

**RETIREMENT PLAN INVESTMENT ADVISORY AGREEMENT**  
**(For Plans not subject to ERISA)**

Plan Sponsor: City of Carson

Plan Sponsor Address: 701 E. Carson St., Carson, CA 90745

Plan Name: City of Carson 457(b) Plan  
City of Carson 401(a) Plan

Plan Advisor: Mark Shuster

Investment Adviser: SFG Retirement Plan Consulting, LLC  
225 South Lake Avenue, Suite 600  
Pasadena, California 91101

Date: 5/1/2015

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The Plan Sponsor, as the responsible plan fiduciary for the Plan, engages the Investment Adviser ("Adviser") to provide the services described in this Agreement according to the terms of this Agreement.

1. **Fiduciary Authority**

The Plan is a participant-directed plan that is subject to the requirements of the Internal Revenue Code (the "Code") and the Plan Sponsor has the authority to designate investment alternatives under the Plan and the related trust, and to enter into an Agreement with third parties to assist in these and related duties. In this capacity, the Plan Sponsor (or, to the extent the Plan Sponsor has delegated its investment authority to an investment committee, the committee) is referred to as the "Client."

2. **Services**

Adviser agrees to provide the following services to Client, the Plan and the Plan participants:

- (A) **Fiduciary Services:** Adviser will perform the Fiduciary Services described in Appendix A.
- (B) **Non-Fiduciary Services:** Adviser will perform the Non-Fiduciary Services described in Appendix B.

**EXHIBIT NO. 04**



- (C) Client acknowledges that Adviser has no responsibility to provide any services related to the following types of assets: real estate (except for real estate funds and publicly traded REITs); stock brokerage accounts or mutual fund windows; participant loans; non-publicly traded partnership interests; other non-publicly traded securities (other than collective trusts and similar vehicles); or other hard-to-value securities or assets. Such assets (except for real estate funds, publicly traded REITs, and collective trusts and similar vehicles) shall be referred to collectively as "Excluded Assets." The Excluded Assets shall be disregarded in determining the Fees payable to Adviser pursuant to Section 3 of this Agreement, and the Fees shall be calculated only on the remaining assets (the "Included Assets").

3. **Fees**

- (A) The compensation, direct and indirect, of the Adviser for the performance of the Services is described in Appendix C.
- (B) Except as shown in Appendix C, Adviser will not receive any other compensation, direct or indirect, for its services under this Agreement. If Adviser receives any other compensation for the Services, Adviser will disclose the amount of such compensation, the services provided for such compensation, the payer of such compensation, and a description of Adviser's arrangement with the payer to Client in accordance with Section 10(A) and will offset that compensation against its stated fees or will retain such amount as additional compensation for the Services

4. **Fiduciary Status: Limitations on Functions**

Client acknowledges that:

- (A) In performing the Fiduciary Services, Adviser is acting as a fiduciary of the Plan and as a registered investment adviser under the Investment Advisers Act of 1940. Client acknowledges that it has retained, and will exercise, final decision-making authority and responsibility for the implementation of any recommendations or advice rendered to Client by Adviser as a Fiduciary Service.
- (B) In performing the Non-Fiduciary Services, Adviser is not acting as a fiduciary of the Plan.
- (C) In performing both Non-Fiduciary Services and Fiduciary Services, Adviser does not act as, nor has Adviser agreed to assume the duties of, a trustee or the Plan Administrator, and Adviser has no discretion or responsibility to interpret the Plan documents, to determine eligibility or participation under the Plan, or to take any other action with respect to the management, administration or any other aspect of the Plan.



- (D) Adviser does not provide legal or tax advice.
- (E) Investments are subject to various market, political, currency, economic, and business risks, and may not always be profitable. As a result, Adviser does not and cannot guarantee financial results.
- (F) Adviser may, by reason of performing services for other clients, from time to time acquire confidential information. Client acknowledges and agrees that Adviser is unable to divulge to the Client or any other party, or to act upon, any such confidential information with respect to its performance of this Agreement.
- (G) Adviser is entitled to rely upon all information provided to Adviser (whether financial or otherwise) from reputable third parties or by Client, Client's representatives or third-party service providers to Client, the Plan or the Adviser, without independent verification. Client agrees to promptly notify Adviser in writing of any material change in the financial and other information provided to Adviser and to promptly provide any such additional information as may be reasonably requested by Adviser.
- (H) Adviser will not be responsible for voting (or recommending how to vote) proxies of any publicly traded securities (including mutual fund shares) held by the Plan (or its trust). Responsibility for voting proxies of investments held by the Plan or its trust remain with Client (or, if applicable, the Plan participants).
- (I) Client understands that Adviser (i) may perform other services for other clients, (ii) may charge a different fee for other clients, and (iii) may give advice and take action that is different for each client even when retirement plans are similar.

5. **Representations of Client**

Client represents and warrants as follows:

- (A) It is the "responsible plan fiduciary" for the control and/or management of the assets of the Plan, and for the selection and monitoring of service providers for the Plan. Adviser is entitled to rely upon this statement until notified in writing to the contrary.
- (B) The person signing the Agreement on behalf of Client has all necessary authority to do so.
- (C) The execution of this Agreement and the performance thereof is within the scope of the investment authority authorized by the governing instrument and/or applicable laws. The signatory on behalf of Client represents that the execution of the Agreement has been duly authorized

by appropriate action and agrees to provide such supporting documentation as may be reasonably required by Adviser.

- (D) The Plan and related Trust permit payment of fees out of Plan assets. Client has determined that the fees charged by Adviser are reasonable and are the obligation of the Plan; however, if Client desires, it may pay the fees directly, rather than with Plan assets.

6. **Representation of Adviser**

Adviser represents as follows:

- (A) It is registered as an investment adviser under the Investment Advisers Act of 1940.
- (B) It has the power and authority to enter into and perform this Agreement.

7. **Standard of Care**

- (A) Adviser will perform the Fiduciary Services described in Appendix A to the Plan in accordance with the standard of care of the prudent man rule set forth in ERISA Section 404(a)(1)(B) or comparable state law.
- (B) Adviser will perform the Non-Fiduciary Services described in Appendix B using reasonable business judgment and shall not be liable for any liabilities and claims arising thereunder, unless directly arising from Adviser's intentional misconduct or gross negligence.

8. **Termination**

Either party may terminate this Agreement upon 30 days prior written notice to the other party. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to such termination, and such liabilities and obligations (together with the provisions of section 7 and subsections 4(G) and 10(H)) shall survive any expiration or termination of this Agreement. Upon termination, Adviser will have no further obligation under this Agreement to act or advise Client with respect to services under this Agreement.

9. **Receipt of Disclosure**

Client undertakes to review and consider the disclosures made by Adviser (including in this Agreement and the Form ADV Part 2A), in particular the portions related to services, compensation, and potential conflicts of interest, as well as the remainder of the disclosures concerning, among other matters, background information such as educational and business history, business practices such as the types of advisory services provided, the methods of securities analysis used, and the like.

10. **Insurance Coverages**

The Adviser shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

- (A) General Liability Insurance (Using the most current ISO Occurrence Form). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence.
- (B) Worker's Compensation Insurance. Adviser warrants and affirms that it has no employees and that all associates working on matters related to the City of Carson are either independent contractors of Adviser or are employed with AXA Advisors, LLC and thus are separately covered under AXA's workers compensation insurance. Therefore, this requirement is waived.
- (C) Automotive Insurance (Form CA 0001 (Ed 1/87 Using the most current ISO Occurrence Form) including "any auto" and endorsement CA 0025 or equivalent). Adviser warrants and affirms to the City that it shall not use any owned, non-owned, leased, hired cars and any automobile in providing services under this Agreement. Therefore, this requirement is waived
- (D) Professional Liability. Professional liability insurance appropriate to the Adviser's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Adviser's services or the termination of this Agreement. During this additional 5-year period, Adviser shall annually and upon request of the City submit written evidence of this continuous coverage.
- (E) Subcontractors. Adviser shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

11. **General Insurance Requirements**

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional



insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Adviser's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. As part of the Blanket Coverage the City can be named as an additional insured.

Adviser will maintain the required levels of coverage and will notify City of any amendments in writing within ten (10) days of the effective date. No work or services under this Agreement shall commence until the Adviser has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

**CANCELLATION:**

Adviser will notify City of any cancellations in writing within ten (10) days of the effective date.[to be initialed]

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Adviser Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Adviser performs; products and completed operations of Adviser; premises owned, occupied or used by Adviser; or any automobiles owned, leased, hired or borrowed by Adviser. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Adviser's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Adviser shall procure a bond guaranteeing payment of losses and related investigations, claim

administration, defense expenses and claims. The Adviser agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Adviser may be held responsible for the payment of damages to any persons or property resulting from the Adviser's activities or the activities of any person or persons for which the Adviser is otherwise responsible nor shall it limit the Adviser's indemnification liabilities as provided in Section 12.

In the event the Adviser subcontracts any portion of the work in compliance with this Agreement, the contract between the Adviser and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Adviser is required to maintain pursuant to this Agreement, and such certificates and endorsements shall be provided to City.

## **12. Indemnification**

To the full extent permitted by law, Adviser agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Adviser, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Adviser is legally liable ("indemnitors"), or arising from Adviser's or indemnitors' reckless or willful misconduct, or arising from Adviser's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

- (A) Adviser will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
- (B) Adviser will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Adviser hereunder; and Adviser agrees to save and hold the City, its officers, agents, and employees harmless therefrom;
- (C) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Adviser for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Adviser hereunder, Adviser agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its



officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Adviser shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Adviser shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Adviser in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Adviser and shall survive termination of this Agreement.

#### **Sufficiency of Insurer**

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Adviser agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

### **13. General Provisions**

- (A) **Notices.** Any and all notices required or permitted under this Agreement shall be in writing and shall be sufficient in all respects if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested and postage prepaid, or (iii) sent via a nationally recognized overnight courier service to the address on the first page of this Agreement, such other address as any party shall have designed by notice in writing to the other party.
- (B) **Assignability.** This Agreement is not assignable by either Party hereto without the prior written consent of the other Party.



- (C) Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, survivors, administrators and assigns.
- (D) Entire Understanding and Modification. This Agreement constitutes and contains the entire understanding between the parties and supersedes all prior oral or written statements dealing with the subject matter herein. .
- (E) Severability. If any one or more of the provisions of this Agreement shall, for any reason, be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be enforced as if such illegal or invalid provision had not been contained herein.
- (F) Headings. All headings used herein are for ease of reference only and in no way shall be construed as interpreting, decreasing or enlarging the provisions of this Agreement.
- (G) Applicable Law. The laws of the State of California shall govern this Agreement in all respects, including but not limited to the construction and enforcement thereof, unless otherwise preempted or superseded by federal law. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that a court of competent jurisdiction in Los Angeles County shall be the sole venue and jurisdiction for the bringing of such action.
- (H) No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Adviser and by the City Council.
- (I) Waiver of Limitation. Nothing in this Agreement shall in any way constitute a waiver or limitation of any rights which Client or Plan or any other party may have under federal or state securities laws.

The Parties have caused this Agreement to be executed by their duly authorized officers as of the date set forth above. This Agreement shall not be binding on Adviser until accepted by it, in writing, as indicated by its signature below.

Plan Sponsor\*

Adviser

City of Carson

SFG Retirement Plan Consulting, LLC

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Plan Sponsor Signature

\_\_\_\_\_  
Adviser Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\*The Plan Sponsor is signing this Agreement both as the employer that sponsors the Plan and as the fiduciary responsible for selecting the Plan's investments and engaging its service providers.

## APPENDIX A

Adviser will perform the following fiduciary services:

- (i) Provide non-discretionary investment advice to Client about investment alternatives available for the Plan in accordance with the Plan's investment policies and objectives. Client shall have the final decision-making authority regarding the initial selection, retention, and removal of investment options.
- (ii) Assist in the development of an investment policy statement (IPS). The IPS establishes the investment policies and objectives for the Plan, and shall set forth the asset classes and investment categories to be offered under the Plan, as well as the criteria and standards for selecting and monitoring the investments. Client shall have the ultimate responsibility and authority to establish such policies and objectives and to adopt the investment policy statement.
- (iii) Prepare periodic investment advisory reports that document consistency of fund management and performance to the guidelines set forth in the IPS and make recommendations to maintain or remove and replace investment options.
- (iv) Meet with Client on a periodic basis to discuss reports and recommendations.
- (v) Provide investment advice to the Client with respect to the selection of a default investment alternative for participants who fail to make an investment election.

Other services as follows:

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## **APPENDIX B**

### **NON-FIDUCIARY SERVICES**

#### **Adviser will perform the following Non-Fiduciary services:**

- (i) Assist in the education of the participants in the Plan about general investing principles and the investment alternatives available under the Plan. Adviser will not provide investment advice concerning the appropriateness of any investment option for a particular participant or beneficiary under the Plan and will not be acting as an ERISA fiduciary for purposes of providing educational services.
- (ii) Assist in the group enrollment meetings designed to increase retirement plan participation among employees. Adviser will not be acting as a fiduciary for purposes of providing enrollment support services.
- (iii) Distribute plan level newsletters to Client
- (iv) Distribute employee level memos to Client for distribution to their Participants

#### **Other services as follows:**

- (v) Assist Client in the transition of record-keepers and/or plan providers
- (vi) Assist Client in their communications with the Vendor
- (vii) Assist Client in coordinating employee education meetings
- (viii) Assist Client in resolving Vendor service issues
- (ix) Provide initial (one-time) RFP services and plan fee negotiations on behalf of new clients which will generate compensation as described in Appendix C.

## APPENDIX C

### FEE SCHEDULE

Fees are billed quarterly in arrears.

Such quarterly period is the "Billing Period."

Adviser compensation will be deducted from plan assets and paid to Advisor by Voya as stated in Section I of the "City of Carson Deferred Compensation Program Administrative Services Agreement Between The City of Carson and Voya" dated May 1, 2015 and amended December 15, 2015.

For purposes of determining and calculating fees, Plan assets are valued net of Excluded Assets as of the last day of a calendar quarter, unless otherwise indicated.

The annual fee for services shall be calculated as follows:

Advisory Fee Schedule: 0.21% bps

Unless otherwise indicated, annual fees are based on the market value of the Plan assets. The fee will be based upon the market value of the Plan assets on the last business day of the previous Billing Period (without adjustment for anticipated withdrawals by Plan participants or other anticipated or scheduled transfers or distributions of assets) and will be due and payable within 30 days.

If this Agreement is terminated prior to the end of a Billing Period, Adviser shall be entitled to a fee, prorated for the number of days in the Billing Period prior to the effective date of termination, based on the market value of the Plan assets on the effective date of termination and will return to the Plan any amount received in advance of the Billing Period in excess of such amount.