of Milwaukee, the Annuity and Pension Board, their staffs, present and former employees, officers, directors, agents and representatives.

11.4. Professional Liability (Errors and Omissions).

Combined Single Limit	\$1,000,000 each accident/incident
	\$1,000,000 Aggregate

In addition to those requirements noted above in sections 11.1.1-11.1.10:

- Coverage must remain in effect for a period of not less than three years beyond the termination date of the contract.
- If a claims-made form is used and a change of insurer occurs during the contract period, continuity of coverage must be maintained by either retaining the original retroactive date or exercising the extended reporting period endorsement option from the expired policy for a period of not less than three years, if the replacement insurer will not preserve the original retroactive date.
- Coverage is to be provided on a “per project” basis or, if not available for reasonable cost, a higher policy aggregate limit may be required by the ERS.
- CONTRACTOR will certify that the policy will be renewed each year of the contract.

11.5. Workers’ Compensation Insurance.

Workers’ Compensation	Statutory Coverage
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$100,000 each employee
	\$500,000 policy limit

In addition to those requirements noted above in sections 11.1.1-11.1.9:

- Employer’s Liability at limits noted above or higher limits if needed to meet Umbrella underlying insurance requirements.
- Coverage shall be modified to include a Waiver of Subrogation in favor of the Employees’ Retirement System of the City of Milwaukee, the Annuity and Pension Board, their staffs, present and former employees, officers, directors, agents and representatives.

[Type here]

11.6. Umbrella (Excess) Liability.

Umbrella (Excess) Liability	\$5,000,000 each occurrence
	\$5,000,000 aggregate

In addition to those requirements noted above in sections 11.1.1-11.1.10:

- The Umbrella insurance policy shall provide coverage excess of the Commercial General Liability, Auto Liability, and Employer's Liability Coverages, including the amendments stated above.

11.7. Cyber Insurance.

[reserved]

11.8. Crime Coverage.

[reserved]

11.9. Self Insurance. Any request for self-insurance must be submitted in writing to the ERS and the ERS' Risk Management Consultant for consideration.

12. REGULATIONS. CONTRACTOR agrees to comply with all of the requirements of all federal, state and local laws related to the scope of work.

13. TERMINATION.

13.1. Termination of Agreement for cause. If, through any cause, CONTRACTOR shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Agreement, the ERS Executive Director shall thereupon have the right to terminate this Agreement by giving written notice to CONTRACTOR of such termination and specifying the effective date thereof, at least five days before the effective date of the termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, reports, or other materials related to the services prepared by CONTRACTOR under this Agreement shall, at the option of the ERS, become the property of the ERS. Notwithstanding the foregoing, CONTRACTOR shall not be relieved of liability to the ERS for damages sustained by the ERS by virtue of any breach of the Agreement by CONTRACTOR, and the ERS may withhold any payments to CONTRACTOR for the purpose of set off until such time as the exact amount of damages due to the ERS from CONTRACTOR is determined.

13.2. Termination for convenience. The ERS may terminate this Agreement at any time for any reason by giving at least thirty (30) days' notice in writing to CONTRACTOR. If CONTRACTOR is terminated by the ERS as provided in this section 13.2, and not if terminated for cause pursuant to section 13.1, CONTRACTOR will be paid an amount for the services actually and satisfactorily performed.

14. CHANGES. The ERS Executive Director may, from time to time, request changes in the scope of services of CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of CONTRACTOR's compensation which is mutually agreed upon by and between the ERS and CONTRACTOR, shall be

[Type here]

incorporated in written amendments to the Agreement.

15. PERSONNEL.

15.1. CONTRACTOR represents that it has or will secure at its own expense all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the ERS.

15.2. All of the work or services required hereunder will be performed by CONTRACTOR or under their supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.

16. ASSIGNABILITY. CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment, novation or any other manner), without the prior written consent of the ERS Executive Director. Provided, however that claims for money due or to become due CONTRACTOR from the ERS under this Agreement may be assigned to a bank, trust company or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to the ERS Executive Director.

17. RECORDS.

17.1. Establishment and Maintenance of Records. Records shall be maintained in accordance with requirements prescribed by the ERS with respect to all matters covered by this Agreement. Both parties understand that the City of Milwaukee and ERS are bound by the Wisconsin Public Records Law, and as such, all of the terms of this Agreement are subject to and conditioned on the provisions of Wis. Stat. §19.21, et seq. CONTRACTOR acknowledges that it is obligated to assist the ERS and the City of Milwaukee in retaining and producing records that are subject to Wisconsin Public Records Law, and that the failure to do so shall constitute a material breach of this Agreement, and that CONTRACTOR must defend and hold the City of Milwaukee and ERS harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven years after receipt of final payment under this Agreement. **Particular attention is directed towards Wis. Stat. sec. 19.36, which states that “any record produced or collected under” this Agreement, including those by CONTRACTOR, may be subject to disclosure under the public records law.** CONTRACTOR shall disclose no record without first receiving written approval from ERS.

17.2. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified and readily accessible.

18. AUDITS AND INSPECTIONS. At any time during normal business hours and as often as the ERS, or if federal or state grants or aids are involved, as the appropriate federal or state agency may deem necessary, there shall be made available to the ERS or such agency for examination all of its records, or copies thereof, with respect to all matters covered by this Agreement and CONTRACTOR shall permit the ERS or such agency and/or representatives of the Comptroller General to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials,

[Type here]

payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

19. CONFLICT OF INTEREST.

- 19.1. Interest in Contract. No officer, employee or agent of the City of Milwaukee or the ERS who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Agreement pertains, shall have any personal interest, direct or indirect in this Agreement.
- 19.2. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement shall have any personal interest, direct or indirect, in this Agreement.
- 19.3. Interest of Contractor and Employees. CONTRACTOR covenants that no person described in sections 19.1 and 19.2 above who presently exercises any functions or responsibilities in connection with the Agreement has any personal financial interest, direct or indirect, in this Agreement. CONTRACTOR further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. CONTRACTOR further covenants that in the performance of this Agreement no person having any conflicting interest shall be employed. An interest on the part of CONTRACTOR or its employees must be disclosed to the ERS. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area.

20. DISCRIMINATION PROHIBITED.

- 20.1. In all hiring or employment made possible by or resulting from this Agreement there (1) will not be any discrimination against any employee or applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status, and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status.
- 20.2. No person in the United States shall, on the ground of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status or sexual orientation or familial status, be excluded from participation in, be denied the benefits of,

[Type here]

or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. The ERS and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

20.3. CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

20.4. CONTRACTOR agrees that they will comply with all applicable requirements of the Americans with Disability Act of 1990, 42 U.S.C. 12101, et seq.

21. WITHHOLDING OF SALARIES. If in the performance of this Agreement there is any underpayment of salaries by CONTRACTOR or by any subcontractor thereunder, the ERS shall withhold from CONTRACTOR out of payments due to it an amount sufficient to pay to employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the ERS for and on account of CONTRACTOR or subcontractor, if any, to the respective employees to whom they are due.

22. CLAIMS AND DISPUTES PERTAINING TO SALARY RATES. Claims and disputes pertaining to salary rates or to classifications of architects, draftsmen, technical engineers, and technicians, if any, performing work under this Agreement shall be promptly reported in writing by CONTRACTOR to the ERS for the latter's decision, which shall be final with respect thereto.

23. SEVERABILITY. If any term or condition of the Agreement shall be held invalid or unenforceable, the remainder of the Agreement shall not be affected and shall be valid and enforceable.

24. GOVERNING LAW & JURISDICTION.

24.1. Governing Law. The provisions of the Agreement will be governed by, construed, interpreted, and enforced in accordance with the laws of the State of Wisconsin.

24.2. Jurisdiction. The venue for any proceedings before a court of law (whether federal or state) will be geographically located in Milwaukee County, Wisconsin.

25. MISCELLANEOUS.

25.1. Headings. All headings and titles used in contract documents exist for the purposes of document organization and reference and will not be considered a term or condition of any agreement entered into by CONTRACTOR and the ERS.

25.2. Consent to Breach Not Waiver. The consent to a breach of any term or condition of this Agreement by either party will not be considered a waiver of such term or condition nor will such breach be considered consent to a subsequent breach.

25.3. Force Majeure. Neither party will be liable for any failure or delay in the performance of its obligations under this Agreement (and the failure or delay will not be deemed a

[Type here]

default of this Agreement or grounds for termination) if both of the following conditions are satisfied: (1) the failure or delay could not have been prevented by reasonable precautions, and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (2) the failure or delay is caused, directly or indirectly, by reason of fire or other casualty or accident; strikes or labor disputes; inability to procure raw materials, equipment, power or supplies; war, terrorism or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency or intergovernmental body other than a party hereto; or any other act or condition beyond the reasonable control of the non-performing party. Upon the occurrence of an event which satisfies both of the above conditions (a "Force Majeure Event"), the non-performing party will be excused from any further performance of those obligations under this Agreement affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay. Upon the occurrence of a Force Majeure Event, the non-performing party will immediately notify the other party by telephone (to be confirmed by written notice within two business days of the failure or delay) of the occurrence of a Force Majeure Event and will describe in reasonable detail the nature of the Force Majeure Event.

25.4. CONTRACTOR agrees time is of the essence and will meet all deadlines and any schedules as set forth in this Agreement.

[THE REMAINDER OF THIS PAGE IS BLANK]

[Type here]

IN WITNESS WHEREOF, the CONTRACTOR and the ERS have caused this Agreement to be executed for and on their respective behalf as of the dates hereinafter set forth.

EMPLOYEES' RETIREMENT SYSTEM
OF THE CITY OF MILWAUKEE:

CONTRACTOR:

By: _____
Matthew Bell, Chair
Pension and Annuity Board

By: _____

Print Name: _____

Date: _____

Title: _____

By: _____
Bernard J. Allen, Executive Director

Date: _____

Date: _____

COUNTERSIGNED:

By: _____
Bill Christianson Date
Comptroller, City of Milwaukee

EXAMINED AND APPROVED
AS TO FORM AND EXECUTION:

By: _____
[Assistant City Attorney] Date

1054-2025-251:296331