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MARCH 28, 2016

AGENDA ITEM 03  
ACTION ITEM

CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

*Resolution No. 2016-04: Resolution of the California Secure Choice Retirement Savings Investment Board Relating to the Approval to Amend Agreement CSCRSIB02-14 with K&L Gates, LLP for Legal Services*

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***Presenter***

Christina Elliott, Acting Executive Director

***Background***

Agreement CSCRSIB02-14 (“Agreement”) between the California Secure Choice Retirement Savings Investment Board (“Board”) and K&L Gates, LLP for legal services was executed to identify and advise on legal issues regarding the market analysis, feasibility study, and program design.

The Board will require further legal advice to assist in seeking a “no-action” letter from the Securities and Exchange Commission (“SEC”). Specifically, K&L Gates, LLP anticipates a need for their attorneys to engage in high level talks with SEC staff, research prior rulings, and draft a position paper.

Due to the need for continued legal advice, Secure Choice staff recommends the Board authorize the Acting Executive Director to execute an amendment to the Agreement to increase the maximum amount of the Agreement from \$355,000 to \$380,000; and to further amend the Agreement regarding costs should the Board enter into a Memorandum of Understanding with other states to share costs for common legal services.

***Staff Recommendation***

Secure Choice staff recommends the Board approve Resolution No. 2016-04 of the California Secure Choice Retirement Savings Investment Board relating to the approval to amend agreement CSCRSIB02-14 with K&L Gates, LLP for legal services.

***Attachments***

- Attachment #1: Resolution No. 2016-04
- Attachment #2: Contract amendment (STD 213A)

**RESOLUTION NO. 2016-04**

**RESOLUTION OF THE CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS  
INVESTMENT BOARD RELATING TO THE APPROVAL TO AMEND  
AGREEMENT CSCRSIB02-14 FOR LEGAL SERVICES**

**WHEREAS**, the California Secure Choice Retirement Savings Investment Board (the “Board”) is established under SB 1234 (Chapter 734, 2012; codified under Government Code section 100000 et seq.) and mandated to conduct a market analysis to determine whether the necessary conditions for implementation of the California Secure Choice Retirement Savings Trust Act (the “Act”) can be met, provided that the Board shall conduct the market analysis only if sufficient funds to initiate and complete the required market analysis are made available through a nonprofit or private entity, or from federal funding;

**WHEREAS**, Government Code section 100042 provides, in part, that the Act shall become operative only if the Board determines that, based on the market analysis, the provisions of the Act will be self-sustaining, and funds are made available through a nonprofit or other private entity, federal funding, or an annual Budget Act appropriation in amounts sufficient to allow the Board to implement the Act until the California Secure Choice Retirement Savings Trust has sufficient funds to be self-sustaining;

**WHEREAS**, Government Code section 100043 provides that the Board shall not implement the California Secure Choice Retirement Savings Program (the “Program”) if the Individual Retirement Account or Individual Retirement Annuity (collectively “IRA”) arrangements offered fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code, or if it is determined that the Program is an employee benefit plan under the federal Employee Retirement Income Security Act;

**WHEREAS**, the Board deemed it necessary to contract with a law firm to provide the Board with legal services to satisfy the statutory provisions and advise on legal issues regarding the market analysis, feasibility study, and program design and thus entered into Agreement No. CSCRSIB02-14 (the “Agreement”) with K&L Gates, LLP for the necessary legal services;

**WHEREAS**, K&L Gates, LLP has advised it is necessary to engage with the U.S. Securities and Exchange Commission (the “SEC”) to determine whether the necessary conditions for implementation of the Act can be met; and

**WHEREAS**, an amendment to the Agreement is necessary to increase the total amount of the Agreement and allow K&L Gates, LLP to continue to provide legal services for the ongoing project;

**NOW, THEREFORE, BE IT RESOLVED** that the Acting Executive Director is hereby directed and authorized to prepare and take whatever steps necessary to execute an amendment to the Agreement to increase the maximum amount of the Agreement from \$355,000 to \$380,000. The Agreement may be further amended regarding costs should the Board enter into a Memorandum of Understanding with other states to share costs for common legal services.

Attest: \_\_\_\_\_  
Chairperson

Date of Adoption: \_\_\_\_\_

**STANDARD AGREEMENT AMENDMENT**

STD. 213 A (Rev 6/03)

 CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED \_\_\_\_\_ Pages

AGREEMENT NUMBER	AMENDMENT NUMBER
<b>CSCRSIB02-14</b>	<b>5</b>
REGISTRATION NUMBER	

1. This Agreement is entered into between the State Agency and Contractor named below:
- STATE AGENCY'S NAME  
California Secure Choice Retirement Savings Investment Board
- CONTRACTOR'S NAME  
K&L Gates, LLP
2. The term of this Agreement is 2/20/15 through 6/30/16
3. The maximum amount of this Agreement after this amendment is: **\$380,000.00**  
**Three Hundred Eighty Thousand Dollars and Zero Cents**
4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

The maximum amount of this Agreement is increased by \$25,000, for a total maximum amount of \$380,000.

Further, if the California Secure Choice Retirement Savings Investment Board enters into a Memorandum of Understanding with other states to share certain legal costs, Contractor agrees that Contractor shall not seek recovery of costs that are apportionable to those other states from the California Secure Choice Retirement Savings Investment Board. Contractor agrees that the California Secure Choice Retirement Savings Investment Board is not liable to pay Contractor any amount of the costs apportioned to those other states.

All other terms and conditions shall remain the same.

**IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.**

<b>CONTRACTOR</b>		<b>CALIFORNIA</b> Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)		
K&L Gates, LLP		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
William P. Wade, Partner		
ADDRESS		
10100 Santa Monica Blvd., 7 <sup>th</sup> Floor Los Angeles, CA 90067		
<b>STATE OF CALIFORNIA</b>		
AGENCY NAME		
California Secure Choice Retirement Savings Investment Board		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
		
PRINTED NAME AND TITLE OF PERSON SIGNING		
Christina Elliot, Acting Executive Director		
ADDRESS		
915 Capitol Mall, Rm. 110, Sacramento, CA 95814		
		<input type="checkbox"/> Exempt per: