

---

Meeting Date: May 17, 2023  
Staff Contact: Stan Allred, Chief Financial Officer

**TITLE: C-23-10 – Approval of Contract with Public Trust Advisors, LLC as a result of P2023000006**

**ACTION: Recommend Approval**

**Summary:**

The Albuquerque Bernalillo County Water Utility Authority issued the Request for Proposals (RFP) P20232000006, Investment Management Services, to solicit proposals from qualified vendors.

The RFP was posted on BidSync and advertised in the local newspaper. Four (4) responsive Offers were submitted for evaluation. The Ad-Hoc Committee reviewed, evaluated, and scored the responses in accordance with the evaluation criteria published in the RFP.

Based on the recommendation of the Ad-Hoc Committee, the Executive Director recommends the award of a contract to Public Trust Advisors, LLC., as this vendor has the highest composite score, is qualified to perform the work, and meet the requirements of the RFP. The highest total composite score possible, without preferences applied, is 1000. All scores listed are the combined average of all Committee members with applicable preferences applied.

<u>Offers</u>	<u>Total Composite Score</u>
City Different Investments	783
Garcia, Hamilton & Associates	771
Government Portfolio Advisors, LLC	843
Public Trust Advisors, LLC	922

Approval of this item will serve as delegation of authority for the Executive Director to enter into an agreement for Public Trust Advisors, LLC. to provide investment management services as well as approve all future amendments to this agreement, if any.

**FISCAL IMPACT:**

The fiscal impact is based upon investments under management and is not expected to exceed \$100,000 per year for the term of this agreement and is budgeted.

# Memo

**To:** Mark S. Sanchez, Executive Director  
Stan Allred, Chief Financial Officer

**From:** Lisa Molina, Administrative Specialist *Lmm*

**Through:** Jonathan Daniels, Purchasing Officer *JD*  
Candida Kelcourse, Purchasing Administrator *CK*

**Date:** 05/02/2023

**Re:** Ad Hoc Committee for P2023000006 Investment Management Services

The Albuquerque Bernalillo County Water Utility Authority issued the referenced Request for Proposals (RFP) to solicit proposals from qualified vendors for Investment Management Services.

The RFP was posted on BidSync and advertised in the local newspaper. Four (4) responsive offers were received and submitted for evaluation. The Ad Hoc Evaluation Committee reviewed, evaluated, and scored the responses in accordance with the evaluation criteria published in the RFP.

Listed are all the respondents' average composite scores with all applicable preferences applied as indicated in the scoring details. The largest total composite score possible without preferences applied is 1000.

<u>Offeror</u>	<u>Total Composite Score</u>
City Different Investments	783
Garcia Hamilton & Associates, L.P.	771
Government Portfolio Advisors, LLC	843
Public Trust Advisors, LLC	922

The committee recommends the award of contract to **Public Trust Advisors, LLC** as that company had the highest average composite score after final scoring and is qualified to perform the work. The Purchasing Department concurs with the Committee's recommendation.

Approved:

Recommended:

*Mark S. Sanchez* 5/5/23

Mark S. Sanchez  
Executive Director

Date

*Stanley R. Allred* 5/5/23

Stan Allred  
Chief Financial Officer

Date

Enclosures: Composite Score Sheet

**Composite Score Tabulation  
P2023000006 Investment Management Services**

EVALUATION CRITERIA	EVALUATION FACTORS (Max pts)	Offers	Offers	Offers	Offers
		City Different Investments	Garcia Hamilton & Associates,	Government Portfolio Advisors, LLC	Public Trust Advisors, LLC
Key Personnel	250	203	218	223	232
Company Experience and Past Performance	250	167	198	240	240
Proposed Approach to Tasks	250	200	208	230	242
Cost Proposal	250	83	147	150	208
<b>TOTAL COMPOSITE SCORES</b>		<b>653</b>	<b>771</b>	<b>843</b>	<b>922</b>
Resident/Native American Resident Business Preference	Up to 8%	80			
Resident Veteran/Native American Veteran Business Preference	Up to 10%				
Recycled Content Goods Preference	Up to 5%				
Local Business Preference	Up to 5 %				
Small Business Preference	Up to 5%				
Pay Equity Preference	Up to 5%	50			
15% Preference Max		130	0	0	0
<b>TOTAL COMPOSITE SCORES WITH PREFERENCES</b>		<b>783</b>	<b>771</b>	<b>843</b>	<b>922</b>
<b>RANKING</b>		<b>3</b>	<b>4</b>	<b>2</b>	<b>1</b>
		City Different Investments	Garcia Hamilton & Associates,	Government Portfolio Advisors, LLC	Public Trust Advisors, LLC

## **EXHIBIT A**

### **SCOPE OF SERVICES**

- a. Assist the Water Authority with the review of investment policies.
- b. Analyze the Water Authority's current portfolio and prepare recommendations for optimization. Consider applicable Water Authority and State of New Mexico policies, as well as bond resolutions, for the portfolio with regard to fund and asset class objectives, risk tolerance and authorized investment restrictions and asset allocation guidelines.
- c. Prepare analyses and make recommendations on investment of the Water Authority's funds to include asset allocation, performance measurement and alternative investments.
- d. Perform quarterly reporting/evaluations of asset allocations, giving consideration to market conditions, asset class performance, benchmarks, actual and policy asset allocation, financial flows in and out of the funds and performance attribution.
- e. Assist in developing and implementing investment strategies that will enhance portfolio performance under current and anticipated changes in market conditions within the parameters of established investment guidelines, bond resolutions and cash flow needs.
- f. Make presentations to the Water Authority Board and staff to support recommendations relating to investment strategy. Assist in the implementation of approved investment strategies.
- g. Upon request, attend Audit and Finance committee meetings and present quarterly performance reports which shall include current information regarding the creditworthiness of investments in the portfolio, total return comparisons of the portfolio to established index for the quarter and since inception; and market commentary and future outlook as it pertains to the Water Authority's portfolio.
- h. Review and evaluate money market and other cash investment accounts for policy compliance, quality and diversification, management experience and risk controls, and competitive yield in relation to expense ratios and service capabilities.
- i. Perform investment research and analysis.
- j. Provide recommendations in the annual review of the investment policy/ guideline, procedures and processes for investment of the Water Authority's funds.
- k. Provide technical and strategic advice on the Water Authority's portfolio management.
- l. Assist in conducting informational meetings and presentations for the Water Authority, the Water Authority Board, or other involved parties.
- m. Provide on-going support to the Water Authority as required, in areas related to investing activities.
- n. Assist the Water Authority in planning investments to meet liquidity needs.
- o. A vendor with a local presence is preferred, but it is not required. However, the awarded vendor may be required to attend quarterly budget meetings or other meetings as required.
- p. The scope of this contract may also include custodial services, third party or otherwise.



## 2. Cost Information

**Describe your proposed fee arrangements. Distinguish between investment management fees, trading fees, custody fees, fees for other services, and any other charges to which the Water Authority may be subject. Competitive fees associated with the Water Authority's current portfolio configuration may be scored higher than as needed assignments that may come up, pursuant to the Scope of Services.**

### Single Revenue Source

Public Trust proposes the following fee structure for our continued engagement with the Water Authority. Public Trust is an independent investment advisor and the only compensation we receive is based on assets under management and advisement. There are no one-time, up-front fees. The monthly fee would be calculated, in arrears, based on average daily market value plus accrued interest of the assets under management in the Account (excluding assets held in LGIPs) and based on the number of days in the preceding month and year for the specified billing cycle.

### Fee Schedule

Assets Under Management	Fees in Basis Points (bps)
Up to \$50mm	10bps (0.10%)
Above \$50mm	8bps (0.08%)

### Public Trust Pricing Approach

- ✓ Single fee based on assets under management
- ✓ Full treasury management service approach
- ✓ Experienced investment advisor relationship professionals who have managed money in Texas since 2000
- ✓ Dedicated portfolio managers with significant experience managing investment portfolios in accordance with local, state and federal regulations

**AGREEMENT  
BETWEEN THE  
ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY  
AND  
PUBLIC TRUST ADVISORS, LLC  
P202300006 Investment Management Services**

**THIS AGREEMENT** is made and entered into on the date of the last signature entered below by and between the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, P.O. Box 568, Albuquerque, New Mexico 87103-0568 (hereinafter referred to as the "Water Authority"), and Public Trust Advisors, LLC (hereinafter referred to as the "Contractor"), a Colorado Limited Liability Company, whose address is 717 17<sup>th</sup> Street Suite 1850, Denver, CO 80202.

In consideration of mutual obligations stated herein, the parties agree as follows:

**1. Scope of Services:** The Contractor shall provide the services described in Exhibit A attached hereto (hereinafter the "Services") in a satisfactory and proper manner, as determined by the Water Authority.

**2. Term of Agreement:** This Agreement shall commence July 1, 2023, by the Water Authority and continue for a period of *four (4) years*. This term may be extended by mutual written agreement of the parties for two additional periods of one year each up to the maximum number of six years allowed by the Procurement Ordinance.

**3. Compensation and Method of Payment:**

3.1 *Compensation.* For performing the Services specified in Section 1 hereof, the Water Authority agrees to pay the Contractor an annual fee as specified on the Schedule of Fees attached to this Agreement as Exhibit B.

3.2 *Method of Payment.* Such amount shall be paid to the Contractor in accordance with Exhibit B, Payment Schedule, upon receipt by the Water Authority of a properly documented invoice for payment as determined by the budgetary and fiscal guidelines of the Water Authority and on the condition that the Contractor has accomplished the Services to the satisfaction of the Water Authority. Applicable taxes will be stated separately on each invoice and paid by the Water Authority at current rates. Taxes may not be billed more than sixty (60) days after completion of the Services to which they apply.

3.3 *Appropriations.* Notwithstanding any other provisions in this Agreement, the terms of this Agreement are contingent upon the Water Authority Board making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the Water Authority Board, this Agreement may be terminated at the end of the Water Authority's then current fiscal year upon written notice given by the Water Authority to the Contractor. Such event shall not constitute an event of default. All payment obligations of the Water Authority and all of its interest in this Agreement will cease upon the date of termination. The Water Authority's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

3.4 *Non-Exclusivity.* Unless specifically provided herein, this Agreement is not exclusive to the Contractor and the Water Authority may contract with other businesses to provide similar services at any time. In addition, if this Agreement is for the purchase of Services on an as needed basis, the Water Authority is not obligated to make any purchase of Services hereunder.

**4. Independent Contractor:** Neither the Contractor nor its employees are considered to be employees of the Water Authority for any purpose whatsoever. The Contractor is considered as an independent contractor at all times in the performance of the Services described in Section 1. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the Water Authority under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the Water Authority under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

**5. Personnel:**

5.1 The Contractor represents that it has, or will secure at its own expense, all personnel required in performing all of the Services required under this Agreement in a timely manner. Such personnel shall not be employees of or have any contractual relationships with the Water Authority.

5.2 All the Services required hereunder will be performed by the Contractor or under its 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.

5.3 None of the work or Services covered by this Agreement shall be subcontracted without the prior written approval of the Water Authority. Any work or Services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

**6. Indemnity:** The Contractor agrees to defend, indemnify and hold harmless the Water Authority and its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties because of any injury or damage received or sustained by any person, persons or property to the extent arising out of or resulting from the negligent acts, errors, omissions, and performance by the Contractor under this Agreement or by reason of any asserted act or omission, neglect or misconduct of the Contractor or Contractor's agents or employees or any subcontractor or its agents or employees. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

**7. Insurance:** The Contractor shall not commence any work under this Agreement until the insurances required in Part II of the RFP, Special Instructions, have been obtained and the proper certificates, riders or endorsements (or policies) have been submitted to the Water Authority.

7.1 *General Conditions.* The Water Authority will require the successful Offeror, referred to as the Contractor, to procure and maintain at its expense during the term of the Agreement resulting from the RFP, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations of the Contractor under the Agreement. Upon execution of the Agreement and on the renewal of all coverages, the Contractor shall furnish to the Water Authority a certificate or certificates in form satisfactory to the Water Authority as well as the rider or endorsement showing that it has complied with these insurance requirements. All certificates of insurance shall provide thirty (30) days written notice

be given to the Risk Program Manager, Albuquerque Bernalillo County Water Utility Authority, P.O. Box 568, Albuquerque, New Mexico 87103, before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. **With respect to all coverages required other than professional liability or workers' compensation, the Albuquerque Bernalillo County Water Utility Authority shall be named an additional insured.** All coverages afforded shall be primary with respect to operations provided.

7.2 *Approval of Insurance.* Even though the Contractor may have been given notice to proceed, it shall not begin any work under the Agreement until the required insurance has been obtained and the proper certificates (or policies) filed with the Water Authority. Neither approval nor failure to disapprove certificates, policies, or the insurance by the Water Authority shall relieve the Contractor of full responsibility to maintain the required insurance in full force and effect. If part of the Agreement is sublet, the Contractor shall include any or all subcontractors in its insurance policies, or require the subcontractor to secure insurance to protect itself against all hazards enumerated herein, which are not covered by the Contractor's insurance policies.

7.3 *Coverage Required.* The kinds and amounts of insurance required are as follows:

7.3.1 Commercial General Liability Insurance. A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$1,000,000	Per Occurrence
\$1,000,000	Policy Aggregate
\$1,000,000	Products Liability/Completed Operations
\$1,000,000	Personal and Advertising Injury
\$ 50,000	Fire Legal
\$ 5,000	Medical Payments

Said policy of insurance must include coverage for all operations performed for the Water Authority by the Contractor and contractual liability coverage shall specifically insure the hold harmless provisions of the Agreement.

7.3.2 Automobile Liability Insurance. An automobile liability insurance policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. The policy must include coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work.

7.3.3 Workers' Compensation Insurance. Workers' compensation insurance policy for the Contractor's employees, in accordance with the provisions of the Workers' Compensation Act of the State of New Mexico, (the "Act"). If the Contractor has determined that it is not subject to the Act, the Contractor will certify, in a signed statement to that effect. The Contractor will notify the Water Authority and comply with the Act if it becomes subject to the Act during the term of the Agreement.

7.3.4 **Professional Liability Insurance.** Professional liability insurance in an amount not less than \$1,000,000.00 per claim and in the aggregate.

**8. Reports and Information:** At such times and in such forms as the Water Authority may require, there shall be furnished to the Water Authority such statements, records, reports, data and information, as the Water Authority may request pertaining to matters covered by this Agreement. Unless authorized by the Water Authority, the Contractor will not release any information

concerning the work product including any reports or other documents prepared pursuant to the Agreement until the final product is submitted to the Water Authority.

**9. Establishment and Maintenance of Records:** Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the Water Authority with respect to all matters covered by this Agreement. Except as otherwise authorized by the Water Authority, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement and shall be available to the Water Authority until all applicable statutes of limitation have run. This Section 9 shall survive and continue beyond the termination of this Agreement or any of its provisions.

**10. Audits:** At any time during normal business hours and as often as the Water Authority may deem necessary, there shall be made available to the Water Authority for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the Water Authority to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

**11. Publication, Reproduction and Use of Material:** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The Water Authority shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

**12. Ethical Conduct:** The Contractor warrants that it will perform the Services under this Agreement in compliance with the Ethical Conduct provisions (§2-390) and Unfair Business Practices provisions (§2-376) of the Procurement Ordinance, the Water Authority Code of Conduct, the Governmental Conduct Act (Sections 10-16-1 through 10-16-18, NMSA 1978), the New Mexico criminal statutes prohibiting bribes, gratuities and kickbacks, (Sections 30-41-1 through 30-41-3 NMSA 1978), and any other Water Authority or New Mexico laws, ordinances, rules and regulations, policies, procedures and administrative instructions applicable to ethical conduct. Contractor warrants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement.

**13. Unfair Business Practices:** The Contractor agrees to comply with the Unfair Business Practices provisions (§2-376) of the Procurement Ordinance and the New Mexico Unfair Practices Act, Section 57-12-1 et seq. NMSA 1978 (the "Act"). If during the term of this Agreement the Contractor has been found to engage in any Unfair Business Practices the Contractor agrees to report that finding to the Water Authority Central Purchasing Office. Unfair Business Practices are defined as a system or pattern of acts or practices that a federal or State enforcement agency has made a formal finding within the last three (3) years to be discriminatory, deceptive, fraudulent, or abusive (or similar terms) under the Act, or an applicable federal or State consumer protection law relating to the Scope of this Agreement or that have violated a relevant criminal statute, as evidenced by a public enforcement order or judgment, settlement with the enforcement agency or other formal finding by the relevant enforcement agency with regulatory enforcement authority under the applicable consumer protection law, or criminal conviction.

**14. Compliance with Laws:** In providing the Services outlined herein, the Contractor shall comply with all applicable laws, ordinances, and codes of the federal, State, and local governments, including, but not limited to the New Mexico Human Rights Act, Title VII of the

federal Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and all federal, State and local statutes, regulations and executive orders relating to civil rights.

**15. Changes:** If changes occur in the terms and conditions of this Agreement, scope of services, or the description of the Project, a supplemental agreement may be negotiated at the request of either party.

**16. Assignability:** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the Water Authority thereto.

**17. Termination for Cause:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, and fail to cure any such default within fifteen (15) days after receipt of a notice of default from the Water Authority, the Water Authority shall thereupon have the right to terminate this Agreement without further notice to the Contractor. The notice of default shall specify the date of termination. In the event of termination for cause, all finished or unfinished documents, data, and reports prepared by the Contractor under this Agreement shall, at the option of the Water Authority, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Water Authority for damages sustained by the Water Authority by virtue of any breach of this Agreement by the Contractor, and the Water Authority may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the Water Authority from the Contractor is determined.

**18. Termination for Convenience of the Water Authority:** The Water Authority may terminate this Agreement at any time by giving at least thirty (30) days' notice in writing to the Contractor. If the Contractor is terminated by the Water Authority as provided herein, the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. If this Agreement is terminated due to the fault of the Contractor, the preceding Section hereof relative to termination shall apply.

**19. Liability:** Notwithstanding any provision herein to the contrary, neither the Water Authority nor the Contractor shall be liable to the other or any third party for any incidental, indirect, punitive, or consequential damages arising out of or connected in any way to this Agreement or the work performed hereunder. As between the Water Authority and the Contractor, the maximum aggregate liability for any and all claims and damages arising under this Agreement is limited to the total compensation value of the Agreement. Neither the Water Authority nor the Contractor shall be responsible for liability incurred as a result of the other Party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of New Mexico Tort Claims Act (Section 41-4-1, et seq. N.M.S.A. 1978) and any amendments hereto. This paragraph is intended only to define the liabilities between the Parties hereto and it is not intended to modify, in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act. By entering into this Agreement, the Water Authority and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive any sovereign immunity, nor do they waive any limitation(s) of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

**20. Construction and Severability:** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

**21. Enforcement:** The Contractor agrees to pay to the Water Authority all costs and expenses including reasonable attorney's fees incurred by the Water Authority in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

**22. Entire Agreement:** The RFP and Contractor's Proposal submitted in response to the RFP, and all Exhibits and other documents attached or referred to in this Agreement are hereby incorporated into and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms. In the event of a conflict, the documents shall have precedence as follows: Exhibits, Agreement, RFP and Proposal.

This Agreement and incorporated documents contain the entire agreement of the parties and supersede any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

**23. Applicable Law:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the ordinances, rules and regulations of the Water Authority.

**24. Approval Required:** This Agreement shall not become effective or binding until approved by the Executive Director of the Water Authority.

**Additional required inclusions:**

**Investment Manager Services.**

(a) Subject to and in compliance with the Investment Policy Statement (as defined in Section 3), Investment Manager, commencing on the Effective Date, shall have full discretionary authority to invest, reinvest or otherwise manage the Assets in the Account, including, without limiting the generality of the foregoing, the authority to direct the Designated Custodian (as defined in Section 4(a)) to deliver Assets for the purpose of effecting purchases, sales, trades or other transactions in the Assets ("**Transactions**"). All of the services to be performed by Investment Manager described in the preceding sentence are hereinafter collectively referred to as the "**Services.**" Except as set forth in Section 2(b), Investment Manager shall not provide, or otherwise be responsible for, the maintenance of books and records, reporting, audit, tax, or other general administrative services with respect to the Account.

(b) Investment Manager shall provide Client with a written monthly and/or quarterly report identifying the inventory of the Assets in the Account and the Transactions in the Assets for the subject period. For purposes of this Section 2(b), Investment Manager will be deemed to have satisfied the requirement of providing a written report by giving Client secure online access to Client's Account containing applicable Transactions, investments, and associated reporting for the subject period.

(c) Investment Manager shall have no responsibility for the accuracy or completeness of any information provided to Investment Manager by Client.

(d) Unless Investment Manager otherwise agrees with Client in writing, Investment Manager will not advise or take any action on behalf of Client in any legal proceedings, including bankruptcies or class actions, involving the Assets held in, or formerly held in, Client's Account or the issuers of securities that are included among the Assets of the Account.

(e) To the extent that any securities in the Account have voting rights, Client shall have the option, in its sole discretion, to vote proxies with respect to such securities, and Investment Manager shall not vote any such proxies.

### **Investment Policy Statement.**

Investment Manager agrees to use its best efforts to manage Client's Assets within the Account in accordance with Client's written investment guidelines and restrictions for the management of the Account (the "**Investment Policy Statement**"). Investment Manager shall make investment decisions in accordance with the Investment Policy Statement. Investments in the Assets may be in cash or securities. The Investment Policy Statement applies only to the Assets in the Account being managed by Investment Manager. To the extent that Investment Manager is managing a portion of Client's account strategy (i.e., a partial portfolio), Client shall provide Investment Manager with prompt written notice and identification of Assets that are not part of Client's portfolio and are not being managed by Investment Manager to allow for Investment Manager's initial and ongoing securities review for compliance with the Investment Policy Statement. Investment Manager will use its best efforts to obtain the "**best execution**" in connection with the purchase and sale of any legacy securities. Prior to the first trade of an Asset in the Account, Investment Manager, after due diligence review of any legacy securities, reserves the right to liquidate or decline to accept any legacy securities that are not consistent with the Investment Policy Statement or Investment Manager's review of "best execution" of trades in Assets of the Account. In the event the Client's Investment Policy Statement is updated, Client will promptly provide Investment Manager with the amended Investment Policy Statement, from time to time, and Investment Manager shall implement such amended Investment Policy Statement as soon as practicable after being provided with the amended Investment Policy Statement. Notwithstanding anything in this Section 3 to the contrary, in no event will Investment Manager follow any provision of the Investment Policy Statement or any provision of this Agreement that Investment Manager determines would contravene any applicable law, rule, or regulation of any governmental authority or securities exchange to which Investment Manager is subject, provided that Investment Manager shall give Client reasonable written notice of any such determination.

### **Custody of Assets.**

(a) Investment Manager shall not have authority to take or hold custody or possession of any Assets of the Account or to cause a Designated Custodian (as defined in this Section 4(a)) below) to deliver Assets or pay cash to Investment Manager, other than with respect to Investment Manager directly billing the Account, and receiving from the Account, the Management Fee payable to Investment Manager under Section 5 this Agreement in accordance with the Investment Advisers Act of 1940, as amended (the "**Advisers Act**") and Rule 206(4)-2 thereunder or other applicable law. Client shall, by written notice provided in accordance with this Agreement, designate one or more custodians that will be a "qualified custodian" under Rule 206(4)-2 of the

Advisers Act (collectively, the “**Designated Custodian**”). The Parties agree that the Designated Custodian shall have the sole responsibility to consummate and settle all purchases, sales, deliveries, receipts, and other Transactions made with respect to the Account, the collection of all income of the Account (including, but not limited to, interest and dividends), and the acquisition and safekeeping of the Assets comprising the Account. Investment Manager shall not have any rights or access to the Assets or the Account except as specifically set forth in this Agreement.

(b) Client agrees to promptly furnish, or to cause the Designated Custodian to promptly furnish, to Investment Manager, all data and information Investment Manager may reasonably request to establish the Account and render the Services. Client acknowledges that, in accordance with the Advisers Act, it receives custodial statements at least quarterly from the Designated Custodian. The Designated Custodian further acknowledges that such statements set forth the amount of funds and each Asset in the Account at the end of each reporting period (which is no less frequent than quarterly) and identify all Transactions in the Account during such period. Client acknowledges it has the responsibility to reconcile the report from Investment Manager with the statement from the Designated Custodian and to notify Investment Manager immediately if there are any discrepancies.

(c) Client shall instruct the Designated Custodian to (i) carry out all Transactions directed, in writing or electronically, by Investment Manager, (ii) confirm to Investment Manager in writing or electronically, all completed Transactions, and (iii) cooperate with Investment Manager in its performance of the Services under this Agreement.

(d) Investment Manager shall instruct all brokers and dealers executing orders on behalf of the Account (i) to forward to the Designated Custodian and Client copies of all confirmations promptly after execution of Transactions, and (ii) that the settlement process for all Transactions shall be delivery vs. payment (DVP).

(e) Client will provide Investment Manager with a certificate setting forth the names and specimen signatures of the individuals who are authorized to act on behalf of Client, and the Client agrees to inform Investment Manager promptly in writing of any change of such authorized individuals. Investment Manager is entitled to rely, without independent investigation, upon any notice, instruction, direction, or communication that has been executed by an individual who is so identified in such certificate as authorized to act on behalf of Client or the Designated Custodian.

(f) Client will provide Investment Manager with prompt written notice in advance of engaging a new Designated Custodian or Sub-custodian in connection with the Account.

#### **Consent to Electronic Delivery of Documents and Signatures.**

(a) Client consents to the delivery of documents related to the Services electronically, as described below (“**Consent to Electronic Delivery**”).

(b) Client agrees and acknowledges that delivery of documents may be via electronic media, including, but not limited to, a PDF file to the email addresses provided to Investment Manager by Client, or via secure online access to such documents. Client acknowledges that it has access to this media and the ability to print and/or download the information provided thereby.

(c) Client will provide Investment Manager with appropriate email addresses for sending electronic information consistent with the Consent to Electronic Delivery by submitting a Client Information Profile in the form provided by Investment Manager. Client will notify Investment Manager in writing if delivery should be made to any additional email addresses or if delivery to any of the initially provided e-mail addresses should be discontinued. It is Client's responsibility to give notice to Investment Manager of any updates regarding changes to any authorized email addresses. The Consent to Electronic Delivery is valid until such consent is revoked by Client and provided, in writing, to Investment Manager. Occasional requests for paper documents will not constitute revocation of Consent to Electronic Delivery.

(d) Documents subject to this Consent to Electronic Delivery include Investment Manager's Form ADV, Part 1, Part 2A firm brochure and Part 2B brochure supplement, Account reports and reviews and other information regarding Account activity, invoices, tax information and any disclosure or notification that is required under this Agreement, applicable regulations, other regulatory communications, and Investment Manager's Privacy Policy information.

(e) By signing this document, Client agrees to have reviewed this disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents.

#### **Brokerage and Aggregated Transactions.**

Client hereby agrees that Investment Manager shall have full authority and discretion to select brokers, dealers, or counterparties through whom any Transaction in respect of the Account shall be executed. In connection with the selection of such brokers, dealers and counterparties, and the placing of such orders, Investment Manager will seek the "best execution," as described more fully in its Form ADV Part 2A. In addition, Client acknowledges that Investment Manager may aggregate trades placed on behalf of Client with trades placed on behalf of Investment Manager's other clients, so long as such trades are placed for the benefit of Client, within Client's investment guidelines, and are in accordance with Investment Manager's policies described in its Form ADV Part 2A.

#### **Client's Representations, Warranties and Covenants.**

Client hereby represents and warrants to Investment Manager that:

(a) It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization.

(b) Client's execution, delivery, and performance of this Agreement does not violate or conflict with any agreement or obligation to which Client is a party or by which Client or its property is bound, whether arising by contract, operation of law, or otherwise.

(c) This Agreement has been duly authorized by all required entity action of Client, and, when executed and delivered, will be a legal, valid, and binding agreement of Client, enforceable against Client in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or other similar Laws affecting the enforcement of creditors' rights

generally from time to time in effect and the availability of equitable remedies (regardless of whether enforceability is considered in a proceeding at law or in equity). Client will provide to Investment Manager such evidence of such authority as Investment Manager may reasonably require, whether by way of a certified resolution or otherwise.

(d) Client has received, prior to, or contemporaneously with, the Effective Date: (i) Investment Manager's current Form ADV Part 2A and Part 2B (<https://adviserinfo.sec.gov/firm/summary/159189>); and (ii) to the extent required by Regulation S-P (or similar federal or state law or regulations), a copy of Investment Manager's Privacy Policy (<https://publictrustadvisors.com/privacy-policy>) collectively, with the items listed in (i), the "**Disclosure Documents**". Client further acknowledges that Client has, together with representatives of Investment Manager, carefully reviewed this Agreement and any applicable Disclosure Documents or other documents provided in connection herewith, has had the opportunity to discuss such materials with representatives of Investment Manager prior to execution of this Agreement, and understands the matters set forth in the Disclosure Documents. In the event of a material change to any Disclosure Documents, Investment Manager shall provide Client with revised Disclosure Documents no later than 60 days following the change.

(e) Client will provide Investment Manager with all information and documentation which Investment Manager requests as being reasonably necessary or appropriate to provide its services.

(f) The foregoing representations and warranties shall be continuing during the Term, and if at any time during the Term any event occurs which would make any of the foregoing representations and warranties untrue or inaccurate in any material respect, Client promptly will notify Investment Manager of such event and of any resulting untruths or inaccuracies.

### **Investment Manager's Representations, Warranties and Covenants.**

Investment Manager hereby represents and warrants to Client that:

(a) It is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization.

(b) Investment Manager's execution, delivery, and performance of this Agreement does not violate or conflict with any agreement or obligation to which Investment Manager is a party or by which Investment Manager or its property is bound, whether arising by contract, operation of law, or otherwise.

(c) This Agreement has been duly authorized by all appropriate action of Investment Manager, and, when executed and delivered, will be a legal, valid, and binding agreement of Investment Manager, enforceable against Investment Manager in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or other similar Laws affecting the enforcement of creditors' rights generally from time to time in effect and the availability of equitable remedies (regardless of whether enforceability is considered in a proceeding at law or in equity). Investment Manager will provide to Client such evidence of such authority as Client may reasonably require, whether by way of a certified resolution or otherwise.

(d) As of the Effective Date, Investment Manager is a registered investment adviser under the Advisers Act, and, at all times during the Term, Investment Manager shall be either registered under the Advisers Act or exempt from such registration.

(e) Neither Investment Manager nor its Affiliates are subject to any order, judgment or decree described in Section 203(e) or (f) of the Advisers Act or has received notice that it is currently under investigation by any regulatory body that would be reasonably expected to give rise to such an order, judgment, or decree.

(f) The foregoing representations and warranties shall be continuing during the Term, and if at any time during the Term any event occurs which would make any of the foregoing representations and warranties untrue or inaccurate in any material respect, Investment Manager promptly will notify Client of such event and of any resulting untruths or inaccuracies.

#### **Other Investment Manager Clients.**

(a) Investment Manager and its Affiliates perform, among other things, investment advisory services for accounts other than the Account. Client recognizes that Investment Manager and its Affiliates may provide investment management services to other clients, regardless of whether the investment policies of such clients are similar to or differ from those that Investment Manager hereby undertakes to perform with respect to the Account. As used in this Agreement, the term “**Affiliate**” of a person means any other person who controls, is controlled by, or is under common control with, such person.

(b) Investment Manager and its Affiliates may give advice and act in the performance of their duties to other clients that may differ from advice given, or the timing and nature of action taken, with respect to the Account. Nothing in this Agreement shall be deemed to impose upon Investment Manager any obligation to purchase or sell or recommend for purchase or sale for the Account any security or other property that Investment Manager, or its members, officers or employees, may purchase or sell, or recommend for purchase or sale, for their own account or the account of any other client of Investment Manager, so long as it is Investment Manager’s policy and practice, to the extent practicable, to allocate investment opportunities to the Account over a period of time on a fair and equitable basis relative to its other clients.

#### **Standard of Care.**

It is agreed that the standard of care applicable to Investment Manager under this Agreement is that owed pursuant to applicable federal and state law, including the Advisers Act. At a minimum and not in lieu of greater standards of care in applicable state and federal law, Investment Manager will perform all duties and responsibilities in this Agreement with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent investment expert acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like objectives. Nothing in this Agreement shall in any way constitute a waiver or limitation of any right of Client or any person under federal and state securities laws. Client acknowledges that Investment Manager makes no representation or warranty, express or implied, that any level of performance or investment results will be achieved

by the Account or that the Account will perform comparably with any standard or index, including other clients of Investment Manager. Investment Manager shall have no responsibility or liability in the selection of investments other than investments for the Account, or otherwise regarding the investment policies or strategy, or diversification of investments of Assets of Client that are not part of the Account or subject to the Investment Policy Statement.

**IN WITNESS WHEREOF**, the Water Authority and the Contractor have executed this Agreement as of the last date written below.

**ALBUQUERQUE BERNALILLO COUNTY  
WATER UTILITY AUTHORITY**

**CONTRACTOR: PUBLIC TRUST  
ADVISORS, LLC**

**Approved By:**

\_\_\_\_\_  
Mark S. Sanchez, Executive Director

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

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

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

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

**Reviewed by:**

\_\_\_\_\_  
Charles Kolberg, General Counsel

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

## Exhibit B

### Schedule of Fees

The fees shall be calculated in accordance with the schedule of fees below (the “**Management Fee**”), payable in monthly installments in arrears. The Management Fee is based on the average daily market value, plus accrued interest, of the Assets under management in the Account (including cash and cash-equivalents) and based on the number of days in the month and year for the specified billing cycle. Additional services inclusive of the Management Fee include fees for custody services related to the Account.

#### **Fee Schedule**

First \$50,000,000 – 10 basis points or 0.010%

Over \$50,000,000 – 8 basis points or 0.08%

The maximum fee to be charged over the term of this Agreement shall not exceed \$600,000 unless agreed to in writing between both parties.

The management fee, which is exclusive of any applicable gross receipts taxes, shall constitute full and complete compensation for the services provided under this Agreement. Any applicable gross receipts taxes shall be computed and added as a separate item to the invoice for payment. Applicable gross receipts taxes shall be paid as long as they are invoiced for payment during the term of this Agreement.

Investment Manager will send Client a copy of its invoice for the Management Fee for each billing period, and Client shall remit payment in full for the full amount of such invoice within 30 days of the date of the invoice.