

**DISCRETIONARY INVESTMENT MANAGEMENT
AND CONSULTING SERVICES AGREEMENT**

THIS AGREEMENT, entered into as of the 23rd day of August, 2021, by and between the CITY OF NORTH RICHLAND HILLS, a Texas Public agency (hereinafter the “City”) and Patterson & Associates (hereinafter the “Advisor”).

WHEREAS, the City has funds available for investment purposes (the “Initial Funds”) for which it intends to conduct an investment program; and

WHEREAS, the City desires to avail itself of the experience, sources of information, advice, assistance, and facilities available to the Advisor; to have the Advisor undertake certain duties and responsibilities; and to perform certain services as investment advisor on behalf of the City, as provided herein; and

WHEREAS, the Advisor is willing to provide such services on the terms and conditions hereinafter set forth;

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agreed as follows:

1. SCOPE OF SERVICES.

The City hereby engages the Advisor to serve as investment advisor under the terms of this Agreement with respect to the Initial Funds and such other funds as the City may from time to time assigned by written notice to the Advisor (collectively the “Managed Funds”), and the Advisor accepts such engagement. In connection therewith, the Advisor will provide investment research and supervision of the Managed Funds investments and conduct a continuous program of investment, evaluation and, when appropriate, sale and reinvestment of the Managed Funds assets. The Advisor shall continuously monitor investment opportunities and evaluate investments of the Managed Funds. The Advisor shall furnish the City with statistical information and reports with respect to investments of the Managed Funds. The Advisor shall place all orders for the purchase, sale, loan, or exchange of portfolio securities for the City’s account with

brokers or dealers recommended by the Advisors and/or City, and to the end the Advisor is authorized as agent of the City to give instructions to the custodian designated by the City (the "Custodian") as to deliveries of securities and payments of cash for the account of the City. In connection with the selection of such brokers and dealers and the placing of such orders, the Advisor is directed to seek for the City the most favorable execution and price, the determination of which may take into account, subject to any applicable laws, rules and regulations, whether statistical, research and other information or services have been or will be furnished to the Advisor by such brokers and dealers. The Custodian shall have custody of cash, assets, and securities of the City. The Advisor shall not take possession of or act as custodian for the cash, securities, or other assets of the City and shall have no responsibility in connection therewith. Authorized investments shall include only those investments which are currently authorized by the state investment statutes and applicable covenants and as supplemented by such other written instructions as may from time to time be provided by the City to the Advisor. The Advisor shall be entitled to rely upon the City's written advice with respect to anticipated drawdowns of Managed Funds. The Advisor will observe the instructions of the City with respect to broker/dealers who are approved to execute transactions involving the Managed Funds and in the absence of such instructions will engage broker/dealers which the Advisor reasonable believes to be reputable, qualified, and financially sound.

2. CONTRACT DOCUMENTS

This Agreement, which contains the terms and conditions and respective obligations of the parties with respect to the Services, is comprised of the following documents, (a) this agreement, (b) the RFP, and (c) the Proposal. In the event of inconsistencies between this Agreement, the Proposal, and the RFP, the order of precedence shall be this Agreement, the Bank's Proposal for any items which the Bank has made an exception that has been accepted by the City, and the RFP.

3. COMPENSATION.

- (a) For services provided by the Advisor pursuant to this Agreement, the City shall pay the Advisor an annual fee consistent with the fee schedule provided as Exhibit A of this Agreement.
- (b) The Advisor will bill the City monthly for services performed under this Agreement, said bill to include a statement indicating the basis upon which the

fee was calculated. The City shall pay to the Advisor the amount payable pursuant to this agreement within 30 days of an approved invoice being presented to the City.

- (c) Assets invested by the Advisor under the terms of this Agreement may from time to time be invested in a money market mutual fund managed by the Advisor or local government investment pool managed by the Advisor (either, a "Pool"), or in individual securities. Average daily net assets subject to the fees described in this section shall not take into account any funds invested in a Pool. Expenses of a Pool, including compensation for the Advisor and the Pool custodian, are described in the relevant prospectus or information statement and are paid from the Pool.
- (d) If and to the extent that the City shall request the Advisor to render services other than those to be rendered by the Advisor hereunder, such additional services shall be compensated separately on terms to be agreed upon between the Advisor and the City.

4. EXPENSES

- (a) The Advisor shall furnish at its own expense all necessary administrative services, office space, equipment, clerical personnel, telephone and other communication facilities, investment advisory facilities, and executive and supervisory personnel for managing the Managed Funds.
- (b) Except as expressly provided otherwise herein, the City shall pay all of its own expenses including, without limitation, taxes, commissions, fees and expenses of the City's independent auditors and legal counsel, if any, brokerage and other expenses connected with the execution of portfolio security transactions, insurance premium, and fees and expenses of the Custodian.

5. REGISTERED ADVISOR; DUTY OF CARE

The Advisor hereby represents it is a registered investment advisor under the Investment Advisers Act of 1940, as amended. The Advisor shall immediately notify the City if at any time during the term of this Agreement it is not so registered or if its registration is suspended. The Advisor agrees to perform its duties and responsibilities

under this Agreement with reasonable care and due diligence in accordance with industry standards for other competent investment advisors. The federal securities laws impose liabilities under certain circumstance on persons who act in good faith. Nothing herein shall in any way constitute a waiver or limitation of any rights which the City may have under any federal securities laws. The City hereby authorizes the Advisor to sign I.R.S. Form W-9 on behalf of the City and to deliver such form to broker-dealers or others from time to time a required in connection with securities transactions pursuant to this Agreement.

6. ADVISOR'S OTHER CLIENTS.

The City understands that the Advisor performs investment advisory services for various other clients which may include investment companies, commingled trust funds, and/or individual portfolios. The City agrees that the Advisor, in the exercise of its professional judgement, may give advice or take action with respect to any of its other clients which may differ from advice given or the timing or nature of the action taken with respect to the Managed Funds. The Advisor shall not have any obligation to purchase, sell, or exchange any security for the Managed Funds solely by reason of the fact that the Advisor, its principals, affiliates, or employees may purchase, sell, or exchange such security for the account of any other client or for itself or its own accounts.

7. TERM.

The Initial Term of this Agreement shall have an initial term of two (2) years, beginning October 1, 2021 and ending September 30, 2023, inclusive of the presentation of the quarterly report for the period ending September 30, 2023 at a date beyond the term of the agreement. Thereafter, the City shall have the option to renew for two (2) additional one-year periods by providing notice to the Advisor no later than thirty (30) days prior to the end of the initial term or an optional term, as the case may be.

8. FORCE MAJEURE.

Neither party shall be liable for any losses arising out of the delays in performing or inability to perform the services which it renders or any other obligations under the Agreement which result from events beyond its control, including interruption of the business activities of the Advisor or other financial institutions due to acts of God, acts of governmental authority, acts of war, terrorism, civil insurrection, riots, labor strikes, epidemics, pandemics or any other event which is reasonably beyond the control of that party.

9. DISCIPLINARY ACTION.

The Advisor shall give notice to the City if the Advisor shall have been found to have violated any state or federal securities law or regulation in any final and unappealable judgement in any criminal action or civil suit in any state or federal court or in any disciplinary proceeding before the Securities and Exchange Commission ("SEC") or any other agency or department of the United States, any registered securities exchange, the Financial Industry Regulatory Authority, or any regulatory authority of any State based upon the performance of services as an investment advisor.

10. INDEPENDENT CONTRACTOR / INSURANCE.

The Advisor, its employees, officers, and representatives shall not be deemed to be employees, agents (except as to the purchase or sale of securities described in Section 2), partners, servants, and/or joint ventures of the City by virtue of this Agreement or any actions or services rendered under this Agreement.

The Advisor further agrees and understands that the City shall have no obligation to provide any insurance coverage for the Advisor's activities, but may choose to do so. In the event that the City's insurance provides any coverage for Advisor's activities, the Advisor acknowledges that such coverage is for the benefit of the City, its agents, officials and employees only, and that the Advisor shall not be an insured there under.

The Advisor shall provide and maintain insurance coverage in accordance with the requirements set forth in RFP 21-010.

11. BOOKS.

The Advisor shall maintain records of all transactions in the Managed Funds. The Advisor shall provide the City with a monthly statement showing deposits, withdrawals, purchases, and sales (or maturities) of investments, earning received, and the value of assets held on the last business day of the month. The statement shall be in the format and manner that is mutually agreed upon by the Advisor and the City.

12. THE ADVISOR'S BROCHURE AND BROCHURE SUPPLEMENT.

The Advisor warrants that it has delivered to the City prior to the execution of this Agreement the Advisor's current SEC Form ADV, Part 2A (brochure) and Part 2B

(brochure supplement). The City acknowledges receipt of such brochure and brochure supplement prior to the execution of this agreement.

13. AMENDMENT OF THIS AGREEMENT.

This Agreement shall not be modified, terminated, discharged, or amended in whole or in part, unless such modification or amendment is in writing and signed by both parties, or their respective successors or assigns.

14. SUCCESSORS AND ASSIGNMENT.

The provisions of this Agreement shall be binding on the Advisor and its successors and assigns, provided, however that the rights and obligation of the Advisor may not be assigned without the written consent of the City.

15. NOTICE.

All notices required or permitted to be sent hereunder shall be delivered in person, by courier or overnight delivery service or by depositing same in the United States mail, return receipt requested. Such notices shall be deemed delivered on the date received and shall be delivered to the following address:

If to the City:

City of North Richland Hills
Attn: Director of Finance
4301 City Point Drive
North Richland Hills, Texas 76180

With copy to the City Manager and the
City Attorney at the same address

If to the Advisor:

Either party may change their address for notice purposes by providing notice as required by this paragraph.

16. GOVERNING LAW AND VENUE.

This Agreement shall be construed under and governed by, and in accordance with the substantive laws of the State of Texas, exclusive of its choice-of-law provisions. All obligations of the parties hereto, created by this Agreement are fully performable in

Tarrant County, Texas. Venue of any suit or cause of action under this Agreement shall lie exclusively in Tarrant County, Texas. The parties waive any and all claims for attorney fees and there shall be no right to attorney fees from any action arising under this contract. The Advisor and the City agree that, should a disagreement arise as to the terms or enforcement of any provision of this Agreement, each party will in good faith attempt to resolve said disagreement prior to filing a lawsuit. If such disagreement is not resolved within sixty (60) days of such request for resolution, the parties may seek non-binding mediation or seek any other remedy available to the parties under law.

17. EXECUTION AND SEVERABILITY.

Each party to this Agreement presents and warrants that the person signing this Agreement on behalf of such party is authorized and empowered to sign and deliver this Agreement for such party. If any term or provision of this Agreement is deemed by a court of competent jurisdiction to be illegal or unenforceable, this Agreement shall survive and shall be interpreted as if such illegal or unenforceable term or provision were not contained in this Agreement.

18. PERFORMANCE REVIEW.

The Advisor's performance under this Agreement shall be subject to an annual review by the City's Investment Committee to determine compliance with the requirements of the terms of this Agreement. Upon request, the Advisor shall report to the City's Investment Committee or designee regarding the Advisor's provision of services under this Agreement. The City shall not control the means and methods of the provision of the Advisor's services except to the extent necessary to cause the Advisor to come into compliance with the requirements of the terms of this Agreement.

19. TERMINATION.

This Agreement may be terminated by the City for any reason without notice to the Advisor. The Advisor may terminate this Agreement for any reason with thirty (30) days written notice to the City. In the event of termination, the City shall pay the Advisor all sums due under this Agreement through the effective date of termination. Nothing herein shall be interpreted to alter the independent contractor status of the Advisor or to deem the Advisor an employee of the city.

20. INDEMNIFICATION.

THE ADVISOR SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS AGENTS, OFFICIALS AND EMPLOYEES, FROM ANY AND ALL CLAIMS FOR BODILY INJURY, ILLNESS, DEATH, ECONOMIC LOSS, PERSONAL INJURY OR PROPERTY DAMAGE ARISING, IN WHOLE OR IN PART, FROM, DUE TO OR CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF THE ADVISOR UNDER THIS AGREEMENT, EXCEPT SUCH INDEMNIFICATION SHALL NOT BE REQUIRED IF SUCH CLAIMS ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION COMMITTED BY ANY OFFICERS, OR EMPLOYEES OF THE CITY. THIS INDEMNIFICATION OBLIGATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

21. NO WAIVER OF DEFENSES.

Notwithstanding any provision of this Agreement to the contrary, nothing contained in this Agreement shall be construed to limit or waive any affirmative defense of the City to any claim, including any defense based upon governmental or sovereign immunity of the City, statutory damage limits, or any immunity applicable to its officers, agents, servants or employees.

22. ADVISOR'S WARRANTIES/REPRESENTATIONS.

The Advisor hereby warrants and represents that any and all information provided to the City regarding the Advisor's background and experience is true and correct. The Advisor acknowledges that the City's execution of this Agreement is made in reliance upon such information and that if any of such information is determined by the City to be inaccurate or untrue; this Agreement shall be subject to immediate termination by the City.

23. ENTIRE AGREEMENT.

This Agreement contains the entire agreement between the parties regarding the subject matter hereof and displaces any prior or contemporary written or oral agreements.

24. RULES OF CONSTRUCTION.

This Contract shall not be construed against the drafting party, but all other rules of contract construction shall apply.

SIGNED TO BE EFFECTIVE ON THE EFFECTIVE DATE.

CITY OF NORTH RICHLAND HILLS, TEXAS:

By:

Mark Hindman, City Manager
The City of North Richland Hills

Date:

ATTEST:

By:

Alicia Richardson, City Secretary / Chief Governance Officer

APPROVED AS TO FORM AND LEGALITY:

By:

Maleshia McGinnis, City Attorney

Patterson & Associates _____ :

Name of Investment Advisor

By:

Authorized Signature

Printed Name

Title

Date:
