

Market-Based Compensation Analysis

Request for Proposal

March 2021



Ventura County Employees' Retirement Association (VCERA)
1190 S. Victoria Avenue, Ste. 200
Ventura, CA 93003

Table of Contents

Table of Contents	2
Section 1: Introduction.....	3
Section 2: General Information.....	3
Section 3: Proposed Scope of Work	3
Section 4: VCERA Point of Contact	5
Section 5: Responses to this RFP	5
Section 6: Proposal Requirements.....	6
Section 7: Review and Evaluation Criteria	6
Section 8: Right to Reject Proposal.....	7
Section 9: Incomplete Responses; Defects in RFP	7
Section 10: RFP Calendar.....	7
Section 11: Addenda	8
Section 12: Notice Regarding the California Public Records Act and the Brown Act	8
Section 13: Services Agreement	8
Section 14: General Conditions.....	8
Section 15: Reservations by VCERA	9
Section 16: Non-Discrimination Requirement	9
Attachment 1 – Organization Chart	10
Attachment 2 – Services Agreement.....	Error! Bookmark not defined.

Section 1: Introduction

The Ventura County Employees' Retirement System (VCERA) is issuing this Request for Proposal (RFP) soliciting proposals from qualified Consulting firms to complete a comprehensive market-based compensation analysis. (See Section 3: Proposed Scope of Work.)

VCERA was established in 1947 under the provisions of the County Employees Retirement Law of 1937 (CERL), VCERA provides retirement, death, and disability benefits to employees of Ventura County and certain County districts. VCERA is responsible for managing an approximately \$6.5 billion fund. There are more than 16,000 members served by VCERA, of which more than 7500 are retirees or beneficiaries. The VCERA Board of Retirement (Board) consists of twelve members, four of whom are appointed by the County's Board of Supervisors, four are elected by the members of VCERA, and the County Treasurer, who serves as an ex officio member. There are also three alternate members. The Board has plenary authority and fiduciary responsibility for the investment of assets of the pension fund and administration of the retirement system. VCERA offices are located at 1190 S. Victoria Ave., Ventura, CA 93003.

Thirty-three (33) employees work for VCERA, twenty-eight (28) of which are employees of Ventura County selected and supervised by VCERA under Ventura County personnel rules and labor MOU's. Five (5) employees are directly employed by VCERA in accordance with CERL Section 31522.10. These employees are executives and management professionals and for whom this market-based compensation analysis is to be performed, under the guidance of an ad-hoc committee appointed by the Board Chair. The classifications of these employees are:

Retirement Administrator
General Counsel
Chief Investment Officer
Chief Financial Officer
Chief Operations Officer

An Organization Chart is shown in Attachment 1

Section 2: General Information

All terms, conditions, requirements and procedures included in the RFP must be met for a response to be qualified as responsive. A submission that fails to meet any material term, condition, requirement or procedure of this RFP may be disqualified. VCERA reserves the right to waive or permit cure of non-material errors or omissions. VCERA reserves the right to modify, amend, or cancel the terms of the RFP at any time. All responses must be submitted in accordance with the specific terms of this RFP. The submission requirements for this RFP are set forth in *Section 7*. A proposal shall constitute an irrevocable offer for 120 business days following the submission deadline. Reference to days in this RFP shall mean business days unless otherwise specified.

If a firm responding to this RFP (respondent) discovers an ambiguity, conflict, discrepancy, omission or other error in this RFP, notice should be given to Chris Ayala at Chris.Ayala@ventura.org. VCERA is not responsible for, and has no liability for, or obligation to correct any errors or omission in this RFP.

Section 3: Proposed Scope of Work

This RFP solicits proposals from qualified consultants to conduct a comprehensive market-based compensation analysis for the five management and professional employees of VCERA. The analysis should include:

1. An understanding of VCERA's compensation and benefit programs, performance management and merit adjustment practices, competitive positions and job content.
2. Meeting with VCERA's ad-hoc committee to finalize the list of comparable public agencies to be used in the survey.

3. Evaluation of VCERA current total compensation package: Compare VCERA compensation packages and compensation adjustment practices with other California retirement systems, as well as other comparable entities, that would compete for the same levels of talent by position.

The total compensation should include the total value of the several retirement plans offered to the VCERA positions:

- a. Legacy General member tier 1 = 2.182% at 60, no retirement COLA or retiree health benefits
- b. Legacy General member tier 2 = 1.917% at 60, no retirement COLA or retiree health benefits
- c. PEPRAs General member = 1.80% at 60, no retirement COLA or retiree health benefits

A comparison of total compensation for each job classification including valuation of the work performed by each position. Comparable positions at other agencies should be selected by using job duties, responsibilities and education, skills and experience requirements of each position, and should take into account whether the comparable agencies are independent "districts" or similar structure, or whether compensation is set by another governing board, such as board of supervisors.

- . Meet with VCERA's ad-hoc committee to finalize the comparable positions selected for each job classification.
4. A review of background materials including organization charts, the VCERA Management Resolution, summary plan documents for health, dental, vision, deferred compensation, life insurance, time off provisions and the employee and employer cost related to this information.
5. A review of current job descriptions, pay ranges, additional compensation components, and all benefits that comprise the total compensation of each job classification. Develop a benefits valuation analysis that is incorporated into the evaluation of the total compensation.
6. Employee interviews as needed.
7. An impact analysis comparing the current total compensation packages for VCERA positions for each incumbent to public benchmark data for desired market position. For positions where the incumbent receives pension benefits that were offered prior to the effective date of California's Public Employee Pension Reform Act (PEPRA - 1/1/2013), also provide an impact analysis for a scenario where an individual is hired with a PEPRA pension benefit.
8. Written recommendations for competitive compensation packages when compared to other California retirement systems, as well as other comparable entities, that would compete for similar level talent and skill sets.
 - i. The report should include equitable compensation package recommendations for each classification included in the analysis. The recommendations should include a breakdown between base salary, incentives/bonuses, additional compensation components and benefits. The base salary recommendation for each position should include a minimum, midpoint and maximum rate of pay.
 - ii. Recommendations should take into consideration future growth of the agency and operating structures in order to be competitive.
 - iii. Recommendations on effective methods of plan administration and adjusting individual pay rates (i.e. merit adjustments, cost of living) and pay ranges moving forward.
 - iv. Recommendations on alternative compensation or benefit components that could achieve a total compensation package that is competitive with the selected peer group.
 - v. Identification of the methods, techniques and data used to develop the recommendations.
 - vi. Address compensation factors to insure VCERA's ability to attract, retain, and motivate its employees while meeting the organization's responsibility to be accountable for and efficient in its expenditures of public funds.
 - vii. Compensation factors that must be considered include internal equity balanced with external competitiveness, affordability, efficiency in administration, flexibility and how well the compensation policy meets VCERA's unique needs.

- viii. Implementation guidelines on how to communicate the recommended structure and plan to managers, employees, Board members and other stakeholders.
- 9. The consultant shall provide a draft analysis to VCERA's ad-hoc committee for comment prior to finalizing the report.
- 10. Provide the data used for comparable positions considered in making its recommendations.
- 11. Present draft results of the survey to VCERA management in a group meeting.
- 12. Consultant to attend meetings throughout the process with VCERA staff to explain methodology, survey results, and recommendations. The Consultant should budget for two on-site (or via video conference) Board meetings and three meetings (on-site or video conference) with VCERA's ad-hoc committee, which will include one kick-off meeting.

Other Requirements

The selected firm shall provide all personnel, equipment, tools, materials, vehicles, supervision, and other items and services necessary to perform all services, tasks, and functions as defined in this RFP.

Minimum insurance coverage must include the following items and proof of such insurance must be provided to VCERA on an annual basis. VCERA must be listed as an additional insured payee:

- 1. Commercial General Liability: \$1M per occurrence, \$2M aggregate
- 2. Automobile Liability: \$1M per occurrence, \$1M aggregate
- 3. Workers Compensation: No less than statutory levels per accident for bodily injury or disease.
- 4. Professional Liability (Errors & Omissions): \$1M per occurrence, \$2M aggregate

Section 4: VCERA's Point of Contact

From the date of issuance of this RFP until the selection of one or more respondents is completed and announced, respondents are not permitted to communicate with any VCERA staff member or Board Members regarding this procurement, except through the Point of Contact named herein. Respondents violating the communications prohibition may be disqualified at VCERA's discretion. Respondents having current business with VCERA must limit their communications to the subject of such business.

The Point of Contact for questions and all matters relating to this RFP is:

Name & Title:	Chris Ayala, Board Clerk
Address:	Ventura County Employees Retirement Association 1190 S. Victoria Ave., Ste. 200 Ventura, CA 93003
Telephone:	805.339.4261
Email:	Chris.Ayala@VCERA.org

Section 5: Responses to this RFP

It is the responsibility of the respondent to ensure that its proposal arrives on or before the specified time and date. Failure to comply with this provision will result in disqualification of the RFP response. Four hard-copies of the proposal must be received at the address noted in *Section 5* by the close of business per the calendar in *Section 10* to the attention of the point of contact designated in *Section 4*. Additionally, an electronic copy should be submitted via Microsoft Word or Adobe Acrobat PDF format to the email address also noted in *Section 4*.

Note that responses will be subject to disclosure to the public upon written request under the California Public Records Act. See *Section 13: Notice Regarding the California Public Records Act and the Brown Act* for additional information.

Section 6: Proposal Requirements

Proposals must include the following information:

1. A cover letter affirming that the signatory is empowered and authorized to bind the respondent to an engagement agreement with VCERA and represents and warrants that the information stated in the proposal is accurate and may be relied upon by VCERA in considering and potentially accepting the proposal.
2. An executive summary that provides the respondent's background, experience and other qualifications to provide a comprehensive compensation study for public agencies. At a minimum, the firm should have at least five (5) or more years prior experience in comprehensive compensation analyses.
3. A description of the respondent including:
 - a. Brief history of the firm including year of formation
 - b. Ownership structure
 - c. Office locations
 - d. Organization chart
 - e. Number of employees
 - f. Annual revenues
 - g. Areas of practice including firm specialties, strengths and limitations
4. Identification of the Project Lead who has demonstrated successful management of at least three projects of similar size and scope. Please include a biography or resume for the Project Lead and a list of current clients and relevant projects completed. Describe what role and responsibilities the Project Lead will have on the project. NOTE: Should the Project Lead become unavailable at any point in the project, his or her replacement must be mutually agreed upon by VCERA and the selected respondent.
5. The names and qualifications of fully trained and qualified staff that will be assigned to the VCERA project. For each individual assigned to VCERA, provide a description of his/her responsibilities within the firm, the role and responsibilities for the VCERA project, years of relevant experience for this project, years with the firm, degrees and professional designations. NOTE: Should any team member become unavailable at any point in the project, his or her replacement must be mutually agreed upon by VCERA and the selected respondent.
6. A description of the respondent's understanding of the scope of work and the deliverables to be provided. A description of the methodology and approach to accomplish the proposed scope of work as discussed in Section 4. Provide insight and reasoning as to why your methodology and approach will provide value and benefit to VCERA.
7. A Statement of Work that defines the proposed activities, costs, deliverables and timelines for the project.
8. A sample report of a compensation study that your firm has produced that is similar in scope.
9. Provide three (3) project references from three different organizations similar in project scope (see *Item 3* above) including a description of the work performed and recommendations made to each.
10. A pricing proposal based upon time and materials costs with the estimated number of hours and a fixed "shall not exceed" pricing cap. All pricing proposals should be the respondent's "best and final," although VCERA reserves the right to negotiate on pricing.
11. An explanation of all actual or potential conflicts of interest that the respondent may face in the representing VCERA.
12. Any other information that the respondent deems relevant to VCERA's selection process.

Section 7: Review and Evaluation Criteria

Respondents will be evaluated in the discretion of VCERA based upon the following factors:

- Depth of experience and knowledge of the firm and/or individuals.
- Quality of the team proposed to provide services to VCERA.
- Methodology proposed and demonstrated understanding of Scope of Services requested
- Information provided by references.
- Communication skills.
- Strength, stability and longevity of the firm.
- Pricing and value.
- Teamwork, both internally and with VCERA.
- Level of investment and commitment to the VCERA relationship.
- The organization, completeness, and quality of the proposal, including cohesiveness, conciseness, and clarity.

The factors will be considered as a whole. The balancing of the factors is in VCERA's sole discretion. Factors other than those listed may be considered by VCERA in making its selection. VCERA reserves the right in its discretion to request additional information from any respondent, although such requests may not be made to all respondents. VCERA reserves the right to require one or more interviews with or personal presentations by finalists to be conducted with VCERA's ad hoc committee, legal staff, VCERA management and/or Board Members.

Section 8: Right to Reject Proposal

By submitting a proposal, respondents acknowledge that they have read this RFP, understand it, and agree to be bound by its requirements unless clearly and specifically noted in the response submitted. VCERA reserves the right without prejudice to reject any and all responses. VCERA reserves the right to modify the terms and requirements of this RFP. Any such changes or corrections will be sent by email.

Section 9: Incomplete Responses; Defects in RFP

If the information in the proposal is deemed to be insufficient for evaluation, VCERA reserves the right to request additional information or to reject the submittal outright. False, incomplete or unresponsive statements in connection with a submittal may be sufficient for its rejection. Determination of the fulfillment of the proposal requirements will be made by VCERA and such determination shall be final.

Section 10: RFP Calendar

Respondents are encouraged to communicate any questions regarding this RFP by the deadline set forth below. Questions should be sent in writing via email to Chris.Ayala@VCERA.org. Questions and answers will be communicated to all respondents by email by the date stated in the RFP Calendar. VCERA reserves the right to modify this schedule at any time.

RFP CALENDAR

Release of RFP – March 30, 2021
RFP Questions Deadline – April 6, 2021, 5:00 PM (PDT)
RFP Answers by email – April 13, 2021
RFP Submission Deadline – April 23, 2021, 5:00 PM (PDT)
Finalist interviews – Week of May 10, 2021
Selection Notification – May 17, 2021

Section 11: Addenda

VCERA may modify the RFP prior to the date fixed for submission by emailing or faxing an addendum to the respondents known to be interested in submitting a proposal. If any respondent determines that an addendum unnecessarily restricts its ability to bid, it must notify VCERA in writing no later than three days before the deadline for submitting bids. Failure of a respondent to receive or acknowledge receipt of any addendum shall not relieve the respondent of the responsibility for complying with the terms thereof.

Section 12: Notice Regarding the California Public Records Act and the Brown Act

All proposals submitted in response to this RFP will become the exclusive property of VCERA. Proposals will not be returned to the respondent and will be subject to public disclosure pursuant to the California Public Records Act (California Government Code Sections 6250 et. seq., the "Act"). The Act provides generally that all records relating to a public agency's business are open to public inspection and copying, unless specifically exempted under one of several exemptions set forth in the Act.

If a respondent believes that any portion of its proposal is exempt from public disclosure under the Act, such portion must be marked "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY." VCERA will not publicly disclose any portions so designated, provided that such designation is, in VCERA's reasonable discretion, in accordance with applicable law. Proposals marked in their entirety as "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY" will not be honored, and VCERA will not deny public disclosure of all or any portion of proposals so marked. By submitting a proposal with specifically selected portions marked "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY" respondent represents that it has a good faith belief that such material is exempt from disclosure under the Act, and respondent agrees to reimburse VCERA for, and to indemnify, defend and hold harmless VCERA, its officers, fiduciaries, employees and agents from and against: (a) any and all claims, damages, losses, liabilities, suits, judgments, 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 VCERA's non-disclosure of any such designated portions of respondent's proposal; and (b) any and all Claims arising from or relating to VCERA's public disclosure of any such designated portions of respondent's proposal if VCERA reasonably determines disclosure is deemed required by law, or if disclosure is ordered by a court of competent jurisdiction.

In addition to the foregoing, VCERA Board of Retirement and committee meetings, other than ad-hoc committee meetings, are subject to California open meeting requirements set forth in the Ralph M. Brown Act (Gov. Code §§ 54950-54962) (the "Brown Act"). Respondent's proposal and/or contract (if the respondent is selected) may be presented or discussed at a public meeting of the VCERA Board of Retirement. Among other things, that means that, regardless of whether respondent marks portions of its proposal as "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY," that information may be discussed or presented at a meeting that is open to the public under the Brown Act.

Section 13: Services Agreement

The selected proposer will be required to execute a services agreement. A copy of VCERA's Agreement is included for your review. It must be signed prior to the commencement of work.

Section 14: General Conditions

Receipt of a proposal neither commits VCERA to select any respondent even if all requirements stated in this RFP are met, nor does it limit VCERA's right to negotiate the terms of a services agreement in VCERA's best interests, including requirement of terms not mentioned in this RFP. VCERA reserves the right to select a respondent for reasons other than lowest price.

Failure to comply with the requirements of this RFP may subject the proposal to disqualification. Publication of this RFP does not limit VCERA's right to negotiate for the services described in this RFP. If deemed by VCERA to be in its best interests, VCERA may negotiate for the services described in this RFP with a party that did not submit a proposal.

Section 15: Reservations by VCERA

In addition to the other provisions of this RFP, VCERA reserves the right to:

1. Cancel this RFP, in whole or in part, at any time.
2. Make such investigation as it deems necessary to determine the respondent's ability to furnish the required services, and the respondent agrees to furnish all such information for this purpose as VCERA may request.
3. Reject the proposal of any respondent who is not currently in a position to perform the scope of work, or who has previously failed to perform similar engagements properly, or in a timely manner, or for any other reason in VCERA's sole discretion.
4. Waive irregularities, to negotiate in any manner necessary to best serve the public interest, and to make a whole award, multiple awards, a partial award, or no award.
5. Select the firm which will provide the best match to the requirements of the RFP and the service needs of VCERA in VCERA's sole discretion, which may not be the proposal offering the lowest fees.
6. Reject any or all proposals submitted in response to this RFP.
7. Determine the extent, without limitation, to which the services of a successful respondent are or are not actually utilized.
8. The information that a respondent submits in response to this RFP become the exclusive property of VCERA. VCERA will not return any proposal or reimburse proposal preparation or submission expenses.

Section 16: Non-Discrimination Requirement

By submitting a proposal, the respondent represents that it and its subsidiaries do not and will not discriminate against any employee or applicant for employment on the basis of race, religion, sex, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy-related conditions, political affiliations or opinion, age, or medical condition.

VCERA appreciates your time and looks forward to receiving your proposal.

All responses to this RFP must be submitted prior to the RFP Submission Deadline stated in the RFP Calendar to:

Ventura County Employees' Retirement Association

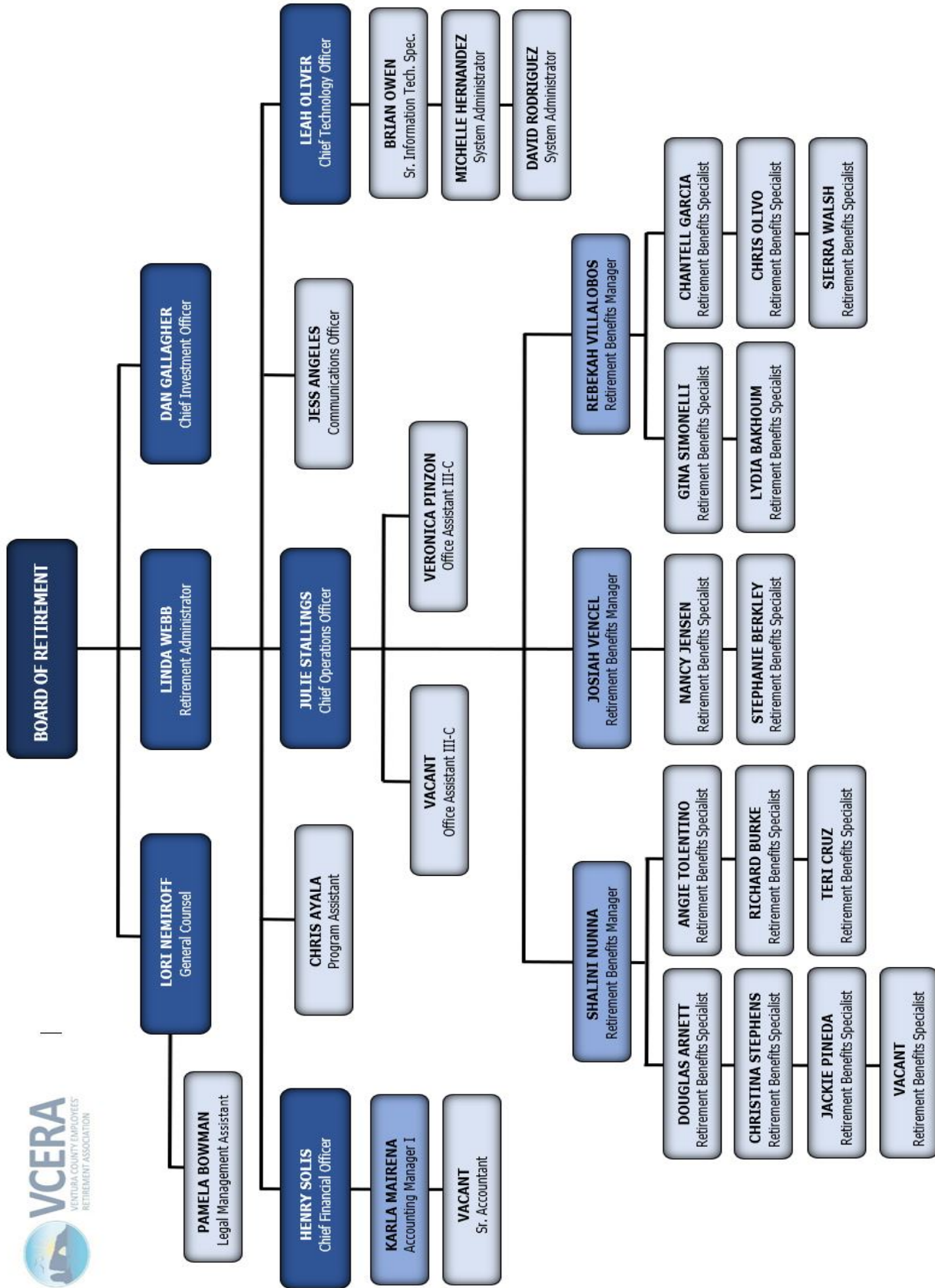
Attention: **Chris Ayala, Board Clerk**

1190 S. Victoria Ave., Ste. 200

Ventura, CA 93003



Attachment 1



Attachment 2 Services Agreement

This Agreement is made and entered into as of _____ (“Effective Date”) by and between Ventura County Employees’ Retirement Association (“VCERA”), and _____ (“Consultant”), with a principal place of business at _____. VCERA and Consultant are referred to individually as “Party” and collectively as the “Parties.” This Agreement and all other documents pertaining to this document are collectively referred to as this “Agreement.”

1. This Agreement is comprised of this document and the following Attachments, which are attached hereto and incorporated by reference into this Agreement:

Exhibit A – Scope of Services

Exhibit B – Payment/Compensation

2. Term of Agreement: This Agreement shall commence upon the Effective Date and will continue until the final report is delivered to VCERA; which shall be no later than six months from the effective date, unless otherwise terminated.

3. Termination: In addition to any other remedies or rights it may have by law, both Parties have the right to immediately terminate this Agreement without penalty for cause, or after 30 days’ written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of this Agreement, and any misrepresentation or fraud. Exercise by a party of its right to terminate the Agreement shall relieve VCERA of all further obligations, except those which expressly survive termination.

4. Termination Transition: Upon termination, VCERA agrees to pay the Consultant for all undisputed services performed prior to termination which meet the requirements of the Agreement, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Agreement. Upon termination or other expiration of this Agreement, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Agreement.

5. Breach of Contract: The failure of the Consultant to comply with any of the provisions, covenants or conditions of this Agreement shall be a material breach of this Agreement. In such event VCERA may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Agreement:

a) Terminate the Agreement immediately, pursuant to the “Termination” clause;

b) Afford the Consultant written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Agreement within which to cure the breach;

c) Discontinue payment to the Consultant for and during the period in which the Consultant is in breach; and

d) Offset against any monies billed by the Consultant but yet unpaid by the VCERA those monies disallowed pursuant to the above.

e) Make payment to the Consultant for any monies owed for undisputed services already rendered.

6. Consent to Breach Not Waiver: No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

8. News/Information Release: Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement or any subsequent amendment of or effort under this Agreement without first obtaining review and written approval of said news releases from VCERA through VCERA's Ad-Hoc Committee. In addition, the Consultant agrees it will not use VCERA's logo, name or branding for any advertisements or endorsements, electronic or otherwise, without the prior written approval of VCERA.

9. Notices: Unless otherwise provided in this Agreement, notices under the Agreement must be in writing and delivered by courier, overnight carrier, or by certified mail, return receipt requested, to the persons whose name and business address appear below or to such other address as may hereafter be furnished in writing to the other Party.

If to VCERA:
Ventura County Employees' Retirement Association
1190 S. Victoria Ave.
Ventura, CA 93003
Attention: Chris Ayala
e-mail: Chris.Ayala@VCERA.org

If to Consultant:

e-mail: _____

11. Assignment and Change of Ownership: The nature and character of Consultant is material to VCERA decision to enter into this Agreement. Therefore, neither the performance of this Agreement nor any portion thereof may be assigned by Consultant without the express written consent of VCERA, in its sole and absolute discretion, and such consent shall not be unreasonably withheld. Any attempt by Consultant to assign the performance or any portion thereof of this Agreement without the express written consent of VCERA shall be invalid and shall constitute a breach of this Agreement. Upon a permitted assignment, the

terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties.

Consultant agrees that if there is a change or transfer in ownership of Consultant's business prior to completion of this Contract, and VCERA agrees to an assignment of the Contract, the new owners shall be required under terms of sale or other transfer to assume Consultant's duties and obligations contained in this Agreement and complete them to the satisfaction of VCERA. VCERA reserves the right to immediately terminate the Agreement in the event VCERA determines that the assignee is not qualified or is otherwise unacceptable to VCERA for the provision of services under the Agreement.

12. Non-Discrimination: In the performance of this Contract, Consultant agrees that it will not engage nor permit any sub-Consultants to engage in discrimination in employment of persons because of the race, religion, creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, economic or governmentally subsidized status, or military and veteran status of any person of such persons.

13. Independent Contractor: Consultant shall be considered an independent contractor and neither Consultant, its employees, nor anyone working under Consultant shall be considered an agent or an employee of VCERA. Neither Consultant, its employees nor anyone working under Consultant shall qualify for workers' compensation or other fringe benefits of any kind through VCERA.

14. Performance Warranty: Consultant shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to VCERA's satisfaction. Consultant shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other services furnished by the Consultant under this Agreement. Consultant shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of VCERA required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Consultant shall be fully responsible for all work performed by sub-Consultants.

15. Insurance Requirements: Consultant shall carry insurance coverage for the following types and minimum amounts noted below. Consultant will provide applicable Certificate(s) of Insurance to VCERA prior to the commencement of work and name VCERA, VCERA's officers, officials, employees, and volunteers as additional insured.

- Commercial General Liability of no less than \$1 Million per occurrence or claim, with a \$2 Million aggregate.
- Automobile Liability of no less than \$1 Million per accident for bodily injury and property damage, with a \$2 Million aggregate.
- Workers' Compensation in the statutorily requirement amounts per accident for bodily injury or disease.

- Professional Liability (Errors & Omissions) insurance appropriate to the Consultant's profession, with limit no less than \$1 Million per occurrence or claim, with a \$2 Million aggregate.

16. Force Majeure: Consultant shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Agreement caused by any act of God, war, civil disorder, nuclear war, employment strike or other cause beyond its reasonable control, provided Consultant gives written notice of the cause of the delay to VCERA within two (2) business days of the start of the delay and Consultant avails himself of any available remedies.

17. Confidentiality: Consultant agrees to maintain the confidentiality of all VCERA and VCERA-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Consultant and Consultant's staff, agents and employees.

The parties acknowledge and agree that certain information designated by either VCERA or Consultant shall be deemed "Confidential Information." Confidential Information excludes information that: (i) is or becomes generally available to the public through no wrongful act of the recipient; (ii) is received from a third party with the right to supply it; or (iii) is independently developed by the recipient. Upon written request, the recipient will return the Confidential Information to the discloser and shall not retain any copies of such Confidential Information. Confidential Information may be used by the recipient only in connection with its performance under this Agreement. Confidential Information may not be disclosed except to those employees or Consultants of the recipient with a need to know and who agree to hold the information in confidence or if a party is legally compelled. If the recipient is legally compelled to disclose Confidential Information, the recipient shall provide the discloser with notice of such requirement prior to disclosure (if permissible) so that the discloser may seek any appropriate remedy.

Consultant understands and agrees that VCERA, as a public pension fund, is subject to the California Public Records Act, Cal. Gov't Code § 6250 et. seq. ("CPRA") and may be requested to include Consultant's delivered work product as part of a response to a public records request. This Agreement shall constitute notice that any work product provided to VCERA may be released to the public pursuant to a CPRA request and shall release VCERA from any liability or damages related to such disclosure. Should Consultant believe that certain work product is protected by trade secret or other applicable laws, Consultant shall designate it as Confidential Information and provide VCERA the applicable exception to disclosure under the CPRA. In the event that any action is taken against VCERA for failure to disclose information deemed by Consultant to be protected, Consultant shall indemnify and defend VCERA, its employees and Board members from all liability arising out of the failure to disclose, including but not limited to, all attorneys' fees VCERA is required to pay for its own defense and any attorneys' fee award to a requesting party who prevails in the action. This indemnity shall supersede any limitation of liability or any other indemnification provision in this Agreement or in any statement of work executed by the parties. Nothing herein shall prejudice Consultant's right to challenge a determination that disclosure is

required through appropriate means, including but not limited to a “reverse-CPRA action,” see *Marken v. Santa Monica-Malibu Unified School Dist.*, (2012) 202 Cal. App. 4th 1250.

18. Compliance with Laws: Consultant represents and warrants that services to be provided under this Agreement shall fully comply, at Consultant’s expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively “laws”). Consultant acknowledges that VCERA is relying on Consultant to ensure such compliance, and pursuant to the requirements of paragraphs 21-22 below. Consultant agrees that it shall defend, indemnify and hold VCERA and VCERA INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to Consultant’s failure to comply with any applicable law.

19. EDD Independent Consultant Reporting Requirements: Effective January 1, 2001, VCERA is required to file a report in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a “service provider” to whom the VCERA pays \$600 or more or with whom the VCERA enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Consultants. An independent Consultant is defined as “an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes a contract for services performed for that ... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at <http://www.edd.ca.gov/Employer Services.htm>

20. Civil Rights: Consultant attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, the Unruh Civil Rights Act, Cal. Civ. Code § 51; the California Fair Employment and Housing Act, Cal. Civ. Code §§ 12940 et seq., and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, economic or governmentally subsidized status, or military and veteran status.

21. Equal Employment Opportunity: The Consultant shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable state of California regulations as may now exist or be amended in the future. The Consultant shall not discriminate against any employee or applicant for employment on the basis of race, religion, creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, economic or governmentally subsidized status, or military and veteran status.

Regarding handicapped persons, the Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Consultant agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Consultant agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

22. Entire Agreement: This Agreement contains the entire Agreement between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on VCERA unless authorized by VCERA in writing.

23. Precedence: The Agreement documents consist of this Agreement and its exhibits. In the event of a conflict between or among the Agreement documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, and then the exhibits.

24. Amendments: No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties, including a signature that is electronically transmitted by the party electronic transmission and acknowledgement from the persons set forth above in Section 10 ("Notice"); no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on VCERA unless authorized by VCERA in writing.

25. Severability: If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

26. Governing Law and Venue: This Agreement has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Ventura County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding California Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.

27. Interpretation: This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Agreement by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.

28. Indemnification: The parties agree to indemnify, defend, and hold each other (including its officers, employees, officials, employees, agents, and in the case of VCERA, its Board Members) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by the other party pursuant to this Agreement. In the event that defense of an action is tendered to and accepted by Consultant, counsel employed by Consultant for that action shall first be approved by VCERA. If judgment is entered against either party by a court of competent jurisdiction because of the concurrent active negligence of the other party, the parties agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date following their respective signatures.

VENTURA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

Signature: _____

Name: _____

Title: _____

Date: _____

CONSULTANT

Signature: _____

Name: _____

Title: _____

Date: _____

Exhibit A

The Scope of Work shall be as described in Section 3 of the RFP to which the Consultant responded in submitting its proposal, and which is incorporated in this Agreement as if set forth herein. Such scope may be revised by mutual written agreement of the parties and, if revised, shall replace Section 3 of the RFP and become a part of this Agreement.

**Exhibit B
Payment/Compensation**

[Insert fees and rates here]

1. Compensation: This is a firm-fixed fee Agreement between the VCERA and Consultant for services described in Attachment A, "Scope of Work. The Consultant agrees to accept the specified compensation set forth in this Agreement as full payment for performing all services and furnishing all staffing and materials required for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Consultant of all its duties and obligations hereunder. The Consultant shall only be compensated as set forth herein for work performed in

accordance with the Scope of Work. VCERA shall have no obligation to pay any sum in excess of the fixed rates specified herein unless authorized by VCERA in writing.

2. Payment shall be made in accordance with a payment schedule to be mutually agreed upon and attached hereto and made a part hereof.
3. Billing shall cover services not previously invoiced. The Consultant shall reimburse VCERA for any monies paid to the Consultant for services not provided or when services do not meet the requirements of this Agreement.
4. Payments made by VCERA shall not preclude the right of the VCERA from thereafter disputing any items or services involved or billed under this Agreement and shall not be construed as acceptance of any part of the services.
5. Payment – Invoicing Instructions: The Consultant shall provide an invoice on the Consultant’s letterhead for services provided. Each invoice shall have a number and include the following information:
 - a. Consultant’s name and address
 - b. Consultant’s remittance address, if different from “a” above
 - c. Consultant’s Taxpayer ID Number
 - d. Identification of the services rendered
 - e. Total

Invoice and support documentation are to be forwarded to:

Chief Financial Officer
Ventura County Employees’ Retirement Association
1190 S. Victoria Ave.
Ventura, CA 93003
Email: Henry.Solis@VCERA.org

