



# REQUEST FOR PROPOSAL

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San Joaquin County Employees' Retirement Association  
6 S. El Dorado Street, Suite 400  
Stockton, California 95202  
Phone: (209) 468-2163  
[www.sjcera.org](http://www.sjcera.org)

**Request for Proposal No. 2021-01**

## **ACTUARIAL AUDIT SERVICES**

Proposals must be received no later than 4:00 p.m.  
Friday, April 9, 2021

## **KEY DATES**

Request for Proposals (RFP) issued:	February 19, 2021
Letter of Intent and Written Questions Due	March 5, 2021, 4:00 p.m.
Responses to Questions Posted on Website	No later than March 12, 2021
Due date for submission of proposals:	April 9, 2021
Estimated Contract Execution:	May 7, 2021

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## **I. INVITATION**

The San Joaquin County Employees' Retirement Association (SJCERA) is issuing this RFP to solicit proposals from qualified actuarial firms to provide actuarial auditing services.

## **II. GENERAL INFORMATION**

### **A. Background Information**

SJCERA is a public retirement system established by the San Joaquin County Board of Supervisors effective June 28, 1946. SJCERA provides retirement, disability and survivors' benefits to eligible General and Safety members employed by the County of San Joaquin and nine other public employers:

- Lathrop-Manteca Rural Fire Protection District
- Mountain House Community Services District
- San Joaquin County Historical Society and Museum
- San Joaquin County Law Library
- San Joaquin County Mosquito and Vector Control District
- San Joaquin County Superior Court
- San Joaquin Local Agency Formation Commission
- Tracy Public Cemetery District
- Waterloo-Morada Rural Fire Protection District

SJCERA's nine-member Board of Retirement has exclusive control and fiduciary responsibility for administering the benefits and managing the investment of plan assets. The Board oversees the Chief Executive Officer and staff in the performance of their duties in accordance with the County Employees' Retirement Law (CERL), the Internal Revenue Code (IRC), the Public Employees' Pension Reform Act of 2013 (PEPRA) as adopted by the Board of Supervisors and Board of Retirement, and the bylaws, policies, and procedures adopted by the Board.

The nine-member Board of Retirement includes four trustees appointed by the San Joaquin County Board of Supervisors, the San Joaquin County Treasurer-Tax Collector, and four trustees elected by SJCERA members, one alternate retired member, and one currently vacant alternate member, elected by the Safety members.

As of December 31, 2019, SJCERA's membership included 8,332 active and inactive members and 6,208 retired members. Net assets totaled approximately \$3.2 billion as of September 30, 2020.

The Board of Retirement and SJCERA management are responsible for collecting, depositing, investing and managing trust funds for the purpose of providing benefits to members and their beneficiaries. SJCERA management and staff assist San Joaquin County in administering Post Employment Healthcare Plans for members. SJCERA management and staff are responsible for daily operations involving the administration of retirement, disability and death benefits, investments, member services, accounting, and information system management. Additional information regarding SJCERA's financial condition, investment policies and portfolio composition, and organization can be found in its [2019 Comprehensive Annual Financial Report \(CAFR\)](#) at [www.sjcera.org](http://www.sjcera.org).

## **B. Plan Information**

As a cost sharing, multiple-employer defined benefit plan for San Joaquin County and nine other participating employers located in San Joaquin County. Membership begins the first day of employment.

There are two membership types:

1. Safety members – Permanent employees engaged in the performance of active law enforcement, including probation officers and fire suppression employees and not generally covered by Social Security.
2. General members – All other eligible employees not classified as Safety members and covered by Social Security

A member's eligibility for retirement is as follows:

Tier 1 - A Tier 1 member may retire for service at age 50 or older with five years of service credit, and at least 10 years have elapsed since the date of membership. A General member may retire at any age with 30 or more years of service. A Safety member may retire at any age with 20 or more years of service.

Tier 2 - Employees entering public agency employment and public retirement system membership in California for the first time on or after January 1, 2013 are Tier 2. A Tier 2 member may retire for service with five years of service credit upon attaining the minimum retirement age: age 52 for General members and age 50 for Safety members.

Any SJCERA member, regardless of benefit tier, may retire at age 70 with no minimum service credit requirement.

### **C. Written Questions Related to the RFP**

Written questions will be accepted only via e-mail at [ActuaryAuditRFP@sjcera.org](mailto:ActuaryAuditRFP@sjcera.org). All questions must identify the RFP section and page number to which the question refers. Written questions to the above e-mail address will be accepted until 4:00 p.m. on Friday, March 5, 2021. Questions and responses thereto will be posted on SJCERA's website ([www.sjcera.org](http://www.sjcera.org)) no later than March 12, 2021.

### **D. Notice of Intent**

Each interested party must send a Letter of Intent to Propose to this RFP via e-mail to [ActuaryAuditRFP@sjcera.org](mailto:ActuaryAuditRFP@sjcera.org) on or before Friday, March 5, 2021, 4:00 p.m. The Notice must include the title of the RFP to which you intend to respond, the single point of contact at your firm responsible for the RFP response and the telephone and e-mail information for this individual.

### **E. No Contact**

No contact with SJCERA board members and SJCERA staff regarding the contents of this RFP will be allowed during the pendency of this RFP, with the exception of the submitted written questions.

### **F. No Reimbursement for RFP Expenses**

SJCERA will not provide reimbursement for any fees, expenses, or other costs incurred in connection with this RFP including the costs of preparing the response, providing any additional information and attending an interview(s). All material submitted in response to this RFP will become the sole property of SJCERA. SJCERA expressly reserves the right to utilize any and all ideas submitted in the proposals received unless covered by legal patent or proprietary rights.

### **G. Interviews**

Interviews may be conducted at SJCERA's discretion. All Proposers selected for interview will be notified of the interview date(s) at least one week in advance.

### **H. Confidentiality**

All responses to this RFP become the property of SJCERA and will be kept confidential until such time as a recommendation for award of a contract has been announced. Thereafter, submittals are subject to public inspection and disclosure under the California Public Records Act. If a

Proposer believes that any portion of its submittal is exempt from public disclosure, such portion must be marked "Confidential." SJCERA will use reasonable and legally permissible means to ensure that such confidential information is safeguarded to the extent that SJCERA, in its independent judgment, concludes that the information is in fact exempt from disclosure, but SJCERA will not be liable for inadvertent disclosure of such materials, data and information. If proposals are marked "Confidential" in their entirety, SJCERA will not deny public disclosure of all or any portion of submittals so marked.

By submitting information with portions marked "Confidential", the proposer represents it has good faith belief that such material is exempt from disclosure under the California Public Records Act and agrees to reimburse SJCERA for, and to indemnify, defend and hold harmless SJCERA, its officers, fiduciaries, employees and agents from and against: any and all claims, damages, losses, liabilities, suits, judgements, fines, penalties, costs and expenses including, without limitation, attorneys' fees, expenses and court costs of any nature whatsoever (collectively, "claims") arising from or relating to SJCERA's non-disclosure of any such designated portions of a proposal if disclosure is deemed required by law or court order.

### **III. SCOPE OF WORK**

#### **A. Introduction**

The Proposer will perform an actuarial audit of the annual actuarial valuation for the period ending December 31, 2020 to validate the methods, assumptions, and results of SJCERA's consulting actuary. The consulting actuary will provide the data set to the Proposer for the parallel valuation. The last actuarial audit was performed in 2016.

The actuarial audit shall include but not be limited to:

- Evaluations of results and reconciliation of any discrepancies between the findings, assumptions, methodology, rates, and/or adjustments of the Proposer and SJCERA's consulting actuary.
- Annual Actuarial Valuation to be performed using the assumptions, methodologies and funding methods used by SJCERA's consulting actuary in its performance of the valuation. Proposer shall reproduce all work and not rely on the work of SJCERA's consulting actuary.
- Meetings would be required with the consulting actuary to ensure that any special techniques or assumptions are considered. The Proposer would prepare a written report summarizing the findings and results,

and including any recommendations that might be suggested for changes in procedures and areas to be studied more fully in the future. This report would be provided to and discussed with the consulting actuary for review and comment. Further discussion between the consulting actuary and the Proposer may be necessary. The final report on the Proposer's findings will then be presented to the Board of Retirement.

There are no OPEB benefits for which SJCERA maintains a separate trust. The audit services requested are solely for the defined benefit pension plan.

Refer to [www.sjcera.org](http://www.sjcera.org) for current and past reports related to:

- [Comprehensive Annual Financial Reports](#)
- [Actuarial Valuations](#) and [Actuarial Experience Studies](#)
- [GASB 67/68 Report](#)
- [Statement of Funding Policy](#)
- [Board of Retirement – General Information](#)

## **B. Required Timeframe for Completion of Actuarial Audit Services**

At the August 13, 2021 Board meeting, the consulting actuary is scheduled to present the results of the Annual Actuarial Valuation for the period ending December 31, 2020. Once adopted by the Board of Retirement, the County Board of Supervisors must take formal action in early November 2021 to implement the new contribution rates applicable beginning January 1, 2022.

SJCERA expects the Proposer to complete the requested services and submit presentation materials to SJCERA by September 1, 2021, for the September 10, 2021, Board meeting. In order for the proposal to be evaluated by SJCERA, a proposer must warrant and represent that it has the staff and other resources available to complete the required services, including discussions and meetings with the consulting actuary regarding findings and recommendations and production and presentation of final reports, within the required time frame.

## **C. Term of Engagement**

A contract with an initial term not to exceed one (1) year is contemplated commencing May 7, 2021, and the contract may be extended upon mutual agreement of both parties.

#### **IV. MINIMUM QUALIFICATIONS**

1. The Proposer must be a professional actuarial services firm whose primary line of business includes providing actuarial valuation, experience with investigations and analysis, actuarial audits, and pension consulting services to public pension plans, or similar entities of substantial size. At a minimum, the Proposer must have experience with defined benefit plans with assets that exceeded two billion dollars.
2. The Primary Actuary performing the work must be an Associate of the Society of Actuaries and an Enrolled Actuary. Any Supporting Actuary must be either an Associate of the Society of Actuaries, an Enrolled Actuary or have five years of actuarial pension consulting experience.
3. The Primary Actuary performing the services under the contract must have a minimum of ten years of experience as an actuary providing pension consulting services, experience analysis, and actuarial valuation assignments for multiple employer retirement plans with defined pension plans.
4. All actuaries performing the work must meet the professional qualification standards of the American Academy of Actuaries.
5. The Proposer must have all necessary permits and licenses. Liability as well as errors and omissions insurance must be in full force at the time the proposal is submitted and must be maintained throughout the term of the contract.
6. The Proposer must provide its own work facilities, equipment, supplies and support staff to perform the required services.

#### **V. PROPOSAL REQUIREMENTS**

##### **A. Proposal Requirement**

Proposers must submit one (1) original Proposal document and one (1) copy of the Proposal document on a USB flash drive in a sealed package **no later than 4 p.m. PDT on Friday, April 9, 2021**. Proposals should be sent to:

Greg Frank  
RFP Coordinator  
San Joaquin County Employees' Retirement Association  
6 S. El Dorado Street, Suite 400  
Stockton, CA 95202

## **B. Proposal Form**

Proposals shall be printed double-sided, and prepared in a simple, economical manner, with the sections tabbed to match those in the RFP, and with all the pages numbered within in each section. The proposal shall be prepared succinctly, providing a straight forward, concise description of the Proposer's ability to meet the requirements of the RFP.

Proposals and cost schedule shall be valid and binding for 180 days following the proposal due date and will become part of the contract that is negotiated with SJCERA.

Failure to complete any question or request for information, in whole or in part, or any deliberate attempt by the Proposer to mislead SJCERA, may disqualify the Proposer. Each Proposer shall provide the following in addition to describing their qualifications and commitment to providing the required scope of services.

## **C. Proposal Content**

A complete Proposal shall include the following elements:

Section 1: Introduction and statement of understanding: an overall introduction to the proposal response including a statement of the Proposers understanding of the project.

Section 2: General Qualifications:

- i. Organizational structure of the Proposer including organizational charts.
- ii. Any material changes to the organizational structure that has occurred in the last five (5) years.
- iii. Total length of time the Proposer has been performing actuarial auditing services.
- iv. Length of time the Proposer has been performing actuarial auditing services specifically for defined benefit pension plans.
- v. Percentage of revenue derived from actuarial auditing services.
- vi. Number of full time professional actuarial consultants employed by the Proposer.

- vii. Discuss the Proposer's competitive advantage over other firms in providing actuarial auditing services.
- viii. For the Proposer's office that will be assigned to SJCERA, complete Exhibit B, listing actuarial projects for large employee retirement benefit plans, large government units and other actuarial services the Proposer deems similar to the projects described in this RFP.
- ix. Describe the Proposer's systems controls, security, and resources utilized to ensure the confidentiality and integrity of client data and information.

Section 3: Professional Staff Qualifications and Experience:

- i. List the name, title, and office location of the primary individual(s) who would be responsible for the SJCERA account.
- ii. Provide biography/profile/resume for each person identified above.
- iii. Describe what role the Primary Actuary will play in providing the required SJCERA services.
- iv. For the Primary Actuary list their actuarial valuation assignments for the past five (5) years. Include for each assignment the date of final report, whether the Actuary served as the primary or secondary Actuary, and the client's name.
- v. For the Primary Actuary and all Secondary Actuaries, state the length of time these individuals have worked together as a team. Also indicate the number of client relationships each is currently involved managing.

Section 4: Potential Conflicts

- i. Provide details of any potential conflicts of interest related to any other client relationships, SJCERA employers or affiliates, SJCERA trustees or staff if awarded the engagement.

Section 5: Legal Situations

- i. Has any officer or principal or your organization been involved in litigation or legal proceedings related to any actuarial or other consulting activities? If so, provide a brief explanation and indicate the current status of proceedings.

- ii. Has your firm, within in the last ten (10) years been censured or fined by any regulatory body? If so, please indicate the dates and describe the situation.

Section 6: Additional Information

- i. Indicate whether or not subcontractors will be used in providing the required actuarial auditing services to SJCERA. If so, describe the specific services that would be subcontracted, the name of the subcontractor, the cost to the Proposer for these services, and how the Proposer will control the quality of services provided to SJCERA.

Section 7: Fee Schedule

- i. Please propose your fee to provide the services described in this RFP per Exhibit A and include as an attachment (per Section 9).
- ii. The fee must be all-inclusive, as no additional charges will be allowed. There will be no additional reimbursement for travel time or expenses, telephone costs, copying costs, etc.
- iii. For additional services requested by SJCERA that are not included within the scope of work outlined in this RFP, please indicate your hourly time charges.

Section 8: References

- i. The Proposer shall provide at least two former client reference for which the Proposer performed actuarial auditing services and at least two client reference for which the Proposer performed actuarial consulting services similar to those described in this RFP, within the last three (3) years.
- ii. The Proposer shall provide the following information for the references named in i and ii above:

Entity Name	
Entity Address	
Website	
Nature of Business	
Assets Under Management	
Total Plan Members	
Primary Contact Name, Title,	

Telephone Number, and Email	
Nature and Length of Relationship	
Description of Services Provided	

SJCERA reserves the right to contact any of the individuals/agencies provided above.

Section 9: Attachments to Proposal

The following is a list of required Attachments to the proposal:

- Proposer’s Financial Information or Audited Financial Statements
- Quality Control Review or Peer Review Report
- Example – Actuarial Audit Report
- Example – Actuarial Valuation Report
- Example – Experience and Assumptions Study Report
- Example – GASB 67/68 Report
- Fixed Fee Schedule - Exhibit A
- Listing of Actuarial Projects – Exhibit B
- Additional Materials – materials and information not specifically requested for evaluation, but which the Proposer wishes to submit with the proposal.

**VI. PROPOSAL SELECTION AND EVALUATION**

**A. General Information**

Each proposal will be judged on its completeness and quality of its content. SJCERA reserves the right to reject any or all proposals and is not liable for any costs the Proposer incurs while preparing the proposal. All proposals will become part of the public file, without obligation to SJCERA. Upon the completion of the evaluations, SJCERA intends to negotiate a contract with the Proposer whose proposal is deemed to be most advantageous to SJCERA.

**B. Presentations**

Proposers may be selected to give an oral presentation to SJCERA’s Board of Retirement. Such presentation shall provide an opportunity for Proposers to clarify their proposal to ensure there is a mutual thorough understanding. SJCERA staff may interview selected Proposers and ask additional questions related to the proposal and the scope of work prior to any oral presentation to the Board of Retirement. Interviews and oral

presentations are conducted at SJCERA's discretion. Proposers selected for an interview or oral presentation will be notified of the date at least one week in advance. Proposers invited to an interview or oral presentation will be responsible for making and paying for their own travel arrangements, if applicable.

**C. Scoring and Evaluation Criteria**

Proposals will be judged on completeness and quality of content. SJCERA is seeking to contract with a Proposer that has the appropriate qualifications using appropriate methodology to ensure delivery of a quality product, and that has extensive demonstration experience with, and an understanding of, similar projects.

SJCERA reserves the right to determine the best qualified Proposer and negotiate a final scope of service and cost, negotiate a contract with another Proposer if an agreement cannot be reached with the selected Proposer, or reject all proposals. The selected Proposer will be required to enter into a professional services contract with SJCERA, which will incorporate the entire RFP as part of the agreement.

**VII. CONTRACT REQUIREMENTS**

**A. Contract Award**

The award of a contract is accomplished by executing a contract with a written agreement that incorporates the entire RFP. A form of the Contract is attached as Exhibit C. Successful Proposers must agree to provide SJCERA with audit access on request during the term of the contract and for seven (7) years thereafter.

SJCERA shall have the right to terminate this agreement upon 30 days written notice to the Proposer.

**B. Contract Requirements**

The Proposer must be covered by Workers' Compensation Insurance, which will extend to and include work in California. In addition, the Proposer must also submit documents addressing general liability insurance, errors and omissions, fiduciary liability, cyber liability, automobile liability, and an indication that there is no conflict of interest on the part of the Proposer's submission of a proposal for the services being solicited under this RFP. The Proposer shall demonstrate willingness and ability to provide Certificates of Insurance within ten (10) days of the Notice of Contract Award.

**C. Contract Approval**

SJCERA's selection of a successful Proposer shall not be binding until execution of the contract between Proposer and SJCERA.

# Exhibit A

## SAN JOAQUIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

### REQUEST FOR PROPOSAL No. 2021-01

FOR

### ACTUARIAL AUDITING SERVICES

### SAMPLE FIXED FEE PROPOSAL

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**NAME OF PROPOSER**

Fees must be submitted in U.S. dollars in the format prescribed below. The proposed fixed fee must include all costs and expenses related to providing full-service actuarial auditing services as described in this RFP to SJCERA, including travel. Other unusual or extraordinary expenses may be allowed, but only if requested by the Proposer and authorized by SJCERA in advance. The proposed fixed fee must be guaranteed for the term of the contract.

Contract Term

Proposed Fixed Fee

**Total Year 1**

\$ \_\_\_\_\_

Hourly fee for services outside scope of this RFP:

\$ \_\_\_\_\_

Proposer warrants that the proposed fee does not exceed those charged any other client for the same services.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## Exhibit B

### SAN JOAQUIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

#### REQUEST FOR PROPOSAL No. 2021-01

FOR

#### ACTUARIAL AUDITING SERVICES

### LISTING OF ACTUARIAL PROJECTS

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#### NAME OF PROPOSER

For the Proposer's office that will be assigned to SJCERA, list actuarial projects for large employee retirement benefit plans, large government units and other actuarial services the Proposer deems similar to the projects described in this RFP.

Name of Entity	Assets Under Management	Total Plan Members	Years of Engagement	Scope of Work	Date(s) Completed

## **Exhibit C**

**SAN JOAQUIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

**REQUEST FOR PROPOSAL No. 2021-01**

**FOR**

**ACTUARIAL AUDITING SERVICES**

**SAMPLE CONTRACT**

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## CONSULTANT AGREEMENT

**THIS AGREEMENT** is effective as of \_\_\_\_\_ (the "Effective Date") by and between the San Joaquin County Employees' Retirement Association ("Client"), with offices at 6 S. El Dorado Street, Suite 400, Stockton, California 95202, and \_\_\_\_\_ ("Consultant") with offices at \_\_\_\_\_. Collectively, Client and Consultant are the "Parties," and singularly each a "Party."

**WHEREAS**, the Consultant is an actuary corporation organized under the laws of the State of \_\_\_\_\_,

**WHEREAS**, Client has selected Consultant to provide independent actuary auditing services for the San Joaquin County Employees' Retirement Association,

**WHEREAS**, Client wishes to maintain in confidence all confidential information disclosed (whether directly or indirectly, in written, oral or other tangible form) to Consultant for the purpose of the consulting services or arising from the consulting services, and

**WHEREAS**, in the performance of Consultant's duties under this Agreement, Client may be given access to proprietary information and products owned by Consultant which Consultant wishes to maintain as trade secrets or as property covered by copyright or other intellectual property laws.

**NOW, THEREFORE**, Client and Consultant hereby agree:

### 1. TERM

Client will retain Consultant, and Consultant will accept such retention commencing as of \_\_\_\_\_, and continuing through \_\_\_\_\_ (the "Initial Term"), unless earlier terminated as provided in Section 6 below. Upon expiration of the Initial Term, this Agreement may be renewed for an additional period of one year and for successive one-year periods thereafter (in each case subject to early termination pursuant to Section 6 below) not to exceed a total of five (5) additional years, unless a party provides the other party with written notice of its intent not to renew this Agreement at least sixty (60) days prior to the end of the then-current term.

### 2. SERVICES AND COMPENSATION

- a. **Services.** Client will pay Consultant \_\_\_\_\_ set forth in Attachment A to this Agreement based upon Consultant's all-inclusive fixed fee.
- b. **Special Projects.** With respect to special or additional actuary auditing services, Consultant will bill such requests either on a fixed-fee basis negotiated in advance or based on Consultant's then current hourly billing rates, as agreed upon by the Parties.
- c. **Expenses.** In addition, for projects not covered in Attachment A, Consultant will bill Client for reasonable travel expenses (coach class airfare, lodging, food, and ground

transportation) and miscellaneous out-of-pocket expenses incurred by Consultant on Client's behalf. Travel time during which no services are performed will not be compensable.

- d. Invoicing and Payment.** Consultant will submit invoices to Client for services rendered no more frequently than monthly. Payment of the invoiced amount is due from Client to Consultant within forty-five (45) days of Client's receipt of Consultant's invoice.

### **3. CONSULTANT'S INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL INFORMATION**

- a.** For purposes of this Agreement, Consultant's confidential information includes Consultant's research, work-product, know-how, development, software, trade secrets, and business affairs, but does not include information that: (i) can be shown by documentation to have been in Client's possession prior to its disclosure by Consultant; (ii) at the time of the disclosure is, or thereafter becomes, through no fault of Client, part of public domain; (iii) is furnished to Client by a third party without the breach of any duty to Consultant; or (iv) is required to be disclosed by applicable law or regulation (including subpoenas, court orders, and investigations by a governmental authority).
- b.** Any software or intellectual property developed by Consultant or used under this Agreement contains proprietary information, ideas, techniques, and trade secrets, and may be covered by copyright and/or other intellectual property rights. All such software and intellectual property shall remain the proprietary information, ideas, techniques, and trade secrets of Consultant. In addition, all such software and intellectual property shall remain the property of Consultant and will not be provided to Client for use by Client unless Consultant licenses Client to use it. If the services required pursuant to this Agreement include the use of Consultant's software products, said products will be licensed to Client in accordance with Consultant's Standard License Agreement, with the cost and term of such license mutually agreed upon in writing. Client agrees not to attempt to circumvent the devices employed by Consultant to prevent access by any person, including but not limited to, Client's employees, and agents, to the programmed content of the provided software. Furthermore, Client shall use its best efforts to keep the programmed contents secret and confidential in the case that direct access is obtained, whether intentionally or inadvertently.
- c.** Client shall not use or disclose to anyone other than the employees or agents of the Parties hereto, any of Consultant's confidential information, except as may be required by applicable laws or regulations as specified in subsection (a)(iv) above. In the event Client is served with a subpoena, court order, or a request by a governmental investigative authority for documents, records, communications, (electronic or written), or any other instruments containing Consultant's confidential information, Client shall give Consultant prompt written notice of the requirement to disclose and take reasonable efforts to provide such notice in sufficient time to allow Consultant, at its own expense, to seek an appropriate protective order, confidentiality agreement, or modification of any disclosure requirement. Client shall not disclose Consultant's software, intellectual

property, or trade secrets without the prior consent and approval of Consultant. In any event, Client shall provide the requested information only to the extent required by such applicable law or regulation.

#### **4. CLIENT'S CONFIDENTIAL INFORMATION**

Consultant shall keep Client's data and reports confidential, and shall not disclose any Client information to any third parties without the express written consent of Client, except Consultant will not be prevented from disclosing information that (i) can be shown documentation to have been in Consultant's possession prior to its disclosure by Client; (ii) at the time of the disclosure is, or thereafter becomes, through no fault of Consultant, part of public domain; (iii) is furnished to Consultant by a third party without the breach of any duty to Client, or (iv) is required to be disclosed by applicable law or regulation (including subpoenas, court orders, and investigations by a governmental authority). In the event Consultant is served with a subpoena, court order, or a request by a governmental investigative authority for documents, records, communications, (electronic or written), or any other instruments containing Client's confidential information, Consultant shall give Client prompt written notice of the requirement to disclose and take reasonable efforts to provide such notice in sufficient time to allow Client, at its own expense, to seek a protective order, confidentiality agreement, or modification of any disclosure requirement. In any event, Consultant shall provide the requested information only to the extent required by such applicable law or regulation.

#### **5. AMENDMENTS**

This Agreement may be amended at any time, but only in writing executed by Client and Consultant. If for some reason Consultant must perform additional work not anticipated within the scope of the services set forth in Attachment A, Consultant will not proceed further without obtaining Client's written approval.

#### **6. TERMINATION**

- a. Performance Based.** In the event that Consultant, in the reasonable judgment of Client, has failed to perform any of the services specified in this Agreement in a timely and proper manner, and has not timely cured such failure, Client may terminate this Agreement by giving Consultant written notice of that fact, including the reason therefore and the date of such termination.
- b. Thirty-Day Advance Notice.** Either Party may terminate this Agreement for any reason by providing thirty (30) days advance written notice to the other Party.
- c. Non-Payment.** Consultant may terminate this Agreement for Client's failure to pay in accordance with Section 2 above.
- d. Final Payment.** Upon termination of the Agreement for any reason, Consultant shall be entitled to and receive compensation for such services as have been satisfactorily performed up to the date of termination.

- e. **Transfer of Information.** Upon termination, Consultant will transfer all requested information related to Client to such persons or organizations as Client designates in writing.

**7. LIABILITY OF CONSULTANT/ RELIANCE BY THIRD PARTIES**

- a. Consultant shall not be subject to liability to Client for any act, omission, or mistake of judgment in connection with providing services under this Agreement unless (i) Consultant did not perform its services with the judgment, care, skill, prudence, diligence and intelligence which other consultants serving in a like capacity and experienced in the performance of these services would use when performing like services, and consistent with the applicable professional standards established by the Actuarial Standards Board, or (ii) Consultant has violated a material term of this Agreement.
- b. It is agreed and understood that Consultant's work will be based upon the data provided to Consultant by Client. To the extent that the data provided is incorrect or incomplete, Consultant shall not be liable for the results of work based on that data unless Consultant was negligent with respect to such data. Consultant shall have no obligation to discern any errors, omissions, or irregularities relating to data provided to Consultant by Client, except to the extent that Consultant's failure to discern such errors, omissions, or irregularities is inconsistent with the applicable professional standards established by the Actuarial Standards Board.
- c. Any materials or information developed under the Agreement may not be relied upon by any party other than Client without the express written consent of Consultant, and this Agreement does not create any duty of Consultant to such party.

**8. NOTICE**

Any notice required or permitted by the terms of this Agreement shall be given in writing by first class mail and/or email and properly addressed as follows:

- a. **If to Client:**  
Mr. Greg Frank  
San Joaquin County Employees' Retirement Association  
6 S. El Dorado Street, Suite 400  
Stockton, California 95202  
[gregf@sjcera.org](mailto:gregf@sjcera.org)

- b. **If to Consultant:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any such notice shall be deemed to have been given on the date when first received.

## 9. GENERAL PROVISIONS

- a. **Independent Contractor.** Consultant's status under this Agreement is that of an independent contractor. Services provided by Consultant pursuant to this Agreement shall be subject to the supervision of the Consultant. In providing such services, neither Consultant nor Consultant's employees or agents shall act as officers, employees, or agents of Client. No partnership, joint venture, or other joint relationship is created hereby.
- b. **Governing Law.** This Agreement shall be governed by the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and to the extent not preempted by ERISA, the laws of the Commonwealth of Virginia.
- c. **Uncontrollable Circumstances ("Force Majeure").** Consultant and Client will be excused from the performance of their respective obligations under this Agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance (collectively, "Force Majeure"), provided that (i) the excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure, and (ii) the non-performing Party uses its best efforts to remedy its inability to perform.
- d. **Waiver.** The failure of Client or Consultant to insist, in any one or more instances, upon performance of any of the terms or conditions of this Agreement, shall not be construed as a waiver or relinquishment of any rights granted hereunder or the future performance of any such term, covenant, or condition.
- e. **Severability.** Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated.
- f. **Entire Agreement.** This Agreement, including any Attachments hereto, is the entire agreement of the Parties relating to the subject matter hereof, and supersedes all prior and contemporaneous negotiations, correspondence, understandings, and agreements of the Parties relating to the subject matter hereof. It may be amended only by an agreement in writing, signed by both Parties.
- g. **Assignment.** This Agreement may not be assigned without the prior written consent of the other Party, and it shall terminate automatically on the occurrence of such assignment without consent. If the Agreement is so terminated, Consultant shall receive equitable compensation for such services as have been satisfactorily performed up to the date of termination.
- h. **Survival.** The rights, effects, and obligations under Sections 2, 3, 4, 6(d), 7, and 9 shall survive the termination of this Agreement.

- i. **Third Parties.** This Agreement is not intended to benefit any third party and does not confer any rights on any entity or person not a Party hereto.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement to be effective as of the Effective Date.

**For the Client:**

By: \_\_\_\_\_  
Printed Name

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

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

**For the Consultant:**

By: \_\_\_\_\_  
Printed Name

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

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

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**Attachment A**

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