

**FIRE & POLICE PENSION ASSOCIATION OF
COLORADO**

REQUEST FOR PROPOSALS (RFP)

FOR ACTUARIAL AUDITING SERVICES

Issuing Entity:

Fire & Police Pension Association of Colorado (FPPA)
7979 East Tufts Ave., Suite 900
Denver, CO 80237

Contact:

actuarialauditrfp@fppaco.org

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Statement of Objectives

The Fire and Police Pension Association of Colorado (FPPA), a cost-sharing, multiple-employer and a single-employer public retirement system, is requesting proposals from qualified bidders for full scope actuarial auditing services on certain retirement plans. The full scope actuarial audit would include complete actuarial valuations based on the same census data, assumptions and actuarial methods used by FPPA's consulting pension actuary and provide a detailed report and presentation of the findings.

The purpose of this Request for Proposals (RFP) is to assure that the actuarial condition of the fund is being measured as accurately as possible. The audit will review the most recent annual valuations for three of the retirement plans to assure that the results presented are actuarially sound and reasonable. The audit must include:

- An analysis of the appropriateness of the actuarial assumptions;
- A review of the actuarial assumptions and methodology for compliance with the funding standards;
- Verification of demographic data; and
- Confirmation of the actuarial valuation results, including a determination of actuarial accrued liability, normal cost, and expected contributions.

The January 1, 2023 valuations for the Statewide Retirement Plan, the Statewide Death & Disability Plan, and the Colorado Springs New Hire Plan will be subject to a full actuarial audit.

Background Information

FPPA is a political subdivision of the State of Colorado that administers a public pension system (non-ERISA). FPPA was established January 1, 1980 and provides defined benefit plan coverage as well as death and disability coverage for police officers and firefighters throughout the State of Colorado.

Additional information about FPPA and plans administered can be found at our website at www.FPPAco.org.

Scope and Duration of Audit

FPPA is requesting information from qualified firms to review the work of FPPA's retained actuary, Gabriel, Roeder, Smith & Company (GRS). The focus of this project is a review of the 1/1/2023 annual actuarial valuations of the Statewide Retirement Plan, the Statewide Death & Disability Plan, and the Colorado Springs New Hire Plan to assure that the results presented are actuarially sound, reasonable, and consistent with industry standards. The selected firm will provide all required services in accordance with federal and state statutes and the contract between FPPA and the selected firm. The written review report should cover the following:

1. Analyze the appropriateness of the actuarial assumptions;
2. Review the actuarial assumptions and methodology for compliance with generally accepted actuarial principles, state statutes, FPPA rules, and board policies;
3. Evaluate the data used for performance of the valuations including FPPA's applicable procedures concerning the production of data used in the actuarial calculations, the degree to which data is sufficient to support the conclusions of the valuation, and the use and appropriateness of any assumptions made regarding the data;
4. Conduct a test of the valuation results of the 2023 valuation using a mathematical model of plan activity or sampling based on the same data, methods, and assumptions used by GRS;
5. Evaluate the test results and reconcile any significant discrepancies between the findings, assumptions, methodology, rates, and adjustments of the contracting firm and GRS;
6. Provide an opinion as to the accuracy of the actuarial valuation results, including a determination of actuarial accrued liability, normal cost, and expected contributions;
7. Assess whether the valuation appropriately reflects information required to be disclosed under required reporting standards (Governmental Accounting Standards Board - GASB, etc.).

The report prepared by the firm shall express an opinion regarding the reasonableness and accuracy of the valuation results, actuarial assumptions, and application of the actuarial cost method. The report should include any recommendations or opinions regarding alternatives to the actuarial assumptions currently being used or in their application. In addition, the firm shall provide any recommendations to improve the quality and understanding of the valuation report. The firm shall prepare a draft report of their findings for review and comment by FPPA and GRS prior to the issuance of the final report. The firm shall prepare the final report reflecting their findings and present such report to the Board of Directors. Finally, the firm will be asked to prepare a letter of findings that can be included in the FPPA 2023 Annual Financial Report.

It is anticipated that the Board of Directors will select a firm at the November 2022 Board meeting and that the final report on the project will be presented by the firm to the Board of Directors at their November or December 2023 meeting.

August 3, 2022	Release Request for Proposed (RFP) to identified actuarial firms and post RFP to FPPA website
August 17, 2022	Notice of Intent to Propose Due to FPPA
August 17, 2022	Deadline for clarification questions and requests for additional information
September 9, 2022	Deadline for submission of proposals

September 9, 2022 – October, 2022	Staff reviews responses from firms, conducts interviews and due diligence, if needed
November 3, 2022	Staff recommendation of a firm to the Board of Directors
November 30, 2022	Contract finalized
June 30, 2023	1/1/2023 Actuarial Valuations for the Statewide Retirement Plan, Statewide Death & Disability Plan, and the Colorado Springs New Hire Plan completed by GRS
July 1, 2023	Date the firm may contact GRS
September 30, 2023	Draft of review report due to FPPA and GRS for review and comment
November, 2023	Final report due to FPPA
November or December, 2023	Presentation to FPPA Board of Directors

Required Proposal Content

The proposal for services must, at a minimum, include the following:

Cover Letter:

A cover letter signed by the individual(s) who is (are) authorized to bind the respondent contractually. The cover letter must contain a statement that the firm acknowledges that all documents submitted pursuant to this request for proposal process will become a matter of public record. The letter must also contain the following information:

- The respondent's name, address, email address, and telephone and facsimile numbers.
- The name, title or position, and telephone number of the individual signing the cover letter and a statement indicating that person is authorized to bind the company to the proposal.
- A statement to the effect that the proposal is a firm and irrevocable offer.
- A statement expressing the respondent's willingness to perform the services as described in this RFP.
- A statement certifying the minimum qualifications described in this RFP.
- A statement expressing the respondent's availability of staff and other required resources for performing all services and providing all deliverables with the specified time frames.
- A statement that the valuations will be conducted in accordance with generally accepted actuarial procedures.

Organization:

1. Provide your firm's full name and address of the main office as well as the name, address, and phone number of the professional within the office that will be assigned specific responsibility for providing actuarial auditing services to FPPA.
2. A brief history of your firm's involvement in the actuarial consulting and auditing business, including the year of organization, current ownership, and affiliations. Discuss how many years your firm has provided actuarial auditing services to public pension plans.
3. Discussion on what you consider to be your firm's actuarial consulting and auditing specialties, strengths, and limitations.
4. Discuss whether the actuarial firm plans to use subcontractors; if so, disclose the name(s) of the subcontractor(s), the service(s) to be subcontracted and how the contractor controls cost, quality, timeliness and confidentiality of these service(s).
5. State whether your firm (or any predecessor or affiliate firm) has been charged with or has been involved in a legal action as a defendant for fiduciary issues, ERISA violations, DOL violations, state law violations, or based on any other actuarial related services. If the answer is affirmative, please provide details.
6. Explain in detail any possible conflict of interest or perceived conflict that might be created if your firm is chosen for this engagement.
7. Does your firm require clients to agree to an overall limitation or exemption as to your firm's liability for the actuarial audit work performed?
8. Will your firm certify that FPPA will be indemnified for any liability resulting from any negligent or intentional act or omission by your firm?
9. Provide the name of the company that holds your firm's liability bond and errors and omissions insurance policy. Indicate the firm's level of errors and omissions, or professional liability insurance. If selected, will you provide a copy of these documents?

Personnel:

1. Provide information and a brief biography with regard to the professionals that will be assigned to FPPA. Include each person's specific responsibilities, qualifications, and length of service with your firm.
2. Discuss how the firm's staff provides a competitive advantage over other firms in providing actuarial auditing services.

Services:

1. Describe your understanding of the requested services including your proposed approach in providing the full scope actuarial auditing service requested.

2. Provide at least one sample of an actuarial audit report relating to a public employees' retirement system the firm has prepared.
3. Include your proposed task outline and timing for a full scope audit.

References:

1. A description of the firm's experience in providing actuarial and consulting services for public employee retirement systems and a list of the public employee retirement systems for which the firm has performed services similar to those identified under "Scope of Work." Please indicate whether the audit was a full scope or limited scope audit.
2. Listing of three public employee retirement system clients for whom the firm has provided professional actuarial consulting or actuarial auditing services within the past five years. One of the reference clients must be a client who has been serviced by the proposed team. For each reference listed, include client name, address, telephone number, email, and name of a contact person.

Fees and Additional Information:

1. Estimated fixed fee, quoted on both a "best estimate" and "not to exceed" basis for the full scope actuarial auditing service. The proposed fee should include all planning, fieldwork, administrative, third-party, travel and other costs.
2. Advise whether there will be charges in addition to the proposed fee and the duration of any fee guarantee.
3. This fee quote request does not assume any limited liability.

Each bidder is solely responsible for the accuracy and completeness of its bid.

FPPA is not liable for any cost incurred by the bidders prior to execution of a contract.

The actuarial firm shall submit an electronic copy of the proposal. The submission shall be sent to:

Fire & Police Pension Association of Colorado
actuarialauditrfp@fppaco.org

Proposals must be received on or before September 9th, 2022, at 4:30 p.m. Mountain Time. Failure to meet the deadline may result in rejection of the proposal.

Questions may be referred to FPPA by emailing actuarialauditrfp@fppaco.org

Nonconformance with these submission requirements may result in rejection of the proposal.

If the actuarial firm needs to submit changes or addenda, such shall be submitted electronically, signed by an authorized official of the actuarial firm, and cross referenced clearly to the relevant solicitation section(s) prior to the solicitation response deadline.

Materials belonging to FPPA, or the project will be safeguarded by the successful actuarial firm to at least the same extent as the successful actuarial firm safeguards proprietary information relating to its own business.

Minimum Qualifications

The respondent must meet all of the following minimum qualifications. Failure to do so will result in the rejection of the proposal. The respondent shall certify that the firm, the primary or principal actuary performing the work and any supporting actuary who may assist the primary actuary meet the minimum qualifications.

- The firm must be a professional actuarial firm in the business of providing actuarial consulting and auditing services to public employee retirement systems similar in size and complexity to FPPA for a minimum of five (5) years.
- The firm must have provided actuarial services to at least three (3) public retirement systems similar to FPPA.
- The responding firm should have a minimum of four (4) members from the American Academy of Actuaries on its staff.
- The primary or principal actuary assigned to provide actuarial audit services to FPPA must have a minimum of five (5) years professional actuarial experience, be a member of the American Academy of Actuaries, a Fellow of the Society of Actuaries, and must have a minimum of five (5) years of experience as an actuary on pension consulting services, experience analyses, and valuation assignments for public employee retirement systems, and shall have performed such work within the last three years.
- The respondent must have all necessary permits and licenses. Liability insurance must be in full force at the time the proposal is submitted and throughout the term of the contract. The respondent firm must not seek to unreasonably limit its liability for negligence.
- The respondent firm must provide their own work facilities, equipment, supplies, and support staff to perform the required services.
- The following requirements shall be adhered to by the actuarial firm throughout the duration of the contract, and as may otherwise be specified herein. The actuarial firm shall procure and maintain insurance, which shall protect the actuarial firm and the FPPA from any claims for bodily injury, property damage, and/or personal injury, which may arise out of operations under the contract. The actuarial firm shall procure the insurance policies at the actuarial firm's own expense and shall furnish the

FPPA an insurance certificate of the coverage required in this Section. The actuarial firm is required to obtain and maintain the following types of insurance coverage as stated in the contract for the duration of the contract:

Insurance / Limits of Liability:

- Worker's Compensation
- Errors and Omissions Insurance
- Cyber Liability Insurance
- Crime Insurance
- The firm shall discharge each of its duties and exercise each of its powers with due care, skill, prudence, and diligence under the circumstances that a prudent expert acting in a like capacity and familiar with such matters would use in the conduct of any enterprise of like character and with like aims. The firm shall discharge its duties under the contract solely in the interest of FPPA and its plans.

Proposal Evaluation

All proposals will be reviewed to determine whether they meet the requirements of this RFP. The primary factors which will be considered include, but will not necessarily be limited to, the following:

- Experience of the firm and its staff in providing actuarial consulting and auditing services to public pension systems.
- Qualifications of the consulting staff to be assigned to this project, particularly regarding relevant experience with public pension systems and actuarial audit services.
- The ability of the firm to provide the requested services as demonstrated in the proposal.
- The quality, conciseness, clarity, and completeness of the proposal.
- Proposed fees and work schedules related to the assignment.

Board Approval

Upon completion of the evaluation process, the staff will present a recommendation to the FPPA Board of Directors for award of a contract.

FPPA reserves the right to award a contract to the firm which will provide the best match to the requirements of the RFP and the needs of FPPA, which may not be the firm offering the lowest fees.

Contract Negotiations

After Board approval, contract negotiations will be initiated based on the contract attached as Appendix A to this proposal. FPPA expects contract negotiations to be brief. If the contract cannot be negotiated quickly with the selected bidder, FPPA,

may, in its sole discretion, terminate negotiations with the previously selected bidder and commence contract negotiations with another bidder.

Contract Approval

Upon completion of the contract negotiations, the contract will be submitted to the Chair of the Board of Directors of FPPA for signature.

After evaluation of the RFPs and approval by FPPA, all bidders will be notified of the successful bid.

Proprietary Information and Public Records Act Requests.

Ownership of Proposal:

All rights to information developed, disclosed, or provided in a Proposal and its attendant submissions are the property of FPPA, unless a Respondent makes specific reference to data that is considered proprietary. To the extent that a Respondent claims any copyright, patent, or other intellectual property right in any portion of its RFP, submission of an RFP constitutes the Respondent's express (a) grant and assignment of a perpetual, transferable (in whole or in part), non-exclusive royalty-free license to FPPA for all such portions, and (b) agreement that FPPA may use any such intellectual property without charge for any lawful purpose in connection with other FPPA projects, including without limitation the creation of derivative works and issuance of sublicenses.

Open Records Act:

- i. Per the Colorado Open Records Act, FPPA will make available to the public the submitted proposal and all correspondence and written questions submitted during the Request for Proposal process. However, such disclosure shall not be made prior to the date on which FPPA informs bidders of the FPPA Board's decision. Except as otherwise required by law, FPPA will not disclose trade secrets or proprietary financial information submitted in response to the Request for Proposals. Any such trade secrets or proprietary financial information, which a proposer believes should be exempted from disclosure, shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections shall not be permitted and shall be invalid. The specific information must be clearly identified as such.
- ii. If FPPA denies public inspection of a portion of a document submitted by a proposer that contains trade secrets or proprietary financial information and such denial is challenged, the proposer will be required fully to intervene, justify such exemption, and secure appropriate injunctive orders exempting such records from disclosure. FPPA reserves the right to independently determine whether any document is subject to disclosure and to make such information available to the extent required by applicable law, without any restriction.

Reservation of Rights

FPPA reserves all rights to modify the requirements of this RFP, in whole or in part; to modify or amend the evaluation process, including any selection criteria; and to alter any timeline stated herein. FPPA may discontinue or cancel this solicitation and reserve all rights to reject any and all submissions, and to award no contract.

Compliance with the Colorado Act regarding Illegal Aliens – Public Contracts for Services

- 1) FPPA is a political subdivision of the State of Colorado. Contractor shall comply with the requirements of Section 8-17.5-101 *et seq.* C.R.S. with regard to its employees and with regard to vendors, consultants and independent contractors providing work under the agreement. Contractor shall not:
 - (A) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
 - (B) Enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work.
- 2) Contractor will confirm or attempt to confirm the employment eligibility of all employees providing work under the agreement who are newly hired for employment in the United States through participation in the basic pilot program and, if the contractor is not accepted into the basic pilot program, that the contractor shall apply to participate in the basic pilot program every three months until the contractor is accepted or this Agreement has terminated. The provision specified in this subparagraph shall not be required or effective if the basic pilot program is discontinued.
- 3) Contractor is prohibited from using basic pilot program procedures to undertake pre-employment screening of job applicants while this Agreement is in effect.
- 4) If the contractor obtains actual knowledge that a third-party performing services under the agreement knowingly employs or contracts with an illegal alien, the contractor shall be required to:
 - (A) Notify the subcontractor and the FPPA within three days that the contractor has actual knowledge that the third-party is employing or contracting with an illegal alien; and
 - (B) Terminate the contract with the third-party if within three days of receiving the notice required pursuant to subparagraph (A) of this subparagraph the third-party does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the third-party if during such three days the third-party provides information to establish that

the third-party has not knowingly employed or contracted with an illegal alien;

- 5) The contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to its authority.

Fire and Police Pension Association of Colorado
2022 Request for Proposal for Actuarial Audit Services
Appendix A
Actuarial Audit Services Agreement

THIS AGREEMENT made and entered into this 30th day of November 2022, by and between the **FIRE AND POLICE PENSION ASSOCIATION OF COLORADO**, a political subdivision of the State of Colorado, hereinafter referred to as "FPPA," and _____ hereinafter referred to as the "Actuary."

WITNESSETH:

WHEREAS, FPPA requires the services of a firm qualified to provide actuarial auditing services in accordance with the scope of services outlined in the RFP issued on August 3, 2022; and

WHEREAS, the RFP and Actuary's response to the RFP are included as part of the Agreement between FPPA and Actuary; and

WHEREAS, the Actuary, being skilled and well qualified in this type of work, is ready, willing and able to undertake and perform these services as an independent contractor;

NOW, THEREFORE, in consideration of the promises, the mutual agreements herein contained, and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. **Work to be Performed**: The Actuary shall provide, as requested by the Board and designated staff, actuarial auditing services as set forth in RFP. The RFP identifies the scope of the services FPPA has requested, the time frames within which the services are to be provided, and the deliverables the Actuary is expected to produce. Both parties understand that the schedule of deliverables may be modified by agreement of the parties. FPPA will provide the necessary data to the Actuary in a timely fashion.

2. **Term and Termination**: This Agreement shall be effective on the date of execution of the Agreement by the last party to sign, through December 1, 2023. FPPA may terminate this Agreement at any time upon thirty (30) days' notice to Actuary. Actuary may terminate this Agreement upon a material breach of the Agreement by FPPA which has not been cured within 30 days following FPPA's receipt of written notice of such breach.

3. **Coordination and Liaison:** The primary contact and project manager assigned to the FPPA account under this Agreement is _____. In the event that _____ is not available to manage the account, Actuary shall assign an alternate account manager, subject to FPPA's consent. The Actuary agrees that during the term of this Agreement the Actuary shall fully coordinate all services hereunder with FPPA, including the Board or as otherwise directed by FPPA.

The Actuary understands that FPPA's Chief Benefits Officer and Chief Operations Officer are FPPA's representatives under this Agreement through whom contractual services performed under this Agreement shall be coordinated. The Executive Director may change this designation. Any change in designation will be sent in writing to the Actuary.

All records, findings, research, opinions and documentation prepared by the Actuary under the Agreement, when delivered to and accepted by the Chief Benefits Officer and Chief Operations Officer, shall become the property of FPPA. The Actuary also agrees to allow FPPA to review any of the procedures used by the Actuary in performing the services hereunder and to make available for inspection notes and other documents used in the preparation of any of the services required hereunder, in order to coordinate the performance of services by the Actuary in accordance with the terms of this Agreement.

4. **Payment:** FPPA agrees to pay the Actuary and the Actuary agrees to accept as full and total compensation for those services marked as "included" in Exhibit A hereto ("Schedule of Fees")

5. **Status of Actuary:** It is understood and agreed by and between the parties that the status of the Actuary shall be that of an independent contractor and it is not intended, nor shall it be construed, that the Actuary or any of its employees is an employee, officer, or agent of FPPA for purposes of unemployment compensation, workers' compensation, or for any purpose whatsoever.

6. **Standard of Care:** Actuary warrants to FPPA that the services performed under this Agreement will be performed in accordance with generally accepted industry standards and with the care, skill, prudence, under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the performance of actuarial auditing services.

7. **When Rights and Remedies Not Waived:** In no event shall any payment by FPPA hereunder constitute or be construed to be a waiver by FPPA of

any breach of term, covenant, or condition or any default which may then exist on the part of the Actuary, and the making of any such payment when any such breach or default shall exist shall not impair or prejudice any right or remedy available to FPPA with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more terms, covenants, or conditions of the Agreement shall be construed as a waiver of any succeeding or other breach.

8. **Examination of Records:** The Actuary agrees that any duly authorized representative of FPPA shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Actuary, involving transactions related to this Agreement.

9. **Venue, Governing Law:** Each and every term, condition, or covenant herein is subject to and shall be construed in accordance with the provisions for Colorado law and FPPA rules enacted and/or promulgated pursuant thereto. Venue of any action arising hereunder shall be in the City and County of Denver, Colorado.

10. **Assignment and Subcontracting:** FPPA is not obligated or liable under this Agreement to any party other than the Actuary named herein. The Actuary understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits, obligations, or duties under this Agreement except upon prior written consent and approval of FPPA, which consent or approval may be withheld in the absolute discretion of FPPA; and in the event any such assignment or subcontracting shall occur, such action shall not be construed to create any contractual relationship between FPPA and such assignee or subcontractors, and the Actuary herein named shall remain fully responsible to FPPA according to the terms of this Agreement.

11. **Insurance:** Without limiting the Actuary's indemnification of the persons under Section 11 of this Agreement, the Actuary will provide and maintain at its own expense during the term of this Agreement the following program(s) of insurance covering its operations hereunder. Such insurance will be provided by insurer(s) rated A or better by A.M. Best & Company or otherwise approved in writing by FPPA and evidence of such insurance, in a form satisfactory to FPPA will be delivered to FPPA within thirty (30) days of the effective date of this Agreement. Such evidence will be accompanied by a written statement from the insurer that FPPA is to be given at least thirty (30) days' written notice in advance of any material modification or termination of any policy of insurance:

- **Professional Liability/Errors and Omissions Policy.** Said policy

to provide for a per occurrence limit of not less than three million dollars (\$3,000,000.00).

- **Workers' Compensation.** A program of Workers' Compensation insurance with statutory limits and Employers Liability with limits of one million dollars (\$1,000,000.00) per accident will be secured protecting all Actuary's employees, including all persons providing services by or on behalf of Actuary.
- **Network Security and Privacy Liability Insurance (Cyber Insurance).** \$3,000,000 limit
- **Crime Coverage.** A Commercial Crime Policy with the following insuring agreements and limits:
 - \$1,000,000.00 Employee Dishonesty Coverage - Form A
 - \$1,000,000.00 Depositors Forgery Coverage
 - \$1,000,000.00 Computer Theft Coverage

Such insurance will be primary to and not contributing with any other insurance maintained by FPPA.

12. **Indemnification and Liability:** The Actuary shall defend, release, indemnify, and save and hold harmless FPPA against any and all damages to property or injuries to or death of any person or persons, including property and employees or agents of FPPA, and shall defend, release, indemnify, and save and hold harmless FPPA from any and all claims, demands, suits, actions, liabilities, causes of action or legal or equitable proceedings of any kind or nature, including Workers' Compensation claims, of or by anyone whomsoever, in any way resulting from or arising out of the Actuary's negligence or misconduct in connection herewith, including acts or omissions of the Actuary or its officers, employees, representatives, suppliers, invitees, licensees, sub consultants, subcontractors, and agents; provided, however, that the Actuary need not indemnify and save harmless FPPA, its officers, agents, and employees from damages proximately resulting from the gross negligence, fraud or willful misconduct or material breach of this Agreement by FPPA's officers, agents, and employees. Insurance coverage specified herein constitutes the minimum requirements and said requirements shall in no way lessen or limit the liability of the Actuary under the terms of the Agreement. The Actuary shall procure and maintain, at its own expense and cost, any additional kinds and amounts of insurance that, in its judgment, may be

necessary for its proper protection in the prosecution of the services hereunder. This indemnification obligation shall survive termination of this Agreement. To the extent damages are incurred by FPPA as a result of the acts or inaction of Actuary, its agents, affiliates, assigns or affiliated parties, FPPA shall be entitled to recover damages provided by law without limitation as to form or amount.

13. **Conflict of Interest:** The parties agree that no employee of FPPA shall have any personal or beneficial interest whatsoever in the services or property described herein and the Actuary further agrees not to hire or contract for services with any employee or officer of FPPA which would be in violation of FPPA's Code of Ethics and Standards of Professional Conduct. Actuary hereby warrants to FPPA that no undisclosed conflicts of interest exist as of the effective date of this Agreement and if one were to arise during the term of this Agreement, Actuary agrees to provide immediate written disclosure to FPPA.

14. **Confidentiality:** From time to time during the term of this Agreement, Actuary will receive information from FPPA that consists of member information, investment information and other information ("Confidential Information") that should be kept confidential. Actuary shall protect and safeguard the Confidential Information with at least the same degree of care as it would protect its own confidential information, but in no event with less than a commercially reasonable degree of care; not use FPPA's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and not disclose any such Confidential Information to any person or entity, except to those employees who need to know the Confidential Information to perform its obligations under this Agreement. If Actuary is required by applicable law or legal process, to disclose any of the Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify FPPA of such requirements to afford FPPA the opportunity to seek a protective order or other remedy. If Actuary becomes aware of unauthorized access, use, or disclosure of Confidential Information, it shall notify FPPA immediately, take appropriate measures to prevent further unauthorized access, be responsible for complying with applicable laws regarding and remedying the unauthorized access.

Upon the termination of this Agreement, Actuary agrees to maintain all applicable safeguards and shall promptly, as directed by FPPA, either (a) return to FPPA all copies of the Confidential Information in its possession by secure file transfer in such format as notified by FPPA to Actuary, or (b) delete and procure deletion of all Confidential Information.

15. **No Third Party Beneficiary:** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to FPPA and the Actuary, and nothing contained in this Agreement shall give or allow any such claim

or right of action by any other or third person on such Agreement, including but not limited to subcontractors and suppliers. It is the express intention of FPPA and the Actuary that any person other than FPPA or the Actuary receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

16. **Taxes, Charges, and Penalties:** FPPA shall not be liable for the payment of taxes, late charges, or penalties of any nature.

17. **Paragraph Headings:** The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

18. **Severability:** It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

19. **Agreement as Complete Integration-Amendments:** This Agreement, including the RFP and the response to the RFP are intended as the complete integration of all understandings between the parties. No prior to contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other Agreement properly executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors, and assigns. If there is a conflict between the RFP, the response to the RFP and this Agreement, this Agreement shall govern.

20. **Legal Authority:**

a) The person or persons signing and executing this Agreement on behalf of the Actuary, do hereby warrant and guarantee that he/she or they have been fully authorized by the Actuary to execute this Agreement on behalf of the Actuary and to validly and legally bind the Actuary to all the terms, performances, and provisions herein set forth.

b) FPPA shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Actuary or the person signing the Agreement to enter into this Agreement. FPPA shall not be obligated to pay the Actuary for any

performance of the provisions of this Agreement after FPPA has suspended or terminated this Agreement as provided in this Section.

21. **Notices:** All notices or communications hereunder shall be emailed to the Actuary at _____; and if sent to FPPA, shall be emailed to Kevin Lindahl, FPPA’s Executive Director at KLindahl@fppaco.org.

22. **Force Majeure:** Notwithstanding anything else in this Agreement, no default, delay or failure to perform on the part of either party shall be considered a breach if it is due to causes beyond the reasonable control of such Party including, without limitation, acts of God, flood, fire, earthquake, explosion, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic; provide that for the duration of such force majeure, the Party must continue to use all commercially reasonable efforts to overcome such force majeure.

23. **Counterparts of this Agreement:** This Agreement shall be executed in two (2) counterparts, each of which shall be deemed to be an original of this Agreement.

24. **Compliance with Colorado Act regarding Illegal Aliens:** The parties agree to the terms contained in Addendum A attached hereto and incorporated herein by this reference as required under § 8-17.5-101 C.R.S. regarding the employment of illegal aliens. The Actuary shall be deemed the Contractor as used in Addendum A.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Fire and Police Pension Association

Actuary:

By:

By:

Chair, Board of Directors

Name/Title:

Date:

Date: _____

Addendum A

Compliance with the Colorado Act regarding Illegal Aliens - Public Contracts for Services

- 1) FPPA is a political subdivision of the State of Colorado. Contractor shall comply with the requirements of Section 8-17.5-101 *et seq.* C.R.S. with regard to its employees and with regard to vendors, consultants and independent contractors providing work under the agreement. Contractor shall not:
 - (A) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
 - (B) Enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work.
- 2) Contractor will confirm or attempt to confirm the employment eligibility of all employees providing work under the agreement who are newly hired for employment in the United States through participation in the basic pilot program and, if the contractor is not accepted into the basic pilot program, that the Contractor shall apply to participate in the basic pilot program every three months until the Contractor is accepted or this Agreement has terminated. The provision specified in this subparagraph shall not be required or effective if the basic pilot program is discontinued.
- 3) Contractor is prohibited from using basic pilot program procedures to undertake pre-employment screening of job applicants while this Agreement is in effect;
- 4) If the Contractor obtains actual knowledge that a third-party performing services under the agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

- (A) Notify the subcontractor and the FPPA within three days that the Contractor has actual knowledge that the third-party is employing or contracting with an illegal alien; and
- (B) Terminate the contract with the third-party if within three days of receiving the notice required pursuant to subparagraph (A) of this subparagraph the third- party does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the third-party if during such three days the third-party provides information to establish that the third- party has not knowingly employed or contracted with an illegal alien;

The Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to its authority