



**EMPLOYMENT RISK MANAGEMENT AUTHORITY  
SPECIAL BOARD OF DIRECTORS MEETING  
AGENDA**

**Tuesday, May 16, 2023  
1:00 p.m.**

**[Zoom](#)**

**Dial-in Number: (669) 900-6833  
Meeting ID: 815 0665 8874  
*No Passcode Required***

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All portions of this meeting will be conducted by teleconferencing in accordance with Government Code section 54953. The teleconference locations are as follows:

- California Intergovernmental Risk Authority, 2330 E. Bidwell Street, Ste. 150, Sacramento, CA 95815
- City of Albany, 1000 San Pablo Ave., Albany, CA 94706
- City of Brentwood, 150 City Park Way, Brentwood, CA 94513
- City of Greenfield, 599 El Camino Real, Greenfield, CA 93927
- City of King City, 212 So. Vanderhurst Ave., King City, CA 93930
- City of Los Altos, 1 North San Antonio Road, Los Altos, CA 94022
- City of Mt. Shasta, 305 N. Mt. Shasta Boulevard, Mt. Shasta, CA 96067
- City of Oakdale, 280 N. 3rd Ave., Oakdale, CA 95361
- City of Rancho Cucamonga, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730
- City of Sanger 1700 7th Street, Sanger, CA 93657
- City of Santa Maria, 110 E. Cook Street, Santa Maria, CA 93454
- City of Shasta Lake, 4477 Main Street, Shasta Lake, CA 96019
- Coachella Valley Mosquito and Vector Control District, 43420 Trader Place, Indio, CA 92201
- Housing Authority of the County of Contra Costa, 3133 Estudillo Street, Martinez, CA 94553
- Lake County Vector Control District, 410 Esplanade St, Lakeport, CA 95453
- Municipal Pooling Authority, 1911 San Miguel Drive, Walnut Creek, CA 94696
- Oakland Housing Authority, 1805 Harrison Street, Oakland, CA 94612
- Public Entity Risk Management Authority, 2671 Tucker Lane, Los Alamitos, CA 90720
- Sedgwick, 1750 Creekside Oaks Drive, Ste. 200, Sacramento, CA 95833
- Tahoe Transportation District, 128 Market Street 3F, Zephyr Cove, NV 89448
- Town of Atherton, 80 Fair Oaks Lane, Atherton, CA 94027
- Town of Woodside, 2955 Woodside Road, Woodside, CA 94062

Members of the public may observe and listen to the meeting telephonically. No physical location will be available from which members of the public may observe the meeting and offer public comment. Public comments may be submitted in advance of the meeting by emailing Danielle Davis at [danielle.davis3@sedgwick.com](mailto:danielle.davis3@sedgwick.com). Alternatively, members of the public may offer spoken comments when public comment is requested, either at the beginning of the meeting as to non-agenda items, or regarding an agenda item at the time that item is considered.

In compliance with the Americans with Disabilities Act, if you need a disability-related modification or accommodation to participate in this meeting, please contact Ms. Davis as early as possible, and preferably at least one full business day before the start of the meeting.

Documents and materials relating to an open session agenda item that are provided to the Board will be available for public inspection. Please contact Ms. Davis.

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|--------------------|--|
| <b><u>Page</u></b> | <b>1. CALL TO ORDER; ROLL CALL</b>   |
|                    | <b>2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)</b>  |
|                    | <b>3. PUBLIC COMMENTS</b> - This time is reserved for members of the public to address the Board relative to matters of ERMA not on the agenda. Questions may be submitted in advance by emailing <a href="mailto:danielle.davis3@sedgwick.com">danielle.davis3@sedgwick.com</a> . No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person and twenty minutes in total. |
| <b>3</b>           | <b>4. ADMINISTRATIVE MATTERS</b><br>*A. Sedgwick Agreement for Pool Administration Services<br><i>Recommendation: None.</i>  |
|                    | <b>5. CLOSING COMMENTS</b><br>This time is reserved for comments by the Board of Directors members and staff and to identify matters for future Board of Directors business.<br>A. Board of Directors<br>B. Staff  |
|                    | <b>6. ADJOURNMENT</b>  |

**NOTICES:**

- The next regular meeting of the Board of Directors will be held on Monday, June 5, 2023, at 10:00 a.m., at the Hilton Garden Inn, 20 Advantage Court, Sacramento, CA.

\* Reference materials enclosed with staff report.

**ADMINISTRATIVE MATTERS**

**SUBJECT: Sedgwick Agreement for Pool Administration Services**  
***Presented by Jon Paulsen, Sedgwick***

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**RECOMMENDATION: *None.***

**BACKGROUND AND STATUS:**

ERMA has contracted with Bickmore (subsequently assigned to York/Sedgwick) for Pool Administration Services since inception of the program in 1999. Staff manages ERMA's day-to-day operational, general administration, and financial affairs under the current five-year agreement, executed in April 2018 and expiring June 30, 2023.

Jon Paulsen, Senior Vice President at Sedgwick, worked with John Gillison, ERMA President, and Doug Alliston, Board Counsel, to prepare the proposed renewal agreement. The following key updates in the proposed agreement include:

<b>General Updates</b>	<ul style="list-style-type: none"><li>• Language to reflect electronic communications, data security, data and record storage, confidentiality of information, and updates to the scope of services to reflect the current work that has evolved since the last contract.</li><li>• Services related to member EPL training amended to better reflect current activity and expense responsibility.</li></ul>
<b><u>Section 5.</u></b> Payments	<ul style="list-style-type: none"><li>• Contract amount is proposed at \$1,138,431. This is an increase over the current 2022/23 program year amount of \$899,879 (26.5%)</li><li>• <u>Subsection B.</u> Website activities and maintenance expenses.</li><li>• <u>Subsection C.</u> An annual increase based on an increase of a percentage equal to the change in the 12-month average (the average of the bi-monthly increases from April 2023 through May 2023, etc.) changes in the Consumer Price Index for the Sacramento Urban Wage Earners and Clerical Workers Consumers Price Index provided - increase shall not be less than two percent (2%) nor more than six percent (6%).</li></ul>

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<b><u>Section 7.</u></b> Reimbursement of LM Time and Expenses	Clarification regarding preparation time and subsequent time and travel expenses.
<b><u>Section 8.</u></b> RMIS	RMIS fees changed to the responsibility of Sedgwick.
<b><u>Section 9.</u></b> Term	Five-year term with mutual options for early termination
<b><u>Section 22.</u></b> Equitable Adjustment	Sedgwick may request a fee discussion if there are regulatory or statutory changes that require additional service scope for compliance.

Mr. Paulsen will present the proposed services agreement and answer any questions from the Board.

**REFERENCE MATERIALS ATTACHED:**

- Agreement for Pool Administration Services

## **AGREEMENT FOR ADMINISTRATIVE, LITIGATION MANAGEMENT, AND FINANCIAL SERVICES**

This Service Agreement for Pool Administration (this “Agreement”) is made and entered into this first day of July 2023, by and between Employment Risk Management Authority (“ERMA” or “Client”) and Sedgwick Claims Management Services, Inc. (“Sedgwick”).

### **RECITALS**

1. Client desires that Sedgwick provide certain pool administration services.
2. Sedgwick is willing to provide such services on the terms and conditions hereinafter stated.

### **AGREEMENT**

1. **Services to Be Performed by Sedgwick:** Sedgwick shall provide ERMA with the services set forth on Attachment A (the “Services”). Sedgwick, when mutually agreed by ERMA and Sedgwick, may perform additional services. Payment for said additional services shall be as mutually agreed.
2. **Obligations of Client:** ERMA shall:
  - A. Require member agencies to provide any information required by Sedgwick to carry out the duties pursuant to this Agreement;
  - B. Require member agencies to be truthful with Sedgwick, cooperate with Sedgwick’s staff, cooperate in the conduct of ERMA’s programs, and keep Sedgwick informed of any developments which could impact the operations of ERMA;
  - C. Appoint members of Sedgwick’s staff to act as ERMA’s Executive Director, Board Secretary, Finance Manager, and Litigation Manager; ERMA and Sedgwick agree ERMA’s Executive Director and Litigation manager can be classified as key personnel and may only be changed by mutual consent of both parties;
  - D. At ERMA's expense, select an attorney who shall be designated as Board Counsel and who shall provide coverage opinions whenever such matters are in dispute. Such attorney shall not be an employee of Sedgwick. However, Sedgwick agrees to provide recommendations to ERMA as to such selection;
  - E. At ERMA’s expense, if required, appoint a qualified firm to invest reserve funds of ERMA;
  - F. At ERMA’s expense, purchase Public Officials’ Errors and Omissions coverage in an amount not less than \$1,000,000 per occurrence; at ERMA's expense, purchase a fidelity bond in an amount not less than \$1,000,000 to cover ERMA's Treasurer, Assistant Treasurer, Petty Cash Custodian, and any other officer who may handle monies of ERMA or who has authority to sign checks for ERMA;
  - G. Perform the obligations ERMA has agreed to perform under this Agreement and pay Sedgwick billings in a timely manner; and
  - H. Pay annual membership costs for ERMA's membership in pooling trade organizations such as CAJPA, AGRiP.

3. **Discontinuance of Operations:**

Should ERMA discontinue its business for any reason, all fees due Sedgwick for the remainder of the contract term or the end of the applicable notice period under Section 9, whichever is less, shall be paid immediately. Sedgwick shall have no further obligation to continue to provide the services called for in this Agreement, and, at Sedgwick's option, this Agreement shall be considered terminated as of the date ERMA ceases operations or is subject to a bankruptcy or receivership filing, either voluntarily or involuntarily.

4. **Covered Jurisdictions:**

This Agreement shall cover the Services for ERMA in the following jurisdictions: California.

5. **Payments:**

The fees quoted are based on scope and the number of coverage programs. Sedgwick reserves the right to renegotiate fees if there is (a) a change in scope requested by Client, (b) a material change in the plan benefits initiated by legislative or regulatory action, or (c) a change in the number of coverage program, from those outlined in this document.

ERMA shall pay Sedgwick all fees on a quarterly basis, in advance.

Client shall pay the following fees for services provided during the term of this Agreement:

- A. The Annual Base Contract Price (ABCP) for the first year of service shall be \$1,138,431.00
- B. Website hosting fees of \$1,250 per quarter as included in the ABCP above.
- C. Fee Adjustment – Annualization

Each subsequent year for the remaining years of this Agreement, the ABCP will be reviewed by Sedgwick and ERMA in comparison to the scope of services under this agreement prior to implementing the upcoming year's fee.

Subject to mutual agreement as provided for above, the ABCP for succeeding years, will be based on an increase of a percentage equal to the change in the 12 month average (the average of the bi-monthly increases from April 2023 through May 2023, etc.) changes in the Consumer Price Index for the Sacramento Urban Wage Earners and Clerical Workers Consumers Price Index provided, however, that the increase shall not be less than two percent (2%) nor more than six percent (6%).

Sedgwick will invoice Client 1/4 of the applicable ABCP on a quarterly basis. All fees are due and payable within thirty (30) days of the invoice.

6. **New Member Agencies of Client:**

- A. Fee Adjustment – New Members

For each new member added or upon the consolidation of a district not previously in ERMA, with a member currently in ERMA, and in addition to the ABCP as shown in Section 5., Sedgwick shall receive additional compensation which shall be equal to the percentage of the additional estimated

payroll of the new member in relation to the total budgeted payroll for all ERMA members at the time the new member joins, multiplied by the ABCP in effect at the time the new member joins and prorated for the number of months remaining in the fiscal year in which the new member joins.

Such addition shall create a new ABCP, which shall be the sum of the old ABCP plus the annual (non-prorated) amount added for the new member.

**B. Fee Adjustment - Withdrawn Members**

For each member that has formally withdrawn or has been terminated from ERMA, in addition to the ABCP, as shown in Section 5., Sedgwick shall receive reduced compensation which shall be equal to the percentage of the actual payroll of the withdrawn member in relation to the total budgeted payroll of all ERMA members at the time the member left ERMA, multiplied by the ABCP in effect at the time the member left and prorated for the number of months, if applicable, remaining in the fiscal year in which the member left.

Such reduction shall create a new ABCP, which shall be the sum of the old ABCP, minus the annual (non-prorated) amount for the withdrawn member. However, this reduction shall be effective only in the second full year after the member has exited the program in recognition of the fact that the work with respect to withdrawing/terminating members does not begin to subside until that time.

**7. Reimbursement of Litigation Manager's Time and Travel Expenses**

In addition to the remuneration set forth above, ERMA agrees to pay Sedgwick for preparation time, travel time, and travel expenses of the Litigation Manager when he or she is required to travel on behalf of ERMA to attend trials, mediations, arbitrations and settlement conferences involving cases that have been reported to ERMA and either do or are likely to involve assumption of control by ERMA, and/or the payment of ERMA's funds in the resolution of the case.

Payment of travel expenses includes hourly fees, mileage reimbursement at the current IRS rate and reimbursement of other out-of-pocket expenses including but not limited to meals, lodging, and commercial travel.

The following hourly rates shall apply for the first year of this contract and shall increase in accordance with Section 5.C., annually thereafter:

Litigation Manager \$185 per hour: A report of Litigation Management Fees will be provided annually for services provided outside of base contract. These Litigation Manager's charges will be charged to the respective claim file as an allocated expense.

**8. Risk Management Information System Expense**

Beginning on December 1, 2013, Sedgwick (formerly Bickmore) agreed to provide use of its Risk Management Information System to ERMA in order to track and monitor ERMA claims. The agreed cost for this use is \$25,000 annually and is the responsibility of Sedgwick under this agreement.

**9. Term of Agreement and Termination:**

A. The term of this Agreement shall be for the period commencing on July 1, 2023 and ending on June 30, 2028.

- B. This Agreement may be terminated for breach provided that at least one hundred and eighty (180) days prior written notice of the effective date of termination is given to the other party.
- C. In the event of termination, Sedgwick shall deliver to Client, or its designated recipient, all files, reports, documents, and other work performed by Sedgwick under this Agreement, whether in written or electronic form, and upon receipt thereof, Client shall pay Sedgwick, pursuant to the terms of this Agreement, for services performed and authorized reimbursable expenses incurred to the date of termination. Sedgwick shall refund to Client all compensation previously paid to Sedgwick but unearned as of the date of termination.

**10. Property Rights:**

- A. All records relating to the operations, administration, activities, and finances of Client shall at all times be and remain the property of Client. At the termination of this Agreement, all such materials shall be returned to Client. Sedgwick may, at its sole cost and expense, make and maintain copies of any Client records (but not including confidential or privileged records such as but not limited to claims legal files) for Sedgwick's use and retention both during and after the termination of this Agreement. The copies may be made on paper, computer disk, or any other format or media deemed desirable by Sedgwick.
- B. All data, information, documents, books and records, processes (such as but not limited to experience modifications and other calculations and procedures used in reports and/or in presentations to Client by Sedgwick), equipment, software (in source and object code form), and other materials supplied or purchased by Client from vendors outside this Agreement, relating to, or for use in, the provision of the Services to Client, and all intellectual property rights therein, will be and remain the sole property of Client.

**11. Professional Advice:**

Client acknowledges that Sedgwick has been engaged to provide certain professional services and that it is not the intent of the parties that Sedgwick assume any insurance risk. Sedgwick shall not act as an insurer for Client, and this Agreement shall not be construed as an insurance policy; it being understood that Sedgwick is in no event financially responsible for payment or satisfaction of Client's claims, lawsuits, or any form of cause of action against Client from Sedgwick funds.

**12. Indemnification:**

- A. Each party shall defend, indemnify, and hold the other harmless from any claim for damages or injury allegedly caused or contributed to by a wrongful or negligent act or omission of that party arising out of the performance or nonperformance of its obligations under this Agreement, but neither party shall be obligated to defend, indemnify or hold the other harmless for any claim resulting from the sole negligence or breach of this Agreement by the other. Each party agrees to keep the other fully informed of any matter for which it is defending, holding harmless or indemnifying the other party. Each party reserves the right to appoint its own counsel, at its own expense, regarding any matter defended hereunder and to approve any settlements of same.
- B. Notwithstanding anything to the contrary contained in the above paragraph, it is understood and agreed that if Client, directly or through a subcontractor or vendor of Client's choosing ("Client Subcontractor"), retains administration of a claim or performs any services for a claim Sedgwick administers, or if Client otherwise directs the administration of a claim,



Client will indemnify, defend, and hold Sedgwick, its officers, directors, employees and agents harmless from the losses, damages, costs, judgments and expenses (including attorney's fees and costs) as a result of any litigation or proceeding, fines, penalties, revocation of license, or any other state regulatory investigation or action arising against Sedgwick related to the acts or omissions of Client or the Client Subcontractor.

- C. Except for the indemnification obligations of Sedgwick pursuant to Section 12.A., the parties agree that in no event shall Sedgwick be liable for any loss or damage to revenues, profits or goodwill or other special, indirect, incidental or consequential damages of any kind resulting from its performance or failure to perform under this agreement or resulting from the furnishing, performance, use or loss of use of any software, system, site, or deliverable provided to Client hereunder, including without limitation any interruption of business, even if Sedgwick has been advised of the possibility of such loss or damage.
- D. Notwithstanding the foregoing, an indemnifying party will not settle a claim without the indemnified party's written consent, unless such settlement results in (i) a full release of all parties, (ii) no liability to the indemnified party or future obligation of the indemnified party, and (iii) no admission of wrongdoing by Client or Sedgwick.
- E. The provisions of this section shall survive the expiration or termination of the Agreement.

### 13. **Network Security/Confidentiality:**

- A. If Client's access to the data management system requires a network connection (the "Network Connection") between Client's network and Sedgwick's network, Sedgwick and Client shall take reasonable and customary precautions to prevent unauthorized access to or use of the Network Connection through their respective networks. The parties agree, however, that each party is responsible for the security of its own network. Neither party shall be liable to the other for unauthorized access to the Network Connection, so long as the accused party shall have taken reasonable and customary precautions to prevent such unauthorized access.
- B. Whether or not marked as such, and without regard to the media in which such records are stored, "Confidential Information" shall mean:
  - i. Any business or technical information pertaining to the parties herein or to third parties, which is furnished, disclosed or made available by one party to the other, including, without limitation, specifications, prototypes, software, marketing plans, financial data and personnel statistics; and
  - ii. Medical records, reports and information, as well as any other non-medical records, reports or information pertaining to claimants under the Program.
- C. Each party agrees to protect Confidential Information received hereunder with the same degree of care that such party exercises with its own confidential information (but in no event less than reasonable care) and to limit access and disclosure of Confidential Information only to their employees, agents and contractors who have a "need to know," and who agree to maintain confidentiality in accordance with this section. Notwithstanding the foregoing, Client agrees to permit Sedgwick to compile and disseminate aggregate, de-identified information for auditing, compliance, internal assessments, process improvement and related analytics, benchmarking purposes or forward to a data collection

facility data for data handled pursuant to this Agreement, provided that such facility agrees in writing to keep Client's data confidential. Further, Sedgwick shall be entitled, without violation of this section and without the prior consent of Client, to retain pool or claims administration information and to forward pool and claims administration information to government agencies to the extent required by law for the proper performance of the services set forth herein.

D. The provisions of this section shall survive the expiration or termination of the Agreement.

**14. Notices:**

Any notice required to be given under this Agreement shall be sent by certified or registered mail, postage prepaid, to General Counsel - Americas, Sedgwick Claims Management Services, Inc., 8125 Sedgwick Way, Memphis, TN 38125, in the case of Sedgwick, and to ERMA' Acting Chairperson or Acting Legal Counsel in the case of Client.

**15. Assignment:**

Neither party may assign its rights or obligations under this Agreement without the written consent of the other party.

**16. Entire Agreement and Modification or Amendment:**

This Agreement and its attached exhibits and schedules represent the full and final understanding of the parties with respect to the subject matter described herein and supersedes any and all prior agreements or understandings, written or oral, express or implied. This Agreement may be modified or amended only by a written statement signed by both parties.

**17. Applicable Law:**

The terms and conditions of this Agreement shall be governed by the laws of the State of California without regard to conflicts of law principles. If any dispute or claim arises hereunder that the parties are not able to resolve amicably, the parties agree and stipulate that such litigation shall be resolved in the State of California, and the parties irrevocably submit to the exclusive venue and jurisdiction of such court for the purpose of any such action or proceeding. In the event of a dispute between the parties resulting in litigation, the prevailing party may, in addition to any other relief obtained, recover its court costs and reasonable attorney's fees.

**18. Force Majeure:**

Neither party shall be liable to the other party or be deemed to have breached this Agreement for any failure or delay in the performance of all or any portion of its obligations under this Agreement if such failure or delay is due to any contingency beyond its reasonable control (a "Force Majeure"). Without limiting the generality of the foregoing, such contingency includes, but is not limited to, acts of God, fires, floods, pandemics, storms, earthquakes, riots, boycotts, strikes, lock-outs, acts of terror, wars and war operations, restraints of government, power or communication line failure or other circumstance beyond such party's reasonable control, or by reason of the bankruptcy, receivership or other insolvency proceeding of any bank or other financial institution where funds to pay losses and allocated loss adjustment expenses are held, or by reason of a judgment, ruling or order of any court or agency of competent jurisdiction or change of law or regulation subsequent to the execution of this Agreement. Both parties are obligated to provide reasonable back-up

capability to avoid the potential interruptions described above. If a Force Majeure occurs, the party delayed or unable to perform shall give immediate notice to the other party.

**19. Headings:**

Headings herein are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

**20. Relationship of Parties; Expenses:**

Nothing contained in this Agreement shall be deemed to create a partnership or joint venture between the parties hereto; the only relationship among the parties shall be that of independent parties to a contract. Except as expressly provided herein, no party hereto shall have authority or shall hold itself out as having authority to act for or bind any other party hereto. Except as expressly set forth herein, each party shall bear all expenses it may incur in connection with the execution, delivery and performance of this Agreement.

**21. Waiver of Breach:**

Failure of either party hereto to require the performance by the other party hereto of any obligation under this Agreement shall not affect its right subsequently to require performance of that or any other obligation. Any waiver by any party hereto of any breach of any provision of this Agreement shall not be construed as a continuing waiver of any such provision or a waiver of any succeeding breach or modification of any other right under this Agreement.

**22. Equitable Adjustment:**

This Agreement contemplates that the standards applicable to this Agreement are those in effect on the date of this Agreement, whether such standards are set forth in statutes, regulations, rules, orders, case law or otherwise. In the event of a change in a service standard, Sedgwick shall be entitled to an equitable adjustment in its compensation if such change increases Sedgwick's cost of providing the services under this Agreement or reduces its profitability, and ERMA shall be entitled to an equitable adjustment if such change decreases Sedgwick's costs of providing services under this agreement.

**23. Insurance Requirements:**

- A. Sedgwick, at its expense, shall at all times maintain in full force and effect workers' compensation insurance covering all employees of Sedgwick in an amount required by the laws of the State of California. Sedgwick hereby declares that said employees are the employees of Sedgwick and at no time shall said employees be held to be in the employ of ERMA. Sedgwick shall hold ERMA harmless against any liability which it may incur toward said employees, specifically including liability for the payment of workers' compensation benefits.
- B. Sedgwick, at its expense, shall maintain automobile liability insurance in an amount not less than \$1 million per occurrence.
- C. Sedgwick, at its expense, shall maintain at all times general premises liability insurance with limits of \$1 million per occurrence to cover bodily injury and property damage which maybe incurred on the premises of Sedgwick's offices.

- D. Sedgwick, at its expense, shall maintain errors and omissions insurance in an amount of not less than \$2,000,000 per claim to cover Sedgwick and Sedgwick's employees who have been designated as officers of ERMA, and other staff while they are carrying out the provisions of this Agreement and otherwise acting within the course and scope of their duties to ERMA.
- E. Sedgwick, at its expense, shall maintain Fidelity/Crime coverage in an amount of no less than \$2,000,000 per occurrence.
- F. Sedgwick shall maintain Certificates of Insurance in ERMA's files evidencing the insurance coverage provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and date first above written.

Employment Risk Management Authority

Sedgwick Claims Management Services, Inc.

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

#### **EXHIBIT A: Services**

The duties listed in this section include activities which Sedgwick staff members and subcontractors are qualified to perform for ERMA.

#### **A. General Services:**

1. Maintain a business office in a location of its choosing and pay all costs incidental to the occupancy and maintenance of the office;
2. Retain sufficient personnel to conduct the business affairs of ERMA; personnel retained by Sedgwick shall not be considered employees of ERMA;
3. Perform all services under this Agreement pursuant to and in accordance with the ERMA Governing Documents and all applicable laws and regulations of the State of California and the United States of America;
4. Be truthful with ERMA, cooperate with the ERMA Board, and keep ERMA informed of any developments unknown to ERMA which could impact the operations of ERMA;
5. Ensure the members of Sedgwick's staff, who are necessary for the efficient conduct of business, attend Board meetings;
6. Negotiate fees and other agreements on behalf of ERMA to minimize costs and obtain the best coverage and services;
7. Maintain liaison between member agencies and ERMA to keep member agencies fully informed on the current status of the affairs of ERMA;
8. Maintain contacts with public agency risk managers and the insurance industry by participating in the following professional associations: the California Association of Joint Powers Authorities (CAJPA), and the Association of Governmental Risk Pools (AGRiP);

9. Prepare all reports, forms, books, and other documents under this Agreement in a form and content acceptable to ERMA's Board;
10. Develop and implement processes and procedures relating to the protection of electronic data, including a suitable security and back-up system for all stored data and a written policy with respect to disaster recovery, physical and electronic data security, and electronic data retention, as per the standards for Accreditation with Excellence by the California Association of Joint Powers Authorities. This includes ensuring all other vendor contracts include requirements to develop and implement said processes and procedures; and
11. Devote such time and facilities as are necessary to carry out these duties and those set forth below.

**B. Administrative Services:**

1. Provide oversight for any other consultants and contractors who provide services for ERMA;
2. Maintain ERMA's governing documents;
3. Develop and prepare the guidelines and standards for accepting new members;
4. Review all new applications for ERMA membership, including consultant and broker evaluations, and make recommendations to the Board regarding such applications;
5. Act as filing officer for ERMA to ensure compliance with the Conflict of Interest Code; and
6. Keep the Board informed concerning the need for and timing of claims audits, financial audits, actuarial studies, and other similar forms of technical assistance.

**C. Board Secretarial Services:**

1. Endeavor to provide, post, and distribute descriptive agendas two (2) weeks prior for meetings of the Board and other subcommittee meetings in accordance with the Governing Documents and the Ralph M. Brown Act;
2. Within fifteen (15) working days after the meeting, prepare and distribute minutes of all Board or other subcommittee meetings;
3. Assist other staff members in carrying out the terms of this Agreement;
4. Prepare all correspondence necessary to the operation of ERMA or for the clarification of ERMA's business or operations;
5. Maintain a general file of all ERMA documents including, but not limited to, correspondence, reports, insurance policies, notices, agendas, minutes, and ERMA's governing documents;
6. Maintain administrative records and update them as necessary;
7. When required, prepare and file updated California Secretary of State Statement of Facts forms for ERMA and comply with other reporting requirements of the State of California; and
8. As required, provide advice and assistance to member agencies.

**D. Risk Management Services:**

1. Develop and prepare underwriting guidelines and procedures;
2. Assist ERMA in the selection of employment practice liability coverage and training, risk management and insurance or reinsurance programs, brokers of record, insurance or reinsurance companies, claims administrators, consultants, and other professionals who may provide services to ERMA;
3. Review alternatives for financially strengthening ERMA's programs, and report to the Board on the status of such alternatives;

4. Monitor the status of ERMA's programs and operations, member agencies' losses, administrative and operational costs, safety and training service companies' and brokers' performance, and provide the Board with appropriate status reports pertaining thereto;
5. Assist assigned actuaries in their review and analysis of self-funded reserve levels, deposit premium computations, plan design, and utilization of benefits with the objective of obtaining the best coverage and benefits with the minimum cost to the member agencies;
6. Analyze loss runs and individual claims, when necessary, to minimize claims costs to ERMA;
7. Maintain a computerized data base of all required statistical information on the member agencies and their claims;
8. Maintain the memoranda of coverage for the coverage programs;
9. Prepare for Coverage Committee and Board approval, amendments to the memoranda of coverage, when necessary; and
10. As required, provide advice and assistance to member agencies.

#### **E. Claims and Litigation Management Services:**

1. Provide a member of Sedgwick's staff, who is acceptable to the Board, to serve as ERMA's Litigation Manager;
2. Maintain files on all claims reported to ERMA;
3. Identify coverage issues; make an initial determination whether a claim is likely to be covered by ERMA, and when coverage issues are identified, determine whether a coverage opinion should be obtained; refer claim to ERMA Coverage Counsel, as appropriate; acknowledge acceptance of claim to member and assign defense counsel; periodically monitor claims for coverage issue;
4. Recommend to the Board the setting of reserves, if appropriate, for all reported claims and revise reserves if appropriate; update ERMA Loss Runs for members on a monthly basis;
5. Annually, prepare a detailed report on ERMA's Pooled Employment Liability Program showing the activity by program year and the cumulative activity of all years, including number of claims, losses which have been incurred by each agency, and the losses which have been shared through pooling;
6. Upon the reporting of each claim that has an expectation of exceeding the minimum incurred loss threshold set by the Board, review said claim for ERMA and report said claims to the Board at the next scheduled meeting, maintain and update reports on quarterly basis for Board review;
7. Throughout the duration of each claim, periodically review the progress of said claim for ERMA, and if directed by the Board, take control and assume settlement authority for the claim; review Initial Case Analysis for each litigated claim and any claim likely to exceed minimum incurred loss threshold; review and approve litigation budget and amendments; review 60-day status reports and updates from defense counsel and approve defense strategy throughout the progress of the claim; enforce litigation management Guidelines throughout the progress of claim; update and confer with member regarding defense strategy, ADR and other pertinent issues; monitor defense budget against defense counsel expenditures; monitor claims regarding ADR strategy and participate in all ADR; monitor and approve trial strategy and attend trial as appropriate;
8. Periodically, review claims loss runs submitted by the member agencies;
9. Monitor all claims to determine if alternate dispute resolution is appropriate and optimal time for ADR; provide recommendations for alternative dispute resolution methods, when appropriate; attend ADR meetings and negotiate settlement, as appropriate, on ERMA's behalf;
10. Provide, as needed, evaluations and critiques of defense attorneys and defense firms handling claims for the members; assign defense counsel; monitor defense counsel to insure and enforce compliance with all Litigation Management Guidelines; review monthly invoices from defense counsel for Guideline compliance and for approval/non-approval of payment;

11. Recommend claim settlements to the Board for approval;
12. Quarterly, prepare a Litigation Manager's report of all open cases, including those which present an exposure to ERMA pooled funds, including history of claim, procedural history, status of settlement negotiations, frank liability assessment and other pertinent information necessary for evaluation of claim; and
13. As required, provide advice and assistance to member agencies. Act as resource to members regarding handling of potential and actual claims and compliance with ERMA reporting requirements; refer members to legal counsel as appropriate; assist members in complying with ERMA Investigation Protocol.
14. Report claims to excess insurers and/or reinsurers consistent with their requirements.

#### **F. Financial Services:**

1. Prepare and distribute ERMA billings for payment by member agencies;
2. Maintain detailed records of all income, expenditures, deposits, and withdrawals;
3. Verify demands for payment made upon ERMA and as necessary, prepare a warrant listing for approval by the President; such listings shall include all such demands made since the last warrant listing;
4. Upon approval of the warrants, issue checks or ACH EFT to pay bills;
5. Respond to requests for confirmation made by member agencies' financial auditors;
6. Perform monthly bank and investment reconciliation of all accounts;
7. Administer accounts payable and receivable, and provide collection efforts for past due receivables;
8. Maintain financial records in accordance with generally accepted accounting principles;
9. Quarterly, prepare and submit to ERMA's Treasurer for approval a Treasurer's Report detailing all funds on hand, classified by depository;
10. Quarterly, reconcile each claimant's loss run activity to the general ledger to ensure individual member SIR's are properly reflected in the quarterly financial statements;
11. Quarterly, prepare financial statements consisting of the Balance Sheet, Income Statement, and Program Retained Earnings by Member, and semi-annually the JPA Performance Report;
12. Provide warrant listings of all operating accounts in each meeting agenda's consent calendar of disbursements issued since the previous meeting;
13. Arrange for the annual financial audit by the CPA firm approved by the Board; and provide assistance during the audit, as well as compiling narratives, fraud questionnaires, and other requested explanations and analysis;
14. Arrange for the annual actuarial study by the actuarial firm approved by the Board, providing data and assistance;
15. Annually in February/March, request and compile the data to be used in performing the three-tiered experience modification calculation;
16. Prepare and submit to the Board for approval by the April Board of Directors' meeting of each year an annual budget for ERMA by JPA and Individual Member;
17. Prepare and timely file updated California State Controllers Annual Report of Financial Transactions forms for ERMA and comply with other reporting requirements of the State of California;
18. Prepare and timely file Form 1099's with the Internal Revenue Service for all necessary expenditures made, other than those expenditures made by third party claims administrators;
19. Maintain any additional financial or other records as may be necessary to the operation of ERMA;
20. Prepare and submit to the Board annually, a calculation of equity allocations, whether assessments or distributions, pursuant to the provisions in the Governing Documents for such;
21. As required, provide advice and assistance to member agencies; and

22. If appropriate, assist ERMA in issuing a request for proposal in the event the board wishes to procure bids for a different firm to provide services for the investment of ERMA's reserves.

#### **G. Loss Prevention & Training Services:**

1. Support on-site and virtual employment practice-related training provided for members in the form of meeting scheduling and logistical support.
2. Provide telephone consultation to members in the area of loss prevention and training matters as needed;
3. If requested by the Board, maintain and administer the Agency's loss prevention and training library, including a list of model employment related policies;
4. Provide on-call services to assist members in any urgent loss prevention or training matters which may be of concern; and
5. Perform Risk Assessments of members identified by ERMA as requiring same. Services to be compensated under Section I "Other Services," below.

#### **H. Support Services:**

1. Provide the support services required to satisfactorily conduct ERMA's business including clerical support, printing and copy services, mailings, etc.;
2. Maintain up-to-date mailing lists of all member agencies, Board members, Committee members, and providers of services;
3. Arrange meeting facilities including equipment and meals, if desired, for Board meetings;
4. Arrange meeting facilities, including lodging and meals, for Board retreats;
5. Provide for other meeting arrangements, such as, room and board for other meetings, conferences, or seminars as required by ERMA; and
6. At Sedgwick's expense:
  - a. Provide equipment and related lines for the receipt and transmission of electronic documents;
  - b. Furnish telephone lines sufficient to provide adequate service to ERMA's member agencies, including member agency access to an 800 number in Sedgwick's office;
  - c. Provide postage for mailings for ERMA prepared by Sedgwick;
  - d. Provide all office supplies required to carry out the purposes of this Agreement;
  - e. Provide printing required for letterhead, envelopes, forms, and other printed documents;
  - f. Maintain subscriptions to the professional periodicals required to carry out the purposes of this Agreement; and
  - g. Reimburse Sedgwick's employees for travel on behalf of ERMA, except travel incidental to services provided outside of this Agreement and except reimbursable Litigation Manager expenses as described in Section 7. of this agreement.

#### **I. Other Services:**

Although not a part of this Agreement, Sedgwick, when mutually agreed by ERMA and Sedgwick, may perform additional services. In the event that additional services, or extra work, which are not covered by this Agreement are desired, such services will be billed on a time and materials basis at the hourly rates Sedgwick charges to its other clients or an agreed upon flat rate basis. Prior to commencing any additional services or extra work, Sedgwick shall prepare a task order describing the scope of work and the costs for the extra services. ERMA shall have no obligation to pay for extra services by Sedgwick until after the approval of the task order by the President or the Board, as appropriate. Services that may be performed under additional services include, but are not limited to, the services set forth below:



1. Plan, design, and implement new programs, or major revisions to existing programs for ERMA;
2. Conduct on-site training for member agencies' personnel on loss control subjects outside of the, or in addition to, the twenty-five (25) training sessions required to be provided under paragraph G, subparagraph 1 of this Exhibit;
3. Prepare other financial or administrative reports for ERMA and member agencies;
4. Prepare a budget analysis or other specific analysis as requested by member agencies;
5. Assist ERMA in obtaining alternative sources of financing for its programs;
6. Perform any lawful additional service not covered by this Agreement which ERMA determines to be in its best interests; and

**J. Data Reconciliation and Reporting Services:**

1. Develop and maintain loss and exposure data collection procedures;
2. Collect and reconcile loss data valued as of June 30 and December 31 each year;
3. Prepare such data for presentation to the actuary and the excess insurers and reinsurers; and
4. Provide reports, data analyses, member communications, etc. as required. Recommend updates, changes, and/or improvements in reporting and communications. To the extent the services provided to ERMA under this Agreement should substantially increase because of the demand for additional services or changes to services in this item 4., the parties agree to negotiate in good faith the cost of such additional services.

**K. Website Services:**

1. Provide hosting services for the ERMA website, as well as maintain the operational state of the website; and
2. Recommend updates, changes, and/or improvements in website hosting and services provided. Present any significant changes for review by the ERMA Board of Directors with such additional expense at the cost of ERMA.