



San Bernardino County Employees'  
Retirement Association

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**SAN BERNARDINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION  
REQUEST FOR QUALIFICATIONS (RFQ)  
FOR  
RECORDS MANAGEMENT CONSULTING SERVICES  
(Investment Department)**

**JANUARY 25, 2023**

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**Table of Contents**

1.	Purpose and Scope of Services .....	2
2.	Administrative Information.....	4
3.	Contractual Requirements.....	6
4.	Timeline for Evaluation .....	6
5.	Form of Submissions.....	7
	Appendix A      Minimum Qualifications .....	9
	Appendix B      Signature Page.....	10
	Appendix C      Questionnaire .....	12
	Appendix D      Contract.....	13

## PART 1 PURPOSE AND SCOPE OF SERVICES

### A. PURPOSE

The SAN BERNARDINO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ("SBCERA") is issuing this Request for Qualifications ("RFQ") to formally evaluate technology consulting firm(s) ("Consultant" or "Firm") to assist the investment department in streamlining its middle and back-office functions. SBCERA seeks Firms that have experience in leading projects from inception to completion by coordinating and integrating a multitude of technology platforms for the investment department's existing records, streamlining record retrieval, provide data on record status, and importantly integrating information within the record into usable data.

### B. BACKGROUND

SBCERA was established in 1945 under the provisions of the County Employees Retirement Law of 1937 ('37 Act or CERL). It is a cost-sharing, multiple-employer defined benefit public pension plan that operates under CERL, the California Public Employees' Pension Reform Act of 2013 (PEPRA)(California Government Code Section 7522, et seq.), and other applicable law. SBCERA administers service retirement, disability retirement, and death benefits on behalf of over 44,000 members and beneficiaries. SBCERA serves 16 employers throughout California. Oversight of SBCERA is through an independent Board of Retirement (Board), which serves as the fiduciary charged with policy oversight of the administration and investment of the Plan. The Board consists of nine members and three alternate members. The Chief Executive Officer and senior staff administer day-to-day management of the Plan. Internal and external legal counsel advises SBCERA.

The SBCERA investment portfolio, approximately \$13.0 billion in assets, is diversified globally and across all asset classes. The Plan invests in both fund and direct investments through external investment managers. With several of its largest and/or strategic manager relationships, SBCERA uses a master account structure in which a single investment contract governs multiple underlying investments across the manager's investment platform. The Plan uses an overlay manager to implement its Informed Rebalancing program. The Board has delegated to its Chief Investment Officer (CIO) the responsibility to manage the investment program subject to Board-approved policies.

Further information about SBCERA is available from its website at [www.sbcera.org](http://www.sbcera.org).

### C. CHALLENGE

There are two major issues the investment department are trying to solve. First, to automate document retrieval from investment manager portals that use multi-factor authentication protocols. Second is to collect and house investment information from investment manager presentations to our own notes into a single location that has search features and allow for management diagnostics translating information into data i.e., how many meetings with xyz manager were documented during a quarter and integrate that information with our custodian data, abstracts of manager contacts etc.

As part of the day-to-day management of the investment program, the investment department receives notices of available documents on various investment manager portals. The portals themselves have multi-factor authentication protocols that make collecting the documents a manual and time-consuming process.

Of the two challenges, automating the retrieval of documents is our highest priority.

### D. SCOPE OF SERVICES

The Firm is expected to assist SBCERA in the following scope of services:

1. Evaluate existing programs and processes.
2. Document desired future state for an integrated investment records management program (“desired solution”).
3. Assist in identifying commercially available off the shelf solutions or assist in determining potential decision to build a custom solution, including a high-level cost analysis for the implementation of such solutions.
4. If appropriate, provide recommendations for technical architecture to support ongoing records capture with relevant considerations for record types/flows.
5. Recommend an approach for data migration of existing investment information in disparate records into the desired solution.
6. Recommend an approach for future extraction of records into the desired solution.
7. Provide ongoing reporting on project schedule, budget and scope, as requested by SBCERA.

The scope of services defined in any final contract between SBCERA, and the Firm will supersede this section of the RFQ if different from the scope of services defined here.

## PART 2

### ADMINISTRATIVE INFORMATION

#### A. INSTRUCTIONS FOR SUBMITTING RFQ

1. Firms responding to this RFQ must provide answers to the questions posed in Appendix C of this RFQ.
2. Firms submitting qualifications should provide a cover letter stating that the Firm meets all the minimum requirements listed in Appendix A of this RFQ and that the Firm is able to deliver on the scope of work outlined in Part 1. An officer of the Firm or a designated agent empowered to bind the Firm in a contract shall sign the cover letter. The Firm must also identify in the cover letter any sections of the Submission that they consider confidential.
3. Submission answers should follow the order of questions in Appendix C of this RFQ. Please follow the directions in Appendix C and complete the questionnaire in word or PDF format.
4. Firm must clearly reference supporting material to the appropriate question. Please do not use information and materials, which are strictly promotional in nature.
5. RFQ evaluation timeline is outlined in Part 4 of this RFQ.

**Firms must e-mail a complete electronic version of its Submission to [InvestmentsTechRFQ@sbcera.org](mailto:InvestmentsTechRFQ@sbcera.org). Please submit documents in Word or PDF format.**

B. REJECTION OF SUBMISSIONS

1. Firms responding to this RFQ should restrict their Submission to the structure specified in this RFQ. Alternate or substitute structures will be rejected.
2. SBCERA reserves the right to reject any or all Submissions in whole or in part for any reason. SBCERA will not pay for any information requested in this RFQ, nor is it liable for any costs incurred by the submitting Firms.
3. After evaluation of the Submissions, selection, and approval by SBCERA, all Firms will be notified of the outcome by SBCERA.
4. SBCERA reserves the right to not hire or to defer the hiring of a Firm for these consulting services.

C. FIRM OBLIGATIONS

The contents of this RFQ, Submission and any clarifications thereto submitted by the successful Firm may become part of the contractual obligation and may be incorporated by reference into the ensuing contract.

D. DISPOSITION OF SUBMISSIONS

All Submissions become the property of SBCERA and will not be returned to the Firm.

E. SIGNATURE OF FIRM'S AGENT

Any offer made by the Submission and any clarifications to that Submission shall be signed by an officer of the Firm or a designated agent empowered to bind the Firm in a contract.

F. AWARD OF PROJECT

SBCERA reserves the right to award this contract to the Firm which will provide the best match to the requirements of the RFQ. The successful Firm will be determined in accordance with the evaluation criteria defined by SBCERA.

G. EVALUATION OF SUBMISSIONS

SBCERA will evaluate the Submissions. SBCERA may conduct finalist interviews and may conduct office visits/virtual meetings with some candidate Firms. Determination of whether to conduct interviews and which Firms to interview is at the sole discretion of SBCERA.

## PART 3

### CONTRACTUAL REQUIREMENTS

Any contract between SBCERA and the successful Firm may incorporate the terms of this RFQ but may also differ after further discussion with the selected Firm. The form of the contract is provided in Appendix D. Any material changes to the proposed contract must be made during this RFQ process [see Part 5 section B].

## PART 4

### TIMETABLE FOR RFQ EVALUATION

SCHEDULE OF EVENTS (all subject to change at discretion of SBCERA):

January 25, 2023	RFQ is posted on SBCERA's website
February 22, 2023	INQUIRIES – Inquiries and requests for interpretation or clarification of the RFQ from Firms will be accepted via email. Requesting that all inquiries be received no later than 3:00 pm Pacific, February 22, 2023. Inquiries received after that time will not be accepted. Email inquiries to <a href="mailto:InvestmentsTechRFQ@sbcera.org">InvestmentsTechRFQ@sbcera.org</a> .
February 27, 2023	RESPONSE TO INQUIRIES - Responses to and addenda resulting from requests for interpretation shall be posted to SBCERA's website at <a href="https://www.sbcera.org/about">https://www.sbcera.org/about</a> , no later than February 27, 2023.
March 17, 2023	QUALIFICATIONS DUE – Firm responses should be received by SBCERA electronically by 3:00 pm Pacific.  Late submissions will not be accepted.
April 21, 2023	EVALUATION AND SELECTION – Notifications will be provided by SBCERA.

## PART 5

### FORM OF SUBMISSIONS

**Any Submission that does not adhere to the following format and does not address each specification and requirement within the RFQ and the applicable forms may be eliminated from further consideration:**

- A.** Each Submission shall contain an index or table of contents near the front of the Submission listing the materials included in the Submission. Each Submission must be submitted in 8 ½" x 11"- page format and all pages must be numbered.

Firms shall complete, sign and attach to the Submission a completed and signed Signature Page (Appendix B). This page must be signed by a signatory with the authority to bind the Firm. The Signature Page must contain the following statement: "By signing this Signature Page, the undersigned representative has the authority to bind the Firm, and by submitting a Submission the Firm agrees to perform the services required by such RFQ and to accept and comply with all requirements, specifications, terms and conditions of the RFQ if selected. Firm further agrees to be bound by this Submission for a minimum of 12 months from the date the RFQ was issued." Additionally, by signing the Signature Page contained in Appendix B, the Firm agrees to accept and comply with all the terms and conditions of the RFQ.

Any Submissions not bearing the appropriate signatures on the Signature Page contained in Appendix B will not meet the minimum qualification requirements of the RFQ and will not be considered further in the evaluation process.

- B.** The Firm may attach such other supplementary material to explain its Submission and, in this section, identify any material contractual term changes and conditions that the Firm requests.
- C.** The California Public Records Act, Government Code Sections 6250, et seq., provides that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the state. Public records are defined as any writing relating to the conduct of the public's business and are open to inspection during normal business hours. See Appendix B for additional details.
- D.** Responses to this RFQ become the exclusive property of SBCERA. At such time if SBCERA recommends a Firm to the Board, and such recommendation appears on a public agenda, all Submissions submitted shall be regarded as public records, subject to disclosure upon request. Exceptions will be those elements in each Submission, which are defined by law as business or trade secrets and otherwise exempt from disclosure under the Public Records Act and are so reasonably and conspicuously marked as "TRADE SECRETS", "CONFIDENTIAL", or "PROPRIETARY" in red ink within the Submission. SBCERA shall not in any way be liable or responsible for the disclosure of any such records including, without limitations, those so marked, if disclosure is deemed to be required by law or by an order of a court of competent jurisdiction. The Firm shall indemnify SBCERA for any and all attorney's fees awarded against SBCERA based on SBCERA's refusal to disclose those

elements of the Submission marked by the Firm with a restrictive legend. Firms shall not mark their entire Submission as confidential. Such an attempted designation is not valid and will not be honored and will instead likely result in the entire Submission being treated as a non-confidential public record.

- E. Submission by a Firm constitutes a complete waive of any claims whatsoever against SBCERA, and/or its agents, officers, or employees, that SBCERA has violated a Firm's right to privacy, disclosed trade secrets, or caused any damage by allowing the Submission to be inspected.

## APPENDIX A

### Request for Qualifications RECORDS MANAGEMENT CONSULTING SERVICES Investment Department

#### MINIMUM QUALIFICATIONS COMPLIANCE

Each Firm must certify that it meets all the following minimum qualifications as of the date its Submission is provided to SBCERA. To certify, the Firm shall complete and submit all forms required by this RFQ and sign the Signature Page contained in Appendix B.

Firm must affirm the following minimum requirements:

1. The Firm complies with and will comply with all relevant State and Federal regulations.
2. The Firm recognizes SBCERA may opt to make changes to the scope of work based on the response to the RFQ process.
3. The Firm recognizes SBCERA may opt to pause, discontinue, or cancel the RFQ process.
4. The members of the consulting team have been working together for at least three years.
5. The Firm's lead consultant assigned to SBCERA must have at least 10-years of relevant technology consulting experience.
6. The Firm has consulted on records management, or closely related activity for at least 3 financial institutions (insurance company, investment firm, bank, pension fund, or other similarly situated client) in the last 3-years.
7. The Firm's resources are sufficient to engage with SBCERA for the proposed services.

## APPENDIX B

### Request for Qualifications RECORDS MANAGEMENT CONSULTING SERVICES Investment Department

#### 1. MINIMUM QUALIFICATIONS COMPLIANCE

The Firm hereby certifies that it meets all the minimum qualifications detailed in Appendix A.

#### 2. CALIFORNIA LAW

The Firm acknowledges that it has reviewed and is familiar with California Government Code §31595(b). And, acknowledges the following:

(i) SBCERA is a public agency subject to state laws, including, without limitation, (A) the Ralph M. Brown Act (California Government Code Sections 54950 et seq.), which governs meetings for local legislative bodies; and (B) the California Public Records Act (California Government Code Sections 6250 et seq.) (the "Act"), which provides generally that all records relating to a public agency's business, including reports of transactions and proceedings, constitute "public records or files," and are open to public inspection, disclosure, and copying in the manner provided in the Act, unless specifically exempted under the Act; and (ii) the Firm will not make any claim against SBCERA if SBCERA makes available to the public any report, notice or other information it receives from the Firm which SBCERA, in good faith, determines is not exempt from public disclosure under applicable law, including, without limitation, the Act; and (iii) notwithstanding any provisions to the contrary SBCERA shall be entitled to disclose any other information required or permitted to be disclosed under the Act. In the event any information is required or permitted to be disclosed under the Act SBCERA shall, unless prohibited by law, rule, regulation or court order, use reasonable efforts to promptly notify the Firm, in writing, of the information required to be disclosed, which notification shall include the nature of the legal requirement and the extent of the required disclosure, and, to the extent not prohibited by applicable law, SBCERA shall use reasonable efforts to cooperate with the Firm in the event the Firm takes action to preserve the confidentiality of such information consistent with applicable law.

#### 3. TECHNOLOGY CONSULTING AGREEMENT

Should SBCERA and the Firm mutually agree to enter into a consulting agreement, the form of that agreement will be SBCERA's standard services agreement. Any material edits to the agreement must be made during the RFQ submission process [See Part 5 section B]

**APPENDIX B  
Request for Qualification  
Record Management Services Consulting**

**SIGNATURE PAGE**

**FIRM NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_

**E-MAIL ADDRESS:** \_\_\_\_\_

**TELEPHONE #:** \_\_\_\_\_

**FACSIMILE #:** \_\_\_\_\_

**FEDERAL EMPLOYER IDENTIFICATION #:** \_\_\_\_\_

**CONTACT PERSON FOR FIRM:** \_\_\_\_\_

By signing this Signature Page, through the undersigned representative who has the authority to bind the Firm, and by submitting a Submission in response to this RFQ, the Firm agrees to perform the services required by such RFQ and to accept and comply with all requirements, specifications, terms and conditions of the RFQ if selected. Firm further agrees to be bound by this Submission for a minimum of 12 months from the date the RFQ was issued.

**SIGNED BY:** \_\_\_\_\_

**Name:** \_\_\_\_\_

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

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

## APPENDIX C

### Request for Qualification Record Management Services Consulting

#### QUESTIONNAIRE

Instructions:

Please return this questionnaire in word or PDF format.

Submittals should include the following items, along with other material to demonstrate Consultant's expertise and capability:

1. A brief written description of the Consultant's approach to the project.

Please provide a description of the Consultant's typical approach to similar financial record management projects like this one.

2. Please provide a written description of the Consultant's approach to the challenge and scope of work provided in Part 1

3. The expertise of the team assembled by Consultant to carry out the work.

Please provide a list of key personnel that would be available for this project. For those listed, please add a brief description of their general qualifications with specific attention to relevant experience on record management consulting and a listing of key personnel that would be available to work on this project.

4. Please provide a summary of five record management consulting projects either in progress or completed in the last 3-years.

The summaries should be written in case study format:

- a. Identify the key problems and issues from the client
  - b. Establish background information, relevant facts, and the most important issues.
  - c. What solutions did the Firm create
5. Please describe the Firm's overall capability in technology consulting
  6. Please provide an hourly fee schedule for the consulting, and/or a project-based fee.

## **APPENDIX D**

**Request for Qualification  
Record Management Services Consulting**

**Consulting Services Contract**

**AGREEMENT FOR**  
**PROFESSIONAL SERVICES – TECHNOLOGY CONSULTING**

This AGREEMENT FOR PROFESSIONAL SERVICES (hereinafter referred to as “Agreement”) is made and entered into as of \_\_\_\_\_ [Date] in San Bernardino, California, by and between the SAN BERNARDINO COUNTY EMPLOYEES’ RETIREMENT ASSOCIATION (hereinafter referred to as "SBCERA") and [NAME], a [State], [Entity Type] (hereinafter referred to as "CONSULTANTCONSULTANT").

**WHEREAS**, SBCERA was created pursuant to the County Employees Retirement Law of 1937 (hereinafter referred to as the "'37 ACT") and is administered by the Board of Retirement (hereinafter referred to as the "BOARD");

**WHEREAS**, SBCERA’s Chief Executive Officer has authority, pursuant to Administration Policy No. 011, to procure services and execute contracts that do not exceed \$35,000.00 in any given fiscal year; and

**WHEREAS**, CONSULTANT is [description of services the CONSULTANT provides].

**WHEREAS** The CONSULTANT acknowledges that it has reviewed and is familiar with California Government Code §31595(b). And, acknowledges the following: (i) SBCERA is a public agency subject to state laws, including, without limitation, (A) the Ralph M. Brown Act (California Government Code Sections 54950 et seq.), which governs meetings for local legislative bodies; and (B) the California Public Records Act (California Government Code Sections 6250 et seq.) (the “Act”), which provides generally that all records relating to a public agency’s business, including reports of transactions and proceedings, constitute “public records or files,” and are open to public inspection, disclosure, and copying in the manner provided in the Act, unless specifically exempted under the Act; and (ii) the CONSULTANT will not make any claim against SBCERA if

SBCERA makes available to the public any report, notice or other information it receives from the CONSULTANT which SBCERA, in good faith, determines is not exempt from public disclosure under applicable law, including, without limitation, the Act; and (iii) notwithstanding any provisions to the contrary SBCERA shall be entitled to disclose any other information required or permitted to be disclosed under the Act. In the event any information is required or permitted to be disclosed under the Act SBCERA shall, unless prohibited by law, rule, regulation or court order, use reasonable efforts to promptly notify the CONSULTANT, in writing, of the information required to be disclosed, which notification shall include the nature of the legal requirement and the extent of the required disclosure, and, to the extent not prohibited by applicable law, SBCERA shall use reasonable efforts to cooperate with the CONSULTANT in the event the CONSULTANT takes action to preserve the confidentiality of such information consistent with applicable law.

**WHEREAS**, on or about [Month Day, 2023] CONSULTANT, submitted a response to the Request for Question and expressed its desire to perform the consulting services, and represented to SBCERA that it is qualified to perform the services.

**WHEREAS**, CONSULTANT has proposed to perform, and SBCERA has selected CONSULTANT to perform, services pursuant to this Agreement and as described in Exhibit A, specifically for the SBCERA's Investment Department.

**NOW, THEREFORE**, in consideration of the above-stated premises, the terms, covenants and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

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**ARTICLE 1**

**DESCRIPTION OF SERVICES**

1.1 Acceptance of Duties. CONSULTANT hereby accepts and assumes responsibility to provide the services described in the Statement of Work ("Statement of Work" or "SOW") attached to this Agreement as Exhibit "A" (collectively, the "CONSULTANT Services"). Exhibit A, is hereby incorporated into and made a part of this Agreement as if fully set forth herein. In the event of any inconsistency between this Agreement and Exhibit A, unless otherwise expressly stated, this Agreement shall be first in the order of precedence, followed by Exhibit A. The performance of any services, other than CONSULTANT Services by CONSULTANT to SBCERA, unless authorized in a writing approved by SBCERA's Chief Executive Officer (CEO) or designee pursuant to the CEO's authority, and specifying separate compensation or reimbursement, will be deemed to be a gratuity to SBCERA and will not give rise to any obligation by SBCERA to make any payment to CONSULTANT or any other person.

1.2 Seminars and Training Programs. In the event CONSULTANT conducts seminars, training sessions, or similar events which are generally made available to CONSULTANT's customers, SBCERA shall be invited to attend upon the same conditions and terms as other customers. In the event CONSULTANT offers to pay the cost of such events and/or the travel or lodging expenses incurred by its customers in connection with attending such events, CONSULTANT will reimburse SBCERA for such expenses on the same basis as CONSULTANT reimburses the expenses to its customers generally.

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## ARTICLE 2

### CONTRACT RESPONSIBILITIES

#### 2.1 SBCERA - RESPONSIBILITIES.

2.1.1 Representative. SBCERA's Representative for this contract will be:

Deborah S. Cherney  
Chief Executive Officer  
(or designee)  
San Bernardino County Employees' Retirement Association  
348 West Hospitality Lane, Suite 100  
San Bernardino, CA 92408  
Telephone: (909) 885-7980 | Facsimile: (909) 885-7446

The SBCERA Chief Executive Officer (CEO), or designee, will be SBCERA's Representative with respect to the administration of this Agreement and CONSULTANT will, on a regular basis, interface with and report to the SBCERA Representative so as to keep such Representative fully apprised and up to date on the status of the CONSULTANT Services being performed. The identity of the SBCERA Representative and the address at which the Representative is to receive notices may change from time to time by written notice to CONSULTANT given pursuant to this Agreement. The SBCERA Representative may, from time to time, delegate portions of his or her responsibility for the administration of this Agreement to other persons employed or retained by SBCERA, and CONSULTANT agrees to cooperate with such persons in the performance of their duties.

2.1.2 Authority of SBCERA's Representative. The SBCERA Representative for this contract will provide direction to CONSULTANT in the areas of policy, information requirements, and procedural requirements, consistent with the terms of this Agreement. If actions specifically require the prior approval or consent of SBCERA under this Agreement, CONSULTANT may rely upon the written direction of the SBCERA Representative as binding on SBCERA. While the SBCERA Representative will attempt to be reasonably accessible to and to respond, where appropriate, with reasonable promptness to CONSULTANT's communications, CONSULTANT, where practicable,

should schedule its affairs so as to allow the SBCERA Representative not less than fifteen (15) business days to review and consider any such communications.

2.1.3 Authorized SBCERA Contacts. The SBCERA Representative may furnish from time to time a list of designated persons who will be permitted to contact CONSULTANT on behalf of SBCERA. CONSULTANT agrees not to furnish any information, written or oral, to any person not specifically named on such list.

2.1.4 No Personal Liability. In no event will the SBCERA Representative or any other person delegated responsibility for the administration of this Agreement have any personal liability to CONSULTANT or any of its officers, directors, partners, agents, employees, or contractors for any action taken or not taken by such individual while acting or purporting to act as the SBCERA Representative or as his or her designee.

## 2.2 CONSULTANT - RESPONSIBILITIES.

2.2.1 Representative. The CONSULTANT's Representative for this contract will be:

Name, Title  
Company  
Address  
Address  
ATTN: Name  
Email Address  
Telephone: ( ) - | Facsimile: ( ) -

The CONSULTANT's Representative will be responsible for the CONSULTANT's day-to-day activities under this Agreement, and will be the CONSULTANT's Representative with respect to the administration of this Agreement. CONSULTANT will, on a regular basis, interface with and report to the SBCERA Representative so as to keep such Representative fully apprised and up to date on the status of the CONSULTANT Services being performed. CONSULTANT will endeavor to notify SBCERA's Representative prior to replacing the CONSULTANT Representative.

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### **ARTICLE 3**

#### **CONSULTANT'S REPRESENTATIONS, WARRANTIES, COVENANTS, AND CERTIFICATIONS**

##### **3.1 CONSULTANT's Representations, Warranties, and Covenants.**

CONSULTANT acknowledges, represents, warrants, and agrees that:

3.1.1 It has complied with and, when required, will comply with, all regulations, registrations, filings, approvals, authorizations, consents, or examinations required by any governmental authority having jurisdiction over its activities or the acts contemplated by this Agreement to the extent applicable to the Services under this Agreement;

3.1.2 The personnel of CONSULTANT who will be responsible for carrying out this Agreement are individuals experienced in the performance of the various functions contemplated by this Agreement and have not been convicted of any crime or found liable in a civil or administrative proceeding or pleaded nolo contendere or agreed to any consent decree with respect to any matter involving breach of trust or fiduciary duty, fraud, securities law violations, bankruptcy law regulations, or any act or omission involving moral turpitude;

3.1.3 CONSULTANT will promptly notify SBCERA in the event of any publicly known or non-confidential anticipated or finalized actual material change in the ownership, membership, or management control of CONSULTANT, including, to the extent possible, key personnel responsible for the account within their organization.

3.1.4 CONSULTANT will promptly notify SBCERA in the event that any of the foregoing acknowledgments, representations, warranties, or agreements have been breached or are no longer true, and of the initiation of any formal or informal investigation or regulatory inquiry by any governmental entity with regulatory oversight over CONSULTANT.

3.1.5 The foregoing acknowledgments, representations, warranties, and agreements are understood to be relied upon by SBCERA and the BOARD and to constitute a material inducement to the decision of SBCERA and the BOARD to enter into this Agreement.

3.2 Gratuities. CONSULTANT warrants that no gratuities in the form of entertainment, gifts, or otherwise, were offered or given by CONSULTANT, or any agent or representative of CONSULTANT, to any officer, fiduciary, advisor, or employee of SBCERA with a view toward securing this Agreement or securing favorable treatment with respect to the awarding or the making of any determination with respect to this Agreement. CONSULTANT covenants that no such gratuities will be given to any such person with a view towards securing favorable treatment with respect to the making of any determination with respect to the performance, termination, and/or continuation of this Agreement. CONSULTANT shall review and become familiar with the conflict of interest and reporting provisions applicable to SBCERA, including but not limited to those contained in California Government Code Sections 1090 to 1097 inclusive, 31528, 82030, and 87100 to 87103.

3.3 Certification Concerning Financial Contacts or Solicitation. CONSULTANT represents and warrants that to the best of its knowledge no employee of SBCERA or fiduciary whose position in SBCERA enables such person to influence the award of this Agreement or any competing agreement, and no spouse or economic dependent of such person is or will be employed in any capacity by the CONSULTANT herein, or does or will have any direct or indirect financial interest in this Agreement.

## **ARTICLE 4**

### **CONFLICTS OF INTEREST AND PERMITTED DEALINGS**

4.1 Conflict of Interest. It is understood that the CONSULTANT performs services for various other clients. The CONSULTANT and its officers may act and continue to act as CONSULTANT and/or CONSULTANT for other clients, and nothing in this Agreement shall in any way be deemed to restrict the right of CONSULTANT to perform services for any other client, so long as such services can be and are in fact performed without violating or adversely affecting CONSULTANT's duties and obligations to SBCERA under this Agreement.

4.2 Permitted Dealings. Under no circumstances will CONSULTANT recommend any person, contract, or transaction in which CONSULTANT, the

CONSULTANT's Representative, or any of their affiliates or associates, or to the best of their knowledge and belief any client of any of the above has any interest, without full written disclosure of the nature and extent of such interest and certification that such interest has had no effect upon CONSULTANT's recommendations.

## **ARTICLE 5**

### **TERM AND TERMINATION**

5.1 Term. This Agreement shall commence as of the Effective Date and shall continue thereafter until the completion of the Services under the Statement of Work unless sooner terminated pursuant to this Section 5.

5.2 Termination for Convenience. Either party, in its sole discretion, may terminate this Agreement or Statement of Work, in whole or in part, at any time without cause, by providing at least thirty (30) days' prior written notice to the other party.

5.3 Termination for Cause. Either party may terminate this Agreement or Statement of Work, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting Party:

(a) [material] breaches this Agreement, and such breach is incapable of cure or, with respect to a [material] breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; or

(b) (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within thirty (30) business days or is not dismissed or vacated within thirty (30) days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

5.4 Effects of Termination. Upon expiration or termination of this Agreement for any reason:

(a) CONSULTANT shall (i) promptly deliver to SBCERA all documents, work product, and other materials (Deliverables) (whether complete or incomplete) for which SBCERA has paid and all SBCERA documents, data, know-how, methodologies, software, and other materials (Materials) in its possession, (ii) promptly remove any CONSULTANT equipment located at SBCERA's premises, (iii) provide reasonable cooperation and assistance to SBCERA [upon SBCERA's written request in transitioning the Services to a different CONSULTANT], and (iv) on a pro rata basis, repay all fees and expenses paid in advance for any Services not performed or Deliverables not provided.

(b) Each party shall (i) return to the other party all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the other party's Confidential Information, (ii) permanently delete all of the other party's Confidential Information from its computer systems, and (iii) certify in writing to the other party that it has complied with the requirements of this clause; provided, however, that SBCERA may retain copies of any Confidential Information of CONSULTANT incorporated in the Deliverables or to the extent necessary to allow it to make full use of the Services and any Deliverables.

(c) In no event shall SBCERA be liable for any CONSULTANT Personnel termination costs arising from the expiration or termination of this Agreement.

## 5.5 Remedies.

5.5.1 In the event that either party gives Notice of Termination under Section 5.2 – 5.3, above, SBCERA may immediately suspend CONSULTANT's authority to perform any/or all of the acts and services described in this Agreement. Such notice of suspension may be included in the Notice of Termination. Notwithstanding the suspension of services, SBCERA will remain liable for such fees as CONSULTANT may have earned or may have been entitled to receive under this Agreement through the effective date of termination.

5.5.2 In no event will the termination of this Agreement pursuant to Section 5.2 – 5.3, above, be deemed a waiver of either party's rights to make a claim against the other as provided for in Section 5.5.3, below.

5.5.3 The rights and remedies of the parties provided in this Article 5 will not be exclusive and are in addition to any other rights and remedies provided at law, in equity or under this Agreement.

5.6 Survival. The rights and obligations of the parties set forth in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

## **ARTICLE 6**

### **RECORDS**

6.1 Record Retention and Inspection. CONSULTANT will furnish to SBCERA and its authorized representatives, on reasonable notice (which in no event need ever be more than five (5) business days) and during ordinary business hours, full access to those records maintained by CONSULTANT with respect to this Agreement. CONSULTANT will retain any and all records in its possession with respect to this Agreement for a minimum period of five (5) calendar years, or any longer period required by law, from the date the records were created. CONSULTANT will give SBCERA sixty (60) days' notice of its intent to dispose of any such records following the expiration of such retention period. SBCERA will have the right within such sixty (60) days period to take possession of any and all such records. CONSULTANT will reasonably cooperate with SBCERA in the implementation of such change in possession. The provisions of this Section will survive termination of this Agreement for a period of five (5) years; provided that the obligation of the CONSULTANT to give SBCERA notice of its intention to dispose of records, permits SBCERA to take possession of records and the obligation of CONSULTANT to cooperate with SBCERA in such regard shall also survive the termination of this Agreement for a period of seven (7) years.

6.2 Confidentiality. CONSULTANT acknowledges that in performing the Services as contemplated herein, CONSULTANT may acquire Confidential Information and trade secrets of great value to SBCERA concerning its business and operations of SBCERA, the use or disclosure of which could materially adversely affect SBCERA. CONSULTANT shall not, at any time or in any manner, directly or indirectly, disclose such

Confidential Information to any person or entity, or use such Confidential Information other than in furtherance of the purposes of SBCERA.

6.3 Ownership of Confidential Information. SBCERA agrees to grant CONSULTANT access to any such Confidential Information as required in order to fulfill the duties detailed in the Statement of Work. CONSULTANT agrees that all Confidential Information obtained or acquired is the exclusive property of SBCERA, irrespective of whether such information was created or prepared by CONSULTANT.

6.4 Return or Destruction. Upon termination of this Agreement as provided in Article 5, CONSULTANT will, as requested in writing by SBCERA, return to SBCERA or destroy all Confidential Information of SBCERA, including any written or electronic memorial of, or documents relating to, the Confidential Information described herein.

## **ARTICLE 7**

### **GOVERNMENTAL PROVISIONS**

7.1 Governing Law and Venue. This Agreement will be construed in accordance with and governed by the laws of the State of California. Should either party file a lawsuit over any matter arising out of this Agreement, said lawsuit will be filed and prosecuted in the Superior Court for the County of San Bernardino, State of California, and all parties hereto hereby consent to such venue and the personal jurisdiction of said court.

7.2 Compliance with Laws. CONSULTANT shall comply with all applicable Federal, State and local laws, rules, regulations, ordinances, and directives, and all provisions required to be included in this Agreement are incorporated by this reference.

7.3 Indemnification. CONSULTANT shall indemnify, defend, and hold harmless SBCERA and the trustees, officers, contractors, agents and employees of SBCERA with respect to any and all costs, claims, demands, actions, liabilities, losses, damages, injuries, and expenses (including, without limitation, reasonable attorneys' fees and defense costs) (collectively, "Losses") in any manner related to, arising out of and/or

resulting from: (i) any decision or other action taken, omitted or suffered by the CONSULTANT, its officers, owners, partners, members, principals, affiliated entities, controlling persons, employees, agents or subcontractors that was not in good faith, or was not authorized by or within the discretion or right or powers conferred upon it by this Agreement, or that constituted gross negligence, willful misconduct or a breach of its fiduciary duties; (ii) any material breach of any representation or warranty made by the CONSULTANT in this Agreement or any related documents; (iii) the material breach of any instrument contemplated by this Agreement due to the CONSULTANT's gross negligence; (iv) any material misrepresentation contained in any statement or certificate furnished by the CONSULTANT pursuant to this Agreement; and (v) Losses arising from any claims that are asserted against SBCERA, the CONSULTANT and each other Fund and account managed by the CONSULTANT that participated in such Investment as a result of any action taken by the CONSULTANT. This indemnification shall survive the termination of this Agreement.

7.4 Assurance of Compliance with Civil Rights Laws. CONSULTANT hereby agrees and represents that it is an equal opportunity employer and has adopted policies to implement the purpose and provisions of the Civil Rights Act of 1964, 42 USC § 2000(e), et seq., to assure that no person is denied employment on the basis of race, creed, color, sex, or national origin in connection with its performance of this Agreement.

7.5 Affirmative Action. The CONSULTANT shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, handicap, ancestry, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

7.6 Independent Contractor. CONSULTANT will at all times be acting in the capacity of independent contractor. This Agreement is not intended, and will not be construed, to create the relationship of agent, servant, employee, partner, joint venture, or association, as between SBCERA and CONSULTANT. CONSULTANT understands and agrees that all persons furnishing services to SBCERA pursuant to this Agreement

are employees solely of CONSULTANT and not of SBCERA. CONSULTANT will bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person performing services to CONSULTANT for injuries arising from or connected with services provided to SBCERA pursuant to this Agreement. All services performed with respect to the work will be performed by CONSULTANT with its own forces, except with the written approval of SBCERA Representative. No performance of this Agreement or any portion thereof may be contracted by CONSULTANT without the express written consent of SBCERA Representative. CONSULTANT will be solely liable and responsible for any and all payments and other compensation to any contractor, and SBCERA will have no direct liability to any contractor.

7.7 Interpretation. This Agreement has been negotiated at arm's length and between parties sophisticated and knowledgeable in the matters dealt with in this Agreement. Each party has had a full opportunity to have this Agreement reviewed by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including, without limitation, California's Civil Code Section 1654) or legal decisions that would require interpretation of any ambiguities in this Agreement against the party that has drafted it shall not be applicable and are hereby waived. The provisions of the Agreement shall be interpreted in a reasonable manner to effectuate the purpose of the parties and this Agreement.

## **ARTICLE 8**

### **INSURANCE**

8.1 Insurance: Without limiting CONSULTANT's obligations to indemnify SBCERA, CONSULTANT will provide and maintain at its own expense during the term of this Agreement the programs of insurance programs specified in this Agreement. Such insurance will be primary and not contributing with any other insurance of self-insurance programs maintained by SBCERA, and CONSULTANT agrees to provide and maintain such insurance at its own cost and expense.

8.1.1 Certificate(s) or other evidence of coverage satisfactory to SBCERA shall be delivered to prior to commencing services under this Agreement and annually thereafter to:

SBCERA – Legal Services  
348 W. Hospitality Lane, Suite 100  
San Bernardino, CA 92408

8.2 Certificate of Insurance. Such certificates or other evidence shall:

8.2.1 Specifically identify this Agreement.

8.2.1.1 Clearly evidence all coverage's required in this Agreement.

8.2.1.2 Contain the express condition that SBCERA is to be given written notice by mail at least 45 days in advance of cancellation for all policies, or, alternatively, in the event the insurers that otherwise provide satisfactory insurance hereunder do not assume third-party notification provisions, CONSULTANT hereby agrees to notify SBCERA at least 45 days in advance of any cancellation of any of the policies provided for herein.

8.2.1.3 Include copies of the additional insured endorsement to the commercial general liability policy, adding that SBCERA, its trustees, officers and employees as insureds for all activities arising from this Agreement.

8.2.1.4 Self-Insured Retentions must be declared to and approved by the SBCERA. SBCERA may require CONSULTANT to purchase coverage with no retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention will be satisfied by the named CONSULTANT. SBCERA reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8.3 Insurer Financial Ratings. Insurance is to be provided by an insurance company acceptable to SBCERA with an A.M. Best rating of not less than A-, X, unless otherwise approved by SBCERA.

8.4 Failure to Maintain Coverage. CONSULTANT's failure to maintain the required insurance, or to provide evidence of insurance coverage acceptable to SBCERA, shall constitute a material breach of the Agreement upon which SBCERA may immediately terminate or suspend this Agreement. SBCERA, at its sole option, may obtain damages from CONSULTANT resulting from said breach.

8.5 Compensation for SBCERA Costs. In the event that CONSULTANT fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to SBCERA, CONSULTANT shall pay full compensation for all costs incurred by SBCERA.

8.6 Cooperation Regarding Insurance. SBCERA may elect to procure insurance against loss or damage it may sustain in connection with CONSULTANT's performance under this Agreement. CONSULTANT will promptly cooperate with any reasonable request for information regarding CONSULTANT which is required to obtain such insurance.

8.7 Survival of Obligations. CONSULTANT's obligations under this Section 8 shall survive expiration or termination of this Agreement.

8.8 Commercial General Liability. CONSULTANT shall provide and maintain a Commercial General Liability insurance policy, which names SBCERA as additional insured. Such policy shall cover legal liability for bodily injury and property damage arising out of CONSULTANT's business operations and services that CONSULTANT provides pursuant to this Agreement. Such policy shall include, without limitation, endorsements for Property Damage, Premises-Operations, Products/Completed Operations, Contractual, and Personal/Advertising Injury with a limit of at least \$1,000,000 per occurrence and an annual aggregate of at least 2,000,000. If such insurance is written on a Claims Made Form, such insurance shall be endorsed providing an extended reporting period of not less than five (5) years following termination or expiration of this Agreement.

8.9 Auto Liability. CONSULTANT shall provide and maintain a comprehensive auto liability insurance policy endorsed for all "owned", "non-owned", and "hired" vehicles, or coverage for any "auto", with a combined single limit of not less than One Million Dollars (\$1,000,000) per accident. Workers' Compensation. CONSULTANT

shall bear sole responsibility and liability for furnishing Workers' Compensation benefits to CONSULTANT's employees for injuries arising from or connected with any services provided to SBCERA under this Agreement. CONSULTANT shall provide and maintain a program of Workers' Compensation, in an amount and form to meet all applicable statutory requirements. In all cases, worker's compensation insurance also shall include Employer's Liability Insurance with limits of not less than \$1,000,000, each accident, and \$1,000,000, disease, covering all of CONSULTANT's employees.

8.10 Errors and Omissions. CONSULTANT shall provide and maintain insurance covering liability arising from any error, omission, negligent or wrongful act of the CONSULTANT, its officers, employees or Agents, with limits of at least \$1,000,000 per claim and an annual aggregate of at least \$2,000,000. The coverage also shall provide an extended one-year reporting period commencing upon termination or cancellation of this Agreement.

8.11 Cyber Liability Insurance. Without limiting any of the obligations or liabilities of CONSULTANT, CONSULTANT shall carry and maintain, at its own expense including any applicable deductibles or retention, Cyber Liability insurance with limits of not less than \$2,000,000 for each occurrence and an annual aggregate of \$5,000,000 covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy coverage shall include, but not be limited to:

8.11.1 Privacy Liability Coverage. This coverage shall include SBCERA and its members for breaches of their private information in the case of a data breach.

8.11.2 Notification Costs. This coverage shall cover the costs of notifying third parties and SBCERA members potentially affected by a data breach.

8.11.3 Crisis Management. This coverage shall include the costs of managing the public relations outfall from most data breach scenarios.

8.11.4 Credit/Identity Monitoring. This coverage shall include coverage for affected members for at least 24 months or the minimum legally required period, whichever is longer.

8.11.5 Theft and Fraud Coverage. This coverage shall include the costs of theft or destruction of the SBCERA's data and theft of funds.

8.11.6 Network and Business Interruption. This coverage shall include any expense due to an intentional interruption of the SBCERA's computer systems.

8.11.7 Data Loss and Restoration. This coverage shall include the costs of diagnosing and repairing the cause of the loss and restoring all data.

## **ARTICLE 9**

### **STANDARD OF CARE**

9.1 Standard of Care. CONSULTANT shall perform all services hereunder with the care, skill, diligence, and responsibility of a professional CONSULTANT familiar with such matters and acting in a like capacity in the conduct of an enterprise of like character and with like aims (herein, "Standard of Care"). The Standard of Care shall apply to all services CONSULTANT performs (or does not perform) as provided hereunder and shall be adhered to by CONSULTANT at all times. Notwithstanding any other provision in this Agreement, The Standard of Care is incorporated in and applies to each and every provision of this Agreement setting forth the services to be performed by CONSULTANT and each and every such provision is subject to the Standard of Care.

## **ARTICLE 10**

### **PAYMENT FOR SERVICES**

10.1 Payment for Services. SBCERA agrees to pay CONSULTANT according to the Fee Schedule attached as Exhibit B for performing the Services. CONSULTANT's expenses are included in the compensation described in Exhibit B and therefore CONSULTANT is not entitled to any separate reimbursement for

any expenses incurred by it in discharging its duties under this Agreement, unless otherwise agreed by SBCERA.

## **ARTICLE 11**

### **CHANGE ORDERS**

11.1 If SBCERA/CONSULTANT wishes to change the scope or performance of the Services, it shall submit details of the requested change to SBCERA/CONSULTANT in writing in accordance with the notice provisions in Section 14.4. CONSULTANT shall, within a reasonable time (not to exceed [NUMBER] days) after receiving a SBCERA-initiated request, or at the time that CONSULTANT initiates a change request, provide a written estimate to SBCERA of:

- (a) the likely time required to implement the change;
- (b) any necessary variations to the fees and other charges for the Services arising from the change;
- (c) the likely effect of the change on the Services;
- (d) any other impact the change might have on the performance of this Agreement; and
- (e) any other information [reasonably] requested by SBCERA.

11.2 Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change (a "Change Order"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing in accordance with Section 14.10.

## **ARTICLE 12**

### **DISASTER RECOVERY & BUSINESS CONTINUITY**

12.1 Disaster Recovery & Business Continuity. CONSULTANT will implement and maintain disaster recovery and business continuity procedures that are reasonably designed to recover data processing systems, data communications facilities,

information, data and other business-related functions of SBCERA in a manner and time frame consistent with legal, regulatory and business requirements applicable to SBCERA.

**ARTICLE 13**  
**DATA BREACH VERIFICATION**

13.1 Data Breach Verification.

13.1.1 CONSULTANT shall provide an annual written, signed attestation that to the best of its knowledge, no data breach, hacking, or incidental divulging of Member Records has occurred and that no Member Record has been compromised. The attestation shall verify that adequate internal policies and procedures exist to prevent data theft and unauthorized access.

13.1.2 CONSULTANT shall provide an annual system penetration test in support of the attestation made in item A above. CONSULTANT shall provide the results of penetration tests to SBCERA.

13.1.3 CONSULTANT shall comply with California Civil Code §1798.29(e) and California Civ. Code §1798.82(f). In the event of a security breach of more than 500 records, the CONSULTANT shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General.

13.1.4 CONSULTANT shall notify any California resident whose unencrypted personal information, as defined, was acquired, or reasonably believed to have been acquired, by an unauthorized person as required by California Civil Code §1798.29(a) and California Civ. Code §1798.82(a).

13.1.5 Notwithstanding the legal notification requirements in the preceding paragraphs, CONSULTANT will immediately notify SBCERA upon its discovery of any incident or data breach.

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## **ARTICLE 14**

### **MISCELLANEOUS**

14.1 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

14.2 Successors and Assigns. Neither this Agreement nor CONSULTANT's rights or duties hereunder may be assigned, transferred, or delegated by CONSULTANT, including as a consequence of any merger, acquisition, or other corporate transaction, without the prior written consent of SBCERA, which may be withheld for any reason or no reason at all in the sole and absolute discretion of SBCERA.

14.3 Article and Paragraph Headings. The article and paragraph titles of this Agreement are inserted for convenience of reference. They constitute no part of this Agreement and are not to be considered in its construction.

14.4 Notices. Notices desired or required to be given hereunder to the effective will be in writing and will be deemed to have been given if made by hand delivery with signed receipt (or proof of service executed by an independent process server) or on the fourth (4<sup>th</sup>) business day after posting when mailed within the United States by first class registered or certified mail, postage prepaid, addressed to SBCERA and CONSULTANT at their respective addresses designated below, or to such other person or at such other address.

Notices shall be sent to SBCERA to:

San Bernardino County Employees' Retirement Association  
348 West Hospitality Lane, Suite 100  
San Bernardino, CA 92408  
Attention: Deborah S. Cherney, Chief Executive Officer

With a copy to:

Attention: Barbara M.A. Hannah, Chief Counsel

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Notices shall be sent to CONSULTANT addressed as follows:

Company  
Address  
Address  
Attention: Name, Title

With a copy to:

Attention: Name  
[Email Address](#)

Either party may change the address for notices upon written notice received by the other party.

14.5 Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

14.6 Waiver. No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of said provision or any other provision of this Agreement. No waiver will be enforceable unless it is a written agreement executed by the party granting the waiver, making specific reference to this Agreement and reciting the parties' intention that it constitutes a waiver. Failure of either party to enforce at any time, or from time to time, any provisions of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

14.7 Attorney Fees. In the event of any litigation regarding this Agreement, the prevailing party as determined by the appropriate court shall be entitled to recover reasonable attorney's fees.

14.8 CONSULTANTS and Managers. CONSULTANT agrees to cooperate with such other CONSULTANTS, advisors, actuaries, CONSULTANTS, managers, and others as SBCERA may retain from time to time to assist SBCERA.

14.9 Merger. This Agreement, and the Exhibits attached hereto, will constitute the complete and exclusive statement of understanding between the parties, superseding all previous agreements, written or oral, and all other previous communication between the parties relating to the subject matter of this Agreement.

14.10 Changes and Amendments. SBCERA and CONSULTANT reserve the right to amend any such terms and conditions of this Agreement which may become necessary. Any revisions hereto will be accomplished by written agreement executed by both of the parties making specific reference to this Agreement and reciting the parties' intention that it constitutes an amendment. An amendment to the Agreement may occur at any time prior to the termination of this Agreement, but only by mutual written agreement executed the SBCERA's Chief Executive Officer and a duly authorized officer of CONSULTANT, the parties hereto may: (a) extend the time for performing any of the conditions, covenants, rights, obligations or other acts of the parties required herein; (b) waive performance of any of the conditions , covenants, rights, obligations, or other acts of the parties required herein; (c) amend or supplement any of the provisions of this Agreement. The parties shall meet and confer in good faith on any medication of this Agreement that may become necessary to make its prvoisions consistent with the any policy of SBCERA, or federal or state statute or regulation which governs any aspect of this Agreement.

14.11 Force Majeure. An event of Force Majeure means any event that is beyond the reasonable control of either party and unavoidable or unpreventable after it gives due attention, including, but not limited to, government act, act of God, fire, explosion, storm, flood, earthquake, lightning or ware, but insufficiency of credit standing, funds, of finance shall not be deemed to beyond the reasonable control of either party. The party seeking exemption from its liabilities under this Agreement owing to an Event of Force Majeure shall, without undue delay, inform the other party of such exemption and the steps needing to be taken to perform its liabilities.

Should the performance of this Agreement be delayed or hindered due to any Event of Force Majeure as defined above, the prevented party shall not be liable therefore only to the extent being delayed or hindered. The prevented party shall take suitable measures to lower or eliminate the impact of such Event of Force Majeure, and make endeavors to resume the performance of the obligations delayed or hindered by Event Force Majeure. Both parties agree to make their best efforts to continue to perform this Agreement once the Event Force Majeure is eliminated.

[Remainder of this Page Intentionally Left Blank]

EXECUTED AND AGREED TO by the parties as of the date first written above by their duly authorized representatives:

**COMPANY**

SAN BERNARDINO COUNTY  
EMPLOYEES' RETIREMENT  
ASSOCIATION

By: \_\_\_\_\_  
NAME  
Title

By: \_\_\_\_\_  
DEBORAH CHERNEY  
Chief Executive Officer

CONTRACT APPROVED AS TO FORM AND LEGALITY:

SAN BERNARDINO COUNTY EMPLOYEES'  
RETIREMENT ASSOCIATION

By: \_\_\_\_\_  
BARBARA M. A. HANNAH  
SBCERA Chief Counsel

Dated: \_\_\_\_\_

## Exhibit A

### **Statement of Work**

1. Evaluate existing programs and processes.
2. Document desired future state for an integrated investment records management program (“desired solution”).
3. Assist in identifying commercially available off the shelf solutions or assist in determining potential decision to build a custom solution, including a high-level cost analysis for the implementation of such solutions.
4. If appropriate, provide recommendations for technical architecture to support ongoing records capture with relevant considerations for record types/flows.
5. Recommend an approach for data migration of existing investment information in disparate records into the desired solution.
6. Recommend an approach for future extraction of records into the desired solution.
7. Provide ongoing reporting on project schedule, budget and scope, as requested by SBCERA.