



Audit: Procurement and Contract Oversight

May 18, 2023

Office of Retirement Services – Internal Audit

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PURPOSE OF THE AUDIT:

To determine if Office of Retirement Services (ORS) policies and procedures were sufficient to:

- Procure goods and services effectively and economically, in compliance with City rules.
- Ensure that vendors provided goods and services in accordance with their contractual obligations.

REPORT HIGHLIGHTS

Finding 1: ORS wire transfers to pay vendor invoices violated ORS and City payment rules and bypassed payment safeguards. Vendor services and payments continued without authorized contracts, vendor performance was not measured, and ORS staff disagreed among themselves on procurement rules. **(Page 15)**

Summary of Finding 1 Recommendations

1. Identify and memorialize (e.g., in a policy) the procurement rules that the ORS is required to follow.
2. Review, update, and communicate all existing, outdated ORS procurement policies.
3. Communicate policies that define the roles and responsibilities for authorizing contracts to ORS staff.
4. Assign overall responsibility for procurement oversight to an existing ORS staff position.

Finding 2: The ORS paid an insurance broker without a competitive vendor selection process or a contract to define the scope of services. **(Page 29)**

Summary of Finding 2 Recommendations

1. Use a public, competitive vendor selection process to select and contract with an insurance broker.
2. Create and communicate, as appropriate, a risk management policy for the ORS

Finding 3: The delayed purchase of ORS laptops in 2020 caused security vulnerabilities and raised operational risks. **(Page 35)**

Summary of Finding 3 Recommendations

1. Implement San José Municipal Code section 4.12.220, which allows for emergency procurement.
2. Take an inventory of the laptops and associated equipment that the ORS purchased in 2020 to determine whether the procured laptops were received, as ordered.

Finding 4: The ORS does not have monitoring processes and reliable data to comprehensively manage vendor payment and contracting risks. **(Page 38)**

Summary of Finding 4 Recommendations

1. Identify the contract and vendor payment data and reports that the ORS needs to manage contracts.
 2. Gain access to needed contract and vendor payment data and reports.
 3. Identify and implement systems to meet outstanding contract management requirements.
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ABBREVIATIONS

IAD	Internal Audit Division
FMS	Financial Management System
LACERA	Los Angeles County Employees Retirement Association
OCERS	Orange County Employees Retirement System
ORS	Office of Retirement Services
RFP	Request for Proposal (a type of competitive vendor selection process)
SOP	Standard Operating Procedures

INTRODUCTION

Objective

The audit objective was to determine if ORS policies and procedures were sufficient to:

- Procure goods and services effectively and economically, in compliance with City rules and ORS policies.
- Ensure that vendors provided goods and services in accordance with their contractual obligations.

The ORS's Internal Audit Division (IAD) conducted this audit in accordance with the IAD's Retirement Board-approved audit plan.

Background

San José's Federated City Employees' Retirement Plan (Federated Plan)¹ and Police and Fire Department Retirement Plan (Police and Fire Plan) were established in 1941 and 1961, respectively, to provide retirement benefits for eligible City employees. Information about the plans (e.g., eligibility criteria, membership, contribution rates, benefits) are shown in the City's [Municipal Code](#), the [ORS's financial documents](#), and the [City's financial documents](#).

Public Procurement Objectives

To meet their fiduciary responsibilities, governmental agencies use policies and procedures to procure goods and services in a manner that is:

- Economical (e.g., contracts are awarded to the lowest responsible and responsive bidder, market competition is maximized to encourage high-quality goods and services while lowering purchasing costs)
- Effective (e.g., contracts are awarded to objectively qualified vendors, ongoing monitoring procedures ensure that vendors meet their contractual obligations)
- Efficient (e.g., necessary goods and services are procured in a timely manner, procurement roles and responsibilities are defined and assigned to competent staff, up-to-date contract templates are used)
- Ethical (e.g., conflict of interest situations, such as contracting with a vendor who is also an agency employee or official, are prevented)
- Transparent (e.g., solicitations are publicized and made accessible to potentially qualified vendors, contract-related documents and vendor spend data are available to the public through web portals)

¹ The City's Municipal Code uses the terms Federated System and Federated Plan synonymously. The ORS's financial statements and documents mostly use the term "Federated Employees Retirement System." In this report, the IAD uses the term Federated Plan.

Reputational, Operational, and Financial Risks	<ul style="list-style-type: none"> Compliant with applicable rules (e.g., authorized individuals or bodies approve contracts, contracts include legally mandated provisions, attorneys review and approve draft contracts) <p>The San José City Auditor's Office issued an audit report titled "Consulting Agreements: Better Enforcement of Procurement Rules, Monitoring, and Transparency Is Needed" in 2013 that highlighted citywide reputational and financial procurement risks. Exhibit 1 summarizes selected report highlights.</p>
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Exhibit 1

Relevant City Auditor's Office Findings

Topic	Summary
<i>Exemptions from competitive procurement are rarely valid</i>	<ul style="list-style-type: none"> The City used and paid vendors without competitive procurement. The report quoted from the American Bar Association's 2000 Model Procurement Code for State and Local Governments, which stated: "Fair and open competition is a basic tenet of public procurement. Such competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically." Some City contract procurements did not expressly claim the "unique services" (i.e., sole source) exception, but still avoided the competitive procurement process. The report noted that some jurisdictions forbid all sole source procurements and quoted from the 2008 National Association of State Procurement Officials publication titled State and Local Government Procurement: A Practical Guide, which stated: "In today's global economy, it is rare that only one firm can supply whatever the government needs. [...] Much sole source procurement reflects an improper relationship, such as where a 'pilot' program managed by a vendor leads to a set of specifications authored by that vendor or favoring that firm."
<i>Long-term vendor relationships may diminish value</i>	<ul style="list-style-type: none"> Long-term vendors became "major stakeholders" in City processes and were selected for the same work year after year. City staff used past work with the vendor as a major justification for continued use of vendors. The report cautioned that the value of their services may diminish over time as vendors develop close relationships with City staff, become embedded in City processes, and diminish the opportunity for fair and open competition to other vendors.
<i>Oversight is needed to realize contract benefits</i>	<ul style="list-style-type: none"> City staff did not monitor basic contract terms and paid vendors without verifying that services were rendered. The report stated: "...we found that City staff had ignored contract terms, changed contract deliverables and payment terms without authorization, and sometimes paid vendors more than required by their contracts. Finally, in many instances staff was unable to provide us with contract-required deliverables."

Source: San José City Auditor's Office report titled "[Consulting Agreements: Better Enforcement of Procurement Rules, Monitoring, and Transparency Is Needed](#)"

Contracting Authority	The California Constitution provides the boards of public retirement plans “sole and exclusive” responsibility for retirement plan assets and administration. ²
<i>The ORS must meet the standard of care</i>	<p>The California Constitution mandates that public retirement plans meet the "standard of care" in discharging their responsibilities. The Constitution states:</p> <p>"The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims."</p>
<i>Audit criteria reflect the standard of care</i>	Auditing Standards require that auditors identify and use appropriate evaluation criteria. ³ To define the standard of care at a level that was suitable for use as evaluation criteria, the IAD identified the relevant sections of the San José Municipal Code and the procurement and payment policies and procedures of the ORS and the City's Finance Department. In addition, the IAD identified and used as audit criteria the relevant procurement policies, procedures, and practices of benchmark agencies. The IAD believes that taken as whole, the selected audit criteria reflect the standard of care.
<i>Audit criteria were subject to debate</i>	<p>Although ORS staff directly responsible for day-to-day ORS accounting and finance operations believe that the Municipal Code mandates and Finance Department policies and procedures reflected in this audit apply to the ORS,⁴ others raised concerns that some of the criteria are:</p> <ul style="list-style-type: none"> • Obsolete (e.g., some ORS procurement policies and procedures are over 20 years old and not currently used by ORS staff) • Erroneous (i.e., some ORS staff believe that sections of the City's Municipal Code are erroneous and that updates are required). • Discretionary (i.e., some ORS staff believe that the Finance Department's procurement and payment policies and procedures are not mandatory because of the organizational independence gained by the ORS under Measure G.⁵)

² See California Constitution [Article XVI, Section 17\(a\)](#).

³ The U.S. Government Accountability Office's [Government Auditing Standards](#) require that auditors identify and use suitable criteria, based on the audit objectives, to provide a context for evaluating evidence and understanding the findings, conclusions, and recommendations in the report. The [International Standards for the Professional Practice of Internal Auditing](#) state that when adequate criteria are unavailable, auditors should identify appropriate evaluation criteria "through discussion with management and/or the board."

⁴ In practice, the ORS relies on the City's procurement and payment processes, standards, and systems (i.e., FMS).

⁵ San José voters passed Measure G, which was on the November 4, 2014, election ballot, allowing for the creation of "one or more retirement boards with specified authority, including hiring an at-will chief executive."

The IAD and ORS management could not identify alternative criteria that would be more appropriate than what is reflected in this report. The audit recommendations address the need to ensure that the ORS has sufficient, specific, and up-to-date procurement rules and responsibilities that are consistently used and communicated at the ORS.

Contracting and the use of public funds

San José's Municipal Code provides the Federated and Police and Fire Retirement Boards the authority to "select, enter into contractual arrangements with, and pay reasonable compensation to persons" for various professional services needed to carry out its duties and responsibilities.⁶ As will be discussed in Finding 1 (P. 15) and in Appendix 5 (P. 63), San José's Municipal Code, consistent with ORS policy, requires that the ORS use City processes under the authority of the Finance Department to pay invoices.

City procurement rules in the Municipal Code

Chapter 4.04 of San José's [Municipal Code](#) provides the legal framework for citywide procurement, including:

- Contracting authority (e.g., authority provided to the City Attorney⁷ to enter contracts without the approval of the City Council up to a predefined dollar threshold)
- Debarment (i.e., procedures for prohibiting contractors from doing business with the City)
- Social policies (e.g., nondiscrimination provisions that must be incorporated into contracts)
- Procurement procedures (e.g., dollar thresholds at which competitive procurement methods must be used)
- Allowable exemptions from competitive procurement (e.g., emergency purchases where authorized individuals may procure goods and services without a competitive procurement process)
- Award of contracts (e.g., purchases requiring formal bidding shall be awarded to the lowest responsible and responsive bidder)

Finance Department roles and responsibilities

San José's [Municipal Code](#) assigns the Finance Department overall responsibility for procurement, which includes preparing citywide policies and procedures to implement Chapter 4.04 of the Municipal Code.⁸ In addition, the Finance Department provides training, resources, and best practice documents

⁶ See [Municipal Code](#) sections 3.28.155 and 3.36.385 for sections relevant to the Federated Plan and Police and Fire Plan, respectively.

⁷ A May 15, 2015, memorandum from the San José City Attorney stated, "With the adoption of Measure G in the November 2014 election, the Retirement Boards have the authority to appoint and direct their own attorneys..." The ORS, in practice, currently contracts for outside legal services.

⁸ See Chapter 5.1 of the [City Policy Manual](#) for Finance Department procurement policies and procedures.

on the City's restricted-access [intranet](#) (e.g., vendor management guidelines to set standards for vendor performance, actively monitor contracts, and ensure that invoices and payments are in accordance with contract terms).

Exhibit 3 shows a page from the City's procurement training materials that summarizes key procurement requirements, depending on anticipated vendor spend (i.e., "Purchase Amount").

Exhibit 3
City of San José's Purchasing & Council Approval Thresholds*

Purchase Amount (based on first year costs) 1	Competition Required ²	Purchase Mechanism	Solicitation Methods	Products or Services ³	Council Approval (based on total intended cost, including options)
≤\$1,000	No	P-Card	N/A	Non-Recurring Services; No Contract	No
≤\$10,000	No	P-Card	N/A	Products	
≤\$10,000	No	PO	N/A	Products or Services	
\$10,001 - \$130,000	Yes	PO (usually)	Request for Quote (RFQ)	Products or Services	Yes if products >\$1,300,000 or Services >\$320,000. Otherwise, No.
>\$130,000	Yes	PO (usually)	Request for Bid (RFB)	Products	
>\$130,000	Yes	Contract (usually)	Request for Proposal (RFP)	Services	

Source: "Purchasing Fundamentals" training document (a PowerPoint file) on the City's restricted-access [intranet](#) as of July 2022

Note: The footnotes shown in the table are part of the original document and are not defined here.

* This table was apparently last updated on March 3, 2020. Dollar thresholds shown in the first column are subject to change.

ORS Procurement Policies & Procedures

The Retirement Boards have broadly delegated contracting responsibilities to the Chief Executive Officer and Chief Investment Officer in the Boards' Standard Operations Procedures,⁹ including:

- Ensuring "due diligence" is performed for vendors that are appointed by the Retirement Boards.
- With due diligence, selecting and appointing all vendors for which the Board has not retained selection or appointing authority.
- Executing contracts with vendors.
- Supervising and directing all vendors on a regular basis.

ORS roles & responsibilities

The ORS has written procurement policies and procedures that define procurement roles and responsibilities. However, these have not been updated or signed-off by senior management in over 20 years and were not in use by ORS management or staff, who, moreover, had conflicting views

⁹ See the "Chief Executive Officer" and "Chief Investment Officer" charters and the "vendor selection" policies in the "Standard Operating Procedures (SOP)" of the Retirement Boards of the Federated Plan and Police and Fire Plan on the [ORS website](#).

regarding the applicability of citywide procurement rules and regulations to the ORS (see Finding 1).

ORS Accounting, Administrative, and Investments Division staff described the ORS's informal (i.e., undocumented) procurement roles and responsibilities to the IAD. For example, according to ORS Administrative Division staff, "when necessary," ORS senior staff, in coordination with legal counsel:

- Solicit (e.g., issue a request for proposal) for goods and services and contract with vendors.
- Work with vendors to estimate and agree on services and costs.
- Notify the Retirement Boards and request their approvals of proposed contracts and obtain required contract signatures.

*ORS Administrative
Division responsibilities*

The ORS Administrative Division is responsible for ensuring that contracts are properly authorized (i.e., signed), complete (e.g., they include certificates of insurance), and submitted to the City Clerk for final acceptance and posting to the City's online records database (i.e., "[GILES](#)"). Administrative Division staff use a manually created spreadsheet to track contracts, except for Investments Division contracts, which includes information such as vendor name and contact information, contract start and end dates, approval dates (e.g., Retirement Board approval, City Clerk approval), amounts, processing milestones (e.g., date transmitted to the City Clerk), and the "GILES" identification number.

*ORS Accounting
Division
responsibilities*

The ORS Accounting Division is responsible for monitoring contracts to ensure that they do not expire before the required goods and/or services have been provided and to pay vendor invoices that have been approved by ORS staff responsible for each contract. Specifically, the Accounting Division uses a spreadsheet to identify all ORS contracts, contract terms (i.e., start and end dates), and remaining contract balances. The spreadsheet is used to:

- Ensure there are sufficient reserved (encumbered) funds in the City's Financial Management (FMS) System to pay contract invoices.
- Identify contracts that are expiring and remind responsible ORS staff to initiate a process to extend or renew the contracts, as necessary.

Vendor Spend

Exhibit 4 shows vendor spend by retirement plan from July 1, 2017, through May 31, 2022. During this period, the ORS paid 182 vendors \$55.3 million. Of the \$55.3 million, \$45.5 million (82 percent) was paid to 20 (11 percent) of the 182 vendors.

Exhibit 4**Vendor Spend by Plan (FY 2018 through FY 2022*)**

Plan	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022*	Grand Total
Federated	\$5,174,824	\$5,114,942	\$4,387,829	\$5,305,580	\$3,967,610	\$23,950,786
Police & Fire	\$6,518,707	\$7,062,797	\$5,681,364	\$6,553,564	\$5,550,875	\$31,367,308
Total[^]	\$11,693,531	\$12,177,739	\$10,069,193	\$11,859,145	\$9,518,486	\$55,318,094

Source: City of San José Financial Management (FMS) System Records from July 1, 2017, through May 31, 2022

* FY 2022 includes vendor spend through May 31, 2022

[^] Detail may not sum to totals because of rounding (i.e., totals are derived from unrounded numbers)

Most (78 percent) of vendor spend was associated with Investments Division activities

Of the \$55.3 million in total vendor spend, \$43.1 million (78 percent) was associated with the Investments Division. This included \$9.9 million in payments to “Artisan Partners Limited Partnership” and \$4.8 million to “Oberweis Asset Management Inc.” for investment manager services.¹⁰ Exhibit 5 summarizes vendor spend by fiscal year and ORS division.

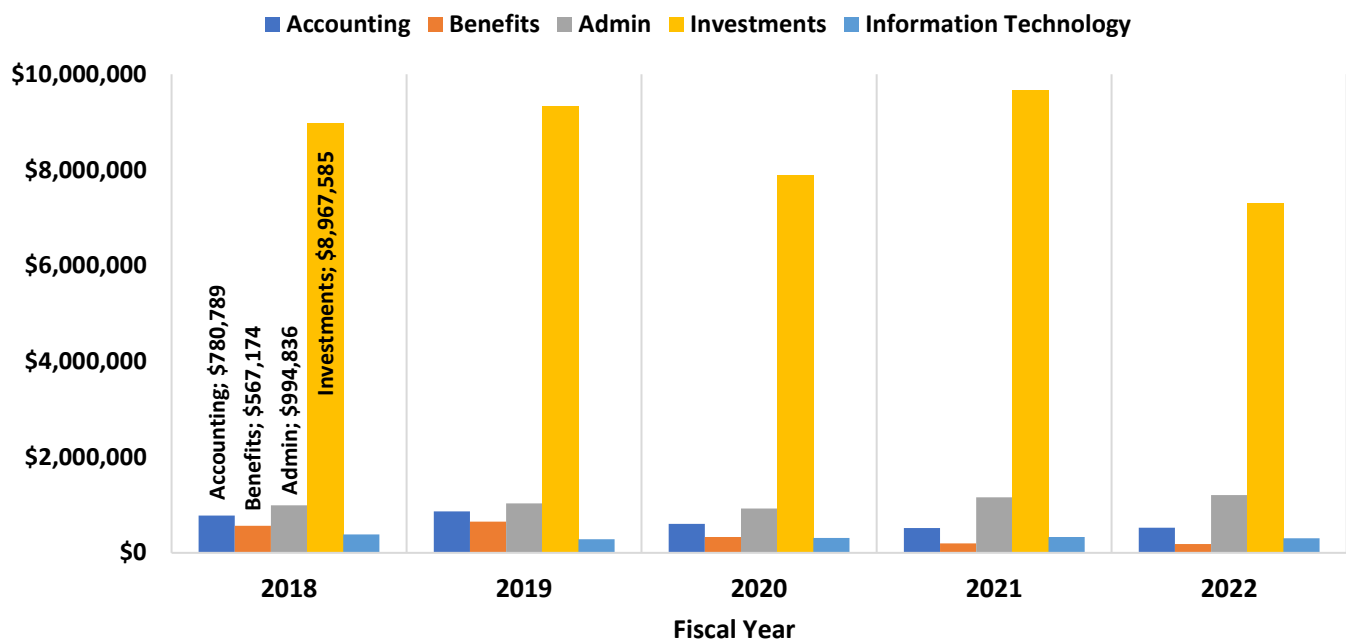
Use of the term “Vendor”

Some ORS staff raised concerns about the use of the term “vendor” in this audit report. However, this usage is consistent with the standard operating procedures of the Retirement Boards¹¹ and with FMS.

¹⁰ The noted investment manager fees were paid from July 1, 2017, through May 31, 2022. Consistent with the specific fee structure stated in each investment manager’s contract, fees are calculated based on the value of assets under management.

¹¹ See the “vendor selection” policies in the “Standard Operating Procedures (SOP)” of the Retirement Boards of the Federated Plan and Police and Fire Plan on the [ORS website](#).

Exhibit 5
Vendor Spend by Fiscal Year and ORS Division*



Source: City of San José Financial Management (FMS) System Records from July 1, 2017, through May 31, 2022

* Division (e.g., "Investments") classification is based on the IAD's summary of "charge codes" shown in FMS financial records

Scope

The IAD used data analytic and sampling methodologies to identify potentially high-risk vendor expenses and associated contracts, if one existed, from July 1, 2017, through May 31, 2022. The "Finding" sections of this report include, for selected vendors and contracts, vendor spend from contract inception through June 30, 2022. Exhibit 6 shows the selected vendors within the audit scope. "Investment Managers" were selected for review in a future audit report.

Scope Limitation

The IAD requested but could not readily and timely obtain all relevant contract and vendor spend data known or presumed to exist in FMS (e.g., contract end date, invoice date). These data elements would have allowed the IAD to more effectively apply data analytics and identify high-risk contracts and vendor spend (e.g., vendor payments under expired contracts) to include in the audit scope.

The IAD's data analytics relied on the reliability (i.e., accuracy and completeness) of FMS data to identify and select high-risk contracts for detailed review. As shown in Finding 4, the majority of ORS vendor spend in FMS was not associated with contracts, apparently because of the ORS's practice to not enter investment manager contracts in FMS (see Finding 4). As a result, the planning phase of this audit relied more on vendor spend data and less on actual contract spend data to select contracts for detailed review.

Data reliability

The scope of this audit did not include assessing the accuracy of the City's financial data, including vendor spend, because they are subject to external, annual financial audits and the City's internal controls. The IAD considered the data to be sufficiently reliable for the purpose of this audit.

Methodology

To achieve the audit objective, the IAD:

- Reviewed relevant provisions of rules and regulations that pertain to ORS procurement, including the California State Constitution, the City's Municipal Code, and the Retirement Plans' Standard Operating Procedures.
- Identified and reviewed the ORS's procurement policies and procedures, which have not been signed-off by senior management or updated in over 20 years (see Finding 1)
- Conducted a risk assessment to identify and prioritize ORS vendor spend risks (e.g., failure to meet contractual obligations, vendor spend without a contract, contract awarded without a public, competitive vendor selection process).
- Gained an understanding of existing ORS procurement practices, including contract award and oversight, from staff in the ORS Administrative, Accounting, and Investments Divisions.
- Reviewed procurement policies and procedures used by benchmark pension systems, including the LACERA (Los Angeles County Employees Retirement Association) and the OCERS (Orange County Employees Retirement System).
- Extracted FMS vendor expense and contract data, to the extent available (see scope limitation section, above), and used Arbutus Analyzer software to identify potentially high-risk contracts and vendor spend.
- Reviewed actions of the Retirement Boards and the Investments Division (e.g., authorizations, contract awards) related to the contracts with Barra, LLC and Verus Advisory, Inc. (see Appendix 1).

Exhibit 6 summarizes the 10 vendors that were judgmentally selected for review and a summary of the basis (i.e., risks) for each selection.

Exhibit 6 Selected Vendors, Total Spend, and Preliminary Risks (FY 2018 through FY 2022)		Preliminary Risks Identified (See Notes)								
		A) High Value	B) Staff Survey Risk	C) No Contract	D) No FMS Contract	E) Single Payment	F) Long Term	G) Payment Trend	H) Benford's law	I) Conflict of Interest
Vendor	Spend									
Albourne America, LLC	\$1,710,000	Y					Y	Y	Y	
Ameriprise Financial INC~	\$559,193	Y			Y			Y		
Artisan Partners LTD Partnership~	\$9,886,096	Y			Y		Y	Y	Y	
Barra, LLC#	\$757,875	Y					Y			
Cove Street Capital LLC~	\$1,574,557	Y			Y		Y	Y	Y	
Kroll, Susan N Tierman, MD	\$516,894	Y					Y	Y	Y	Y
Oberweis Asset Management INC~	\$4,774,623	Y			Y		Y	Y	Y	
Risk Strategies Company#	\$1,968,699	Y		Y	Y		Y		Y	
Russell Investments Implementation Services, LLC~	\$2,004,392	Y			Y		Y		Y	
Technology Integration Group#	\$85,916		Y			Y				
Total	\$23,838,244									

Source: City of San José Financial Management (FMS) System Records from July 1, 2017, through May 31, 2022

~"Investment Manager" contract selected for review in a future audit report

Included in the final selection of contracts for this audit (see the paragraph below)

Notes (on columns A through I in the above table):

- A) "High Value" means total vendor spend over \$500,000 (during the audit period).
- B) The IAD administers an annual staff survey. Ratings that were directly or indirectly related to vendors/contracts were considered.
- C) For selected contracts, the IAD searched the City's online records database (i.e., "GILES") to assess completeness of the contract files.
- D) Purchase Orders (POs) serve to monitor and limit vendor spend by contract in FMS. Missing PO data was considered a risk.
- E) A single vendor invoice/payment over \$50,000 in any given year was considered a potential risk.
- F) "Long Term" means that payments to a vendor occurred in four or more years (during the audit period).
- G) High risk payment trends were identified using a visual (i.e., graphing vendor spend) and judgmental (i.e., subjective) approach.
- H) Benford's Law¹² analytic results were summarized and prioritized by vendor in determining whether there was a potential risk.
- I) Using analytics, potential conflict of interest situations (e.g., employee vendors) were identified but later deemed insignificant.

Final selection of three contracts for review in this audit Of the above 10 vendors, 5 were identified as "investment managers" to be included in the scope of the IAD's next planned audit. Of the remaining 5, 2 were dropped because information was not readily available to assess the preliminary risks that had led to their preliminary selection. This audit focused on the contracts with Barra, LLC, Risk Strategies Company, and Technology Integration Group, as shown in Findings 1 through 3. Finding 4 discusses overarching concerns about the reliability of the ORS's contract and vendor spend data and systems.

¹² Benford's law is a proven mathematical theory used to identify data that are indicative of various risks (e.g., fraud, error).

Finding 1 **ORS wire transfers to pay vendor invoices violated ORS and City payment rules and bypassed payment safeguards. Vendor services and payments continued without authorized contracts, vendor performance was not measured, and ORS staff disagreed among themselves on procurement rules.**

Summary The ORS's use of wire transfers to pay \$132,000 in vendor invoices in 2022, two of which were past due, violated City and ORS payment rules and bypassed standard ORS payment processes designed to safeguard the retirement funds from error and fraud. The ORS's Director (CEO) did not approve the use of wire transfers to pay the invoices in 2022.¹³ The ORS did not have a Retirement Board-approved contract to pay a \$91,000 Barra, LLC invoice or to continue services under a Barra, LLC contract or an overarching contract with Verus Advisory, Inc. Despite concerns that the IAD raised in 2022 about the use of wire transfers to pay vendors, the Investments Division wired \$131,000 to pay three past-due vendor invoices in January 2023.¹⁴

The ORS did not have vendor performance standards and oversight records to show that Barra, LLC and Verus Advisory, Inc. met their specific contractual obligations. ORS staff disagreed among themselves on whether the ORS is required to follow San José's procurement rules, as stated in the San José Municipal Code and the Finance Department's procurement policies and procedures. Existing ORS procurement policies and procedures have not been updated or signed off by senior management in over 20 years.

From July 1, 2016, through June 30, 2022, the ORS paid about \$760,000 to Barra, LLC for data processing and reporting services and about \$1.52 million to Verus Advisory, Inc. for risk advisory services.¹⁵ The ORS's contracts with Verus Advisory, Inc. required that the ORS contract with Barrac, LLC.

Appendix 1 provides, for additional context, a timeline, with reference to supporting documentation (see Appendix 7), of the actions of the Retirement Boards and the Investments Division that relate to the contracts with Barra, LLC and Verus Advisory, Inc.

¹³ The ORS's CEO did approve payment of the 2022 invoices, but not the wire transfers, which constituted an override of standard ORS and City payment processes and payment rules.

¹⁴ The ORS's CEO did approve the January 2023 invoices and wire payments with knowledge of the concerns identified in this report. Due to a conflict of interest, this audit report is silent on this concern. The IAD reported concerns about the IAD's organizational independence and provided relevant recommendations to the Retirement Boards in a 2021 report titled ["Assessment of the Internal Audit Division."](#)

¹⁵ For reference, a Verus Advisory, Inc. work product is included in Appendix 7, starting on [page 191](#).

**Wire transfers to
pay vendor
invoices violated
ORS and City
payment rules**

ORS records show that the Investments Division wired \$132,000 directly from the ORS's Bank of New York Mellon accounts, effective September 1, 2022, to pay the following invoices, two of which were past due:¹⁶

- A \$90,956 Barra, LLC invoice that had been due for payment on June 29, 2022
- A \$27,000 PitchBook Data, Inc. invoice that had been due for payment on July 20, 2022
- A \$14,000 Bloomberg Index Service, Ltd. Invoice due on September 5, 2022

On January 12, 2023, after the issuance of a draft audit report that communicated concerns about the use of wire transfers to pay vendor invoices, the Investments Division wired \$131,000 to pay three other past-due vendor invoices, including another \$90,956 Barra, LLC invoice, which had been due for payment on December 9, 2022. ORS records show that Accounting Division staff raised the following concerns to the Investments Division:

- Contracts were not in place to verify the rates in two of the three invoices.
- The IAD had previously raised concerns about wire transfers to pay vendor invoices.

The IAD did not expand the audit scope to review the circumstances of the January 2023 wires.

*Wires bypassed
processes designed
to safeguard and
track the
retirement funds*

The ORS's standard vendor payment process, consistent with the San José Municipal Code¹⁷ and ORS policy,¹⁸ requires an invoice review and approval process that safeguards the retirement funds from payment errors and fraud and ensures that the City's Financial Management System (FMS) timely and accurately reflect payment activities.¹⁹ For example, under the ORS's standard vendor payment process:

- **To reduce the risk of payment fraud**, staff responsible for managing contracts and authorizing invoice payments cannot make the payments (e.g., a vendor invoice approved by the Investments Division must be authorized in FMS by staff in two additional, separate working groups, the ORS Accounting Division and the City's Finance Department). This "separation of incompatible duties"

¹⁶ The audit scope included contract and payment activities associated with Barra, LLC and by extension, Verus Advisory, Inc. but not PitchBook Data, Inc. or Bloomberg Index Services, Ltd.

¹⁷ See [Municipal Code](#) sections 3.28.320 and 3.36.520 for sections relevant to the Federated Plan and Police and Fire Plan, respectively. The Muni Code requires the ORS to use City processes under the authority of the Finance Department to pay invoices and requires that all payments from the "retirement fund" are to be made in the manner required for the disbursement of other public funds.

¹⁸ ORS staff and management may refer to ORS policy number 530.1 and 510.1.

¹⁹ Up-to-date FMS records are important to enable timely, reliable financial reports and analysis.

is designed to avoid certain fraud schemes (e.g., conspiring individuals create a fraudulent invoice, approve its payment, and process the payment).

- **To ensure the accuracy of invoice payments and enforce contract terms (e.g., budgets),** Accounting staff independently (i.e., separately from staff who are responsible for managing contracts and authorizing invoice payments) review and approve invoices before payment to ensure accuracy and consistency with contract rates, budgets, and timelines. Automated (i.e., FMS) and manual internal controls prevent payments that exceed authorized contract limits and terms that were presumably authorized by those with authority (e.g., the Retirement Boards).
- **To ensure that FMS, the City's financial system, is up to date and reflective of the payment process,**¹⁹ Accounting staff enter supporting invoice documentation in FMS before payment is made. Accounting staff also separately track and update contract budgets as part of the payment process to ensure that there is up-to-date information on contract funds remaining or necessary for additional goods or services.
- **To reduce the risk of payment fraud and errors and ensure compliance with City payment rules,** the City's Finance Department, independently from ORS staff, performs a final review of ORS-approved invoices and supporting documentation and authorizes payment in FMS. The Finance Department issues checks to pay vendors.²⁰

Moreover, there was no ORS precedent or existing ORS policies and procedures to use wire transfers to pay ORS vendor invoices outside of this process.²¹

*Investments
Division staff stated
that a City Clerk's
Office process
change led them to
use wire transfers*

ORS records do not show that the Investments Division informed the ORS Director (CEO) of the use of wire transfers to pay vendor invoices in 2022 or that Investments requested the CEO's approval of this new payment process.²² In response to a CEO request for clarification in January 2023, Investments Division staff stated that they used wire transfers to pay "the subscriptions" because the City Clerk's Office would not post them on GILES (i.e., the City's records database [website](#)), a step that is required by the City's Finance Department to pay the invoices. Investments Staff stated that the City Clerk's Office has changed its

²⁰ ORS Policy 530.1 states that the City is subsequently reimbursed by the Retirement Funds for all expenses on a monthly basis.

²¹ According to ORS staff, some investment manager fees are paid using wire transfers. Investment manager contracts were outside the audit scope.

²² In 2023, with knowledge of the concerns identified in this report, the ORS's CEO did approve the payment of vendor payments using wire transfers. Due to a conflict of interest, this audit report is silent on this concern. The IAD reported concerns about the IAD's organizational independence and provided relevant recommendations to the Retirement Boards in a 2021 report titled "[Assessment of the Internal Audit Division.](#)"

process to only "post contracts." Validation and clarification of these assertions was beyond the IAD's authority.

Exhibit 7 shows that the Investment Division's wire transfers were inconsistent with the ORS's standard payment process.

Exhibit 7

ORS Payment Standard Compared to Investments Division Wire Transfers

Key Control (i.e., process)	Responsibility	Standard ORS Payment Process	Investments Division Wire Transfers
Payment Authorization (i.e., steps to initiate invoice payment. Staff who "authorize" should not perform accounting or custody functions shown below to avoid errors/fraud)	Division Staff & CEO (e.g., Investments Division staff who manage contracts)	Complies (i.e., project/contract managers who do not have an accounting <u>or</u> custody role request/authorize payment. Separation of duties reduces the risk of fraud.)	Did not comply (i.e., Investments Division staff authorized <u>and</u> made payments using wire transfers. The CEO approval process was via email and not an effective system control that could prevent payment.)
Contract & Payment Compliance (i.e., steps to ensure the accuracy of invoices and enforce contract terms and budgets before payment)	Accounting	Complies (i.e., Accounting staff review invoices for accuracy, update contract budget and payment records. FMS prevents payments that violate authorized contract budgets and timelines.)	Did not comply (i.e., the Investments Division bypassed this requirement although it did inform Accounting in advance that it was paying the invoices by wire transfer. Wires bypassed FMS system controls that could effectively prevent payments that exceed or violate contract budgets and terms.)
Record Keeping (i.e., FMS financial records, in real time, reflect payment activities, including the status of the invoice approval and payment process)	Accounting & Finance Department	Complies (i.e., Accounting staff enter invoice data and invoice approval records into FMS. The Finance Department reviews and approves ORS-approved invoice documentation. FMS, in real time, tracks the approval process.)	Did not comply (i.e., the Investments Division bypassed this requirement. Instead, Accounting Division staff subsequently recorded the payments in FMS using "journal entries" based on bank records.)
Custody (i.e., authority/ability to make payments. FMS should, in real time, show payments made)	Finance Department	Complies (i.e., the Finance Department, a separate City Department, after its review and approval of ORS-approved/authorized invoices, authorizes and processes vendor payments. FMS, in real time, shows payments.)	Did not comply (i.e., the Investments Division authorized <u>and</u> made payments. Without proper separation of this function from the authorization function, an individual or colluding individuals in a division can authorize and pay a fraudulent or erroneous invoice.)

Source: City and ORS policies and procedures, FMS records, Barra, LLC invoice and payment records, interviews of ORS staff

Investments Division staff and ORS counsel deemed wire transfers necessary and legal

ORS staff emails show that ORS Investments Division staff, after consulting the ORS's legal advisor on August 29, 2022, authorized the wire transfers because of the following assertions:

- The City's Finance Department would not authorize payment using the City's standard payment process because the services had not been procured in accordance with the City's procurement rules.
- The Retirement Boards had approved the services.

- The invoices were in arrears.
- A potential cut off of the services would jeopardize the administration of Plan assets.
- The services were critical to the Retirement Plans' investment programs.

Rules and policies (i.e., criteria) required for the IAD to validate the last two assertions bulleted above were not available. However, it is noteworthy that ORS records of the contracts with Barra, LLC and Verus Advisory, Inc. (e.g., staff reports to the Retirement Boards) did not specifically discuss whether and how the services were critical to the Retirement Plans' investment programs or to the administration of the Plans' assets. For reference, a Verus Advisory, Inc. work product is included in Appendix 7 ([page 191](#)).

Reputational damage may negatively impact the ORS's ability to achieve its goals²³

ORS staff emails show that the Finance Department, in coordination with the City Attorney's Office, raised the following concerns to ORS Investments Division staff about ORS contracts with Barra, LLC and PitchBook Data, Inc.:

- The contracts did not comply with City procurement rules.
- The Finance Department would not authorize vendor payments without valid contracts.

Reputational damage, which includes negative internal ORS and City staff perceptions of the ORS's commitment to City rules, may damage ORS staff's ability to efficiently work with other City departments. Past IAD audit reports show that key ORS business processes require significant coordination with other City departments.²⁴

From an external perspective, late invoice payments, especially for important services, raise the risk of operational and reputational damage (e.g., a vendor may stop providing business-critical services and may avoid future business with a client that does not pay on time). Negative views held by other external stakeholders, such as the ORS's financial auditor, actuary, and retirees may also damage the ORS's ability to efficiently meet business objectives (e.g., to achieve a "clean" or unqualified financial auditor's opinion regarding the ORS's publicly issued financial statements).

²³ Exhibit 2, shown earlier in this report, is also relevant to this section. It shows that the Finance Department issued a reprimand letter to the ORS for violating the City's procurement rules and that the ORS's CEO, on June 7, 2021, committed to abiding the rules.

²⁴ See past IAD reports on [enrolling plan members](#), [terminating plan members](#), and administering [plan member contributions](#) to fund the City's pension plans and pay future retiree benefits.

Compliance with payment rules was not prioritized

The Investments Division and the ORS's outside counsel did not consult with key ORS stakeholders (i.e., the ORS's Accounting Manager, Chief Operating Officer, and Chief Executive Officer) regarding options to ensure compliance with ORS and City procurement and payment rules prior to making the September 2022 wire transfers. Moreover, as previously discussed, there were additional wire transfers to pay vendor invoices in January 2023. The compliance concerns raised by the Finance Department should have, but did not, lead to efforts by ORS senior management to engage the Finance Department to determine how to either comply with the existing ORS and City rules or to determine an acceptable, alternative payment method that meets the standard of care. Standards for internal control (i.e., processes designed to achieve business objectives) in government state that management should monitor the effectiveness of existing processes and remediate process deficiencies in a timely manner.²⁵

The ORS did not have a Retirement Board-approved contract to pay a \$91,000 Barra, LLC invoice

When the ORS's Retirement Board-authorized contract with Barra, LLC expired on June 1, 2022,²⁶ the Investments Division did not have an authorized contract to pay a \$90,956 Barra, LLC invoice for services from June 2, 2022, through June 1, 2023. A January 2022 ORS Accounting Division email²⁷ to the Investments Division had warned that existing Barra, LLC contract funds had been mostly depleted and were insufficient to pay the anticipated May 2022 invoice. Steps were not taken, however, to timely authorize and renew the contract. According to ORS Investments Division staff, the Barra, LLC contract had "auto renew" terms; however, the Retirement Boards had not authorized such contract terms. The use or inclusion of auto renew terms in contract documents (i.e., in the boilerplate clauses of the contract) that are not specifically authorized by the Retirement Boards undermine their authority and responsibility to actively control the budgets and horizons of the ORS's contracts. Moreover, under California Law,²⁸ contracts must be interpreted based on the intent of the parties "*at the time of contracting*" [emphasis added] and also with consideration of other related contracts, such as the the overarching Verus Advisory, Inc. discussed below, that had also expired in June 2022 without any such auto renew terms.

²⁵ See U.S. Government Accountability Office, "Standards for Internal Control in the Federal Government," Washington, D.C., 2014, p. 64, available at <http://www.gao.gov/products/GAO-14-704G>.

²⁶ In 2020, the Retirement Boards authorized Investments Division staff to extend the term of an existing contract with Barra, LLC for two years. The Boards also authorized an additional \$300,000 in contract expenditures. Staff used the authority to extend the term of the existing Barra, LLC contract to June 1, 2022.

²⁷ To help ensure invoices can be timely paid and to avoid business disruptions, ORS Accounting staff track contract funds and invoice payments and notify ORS managers when contract funds are nearly depleted and/or when contracts near expiration.

²⁸ See [California Civil Code](#) § 1636 and § 1640.

An associated contract with Verus Advisory Inc., had also expired, with work in progress

The contract with Barra, LLC was mandated under the terms of an overarching contract with Verus Advisory, Inc. that had also expired in June 2022.²⁹ As of September 2022, the ORS was still doing business with Verus Advisory, Inc. without a valid contract. Without the required approvals from the Retirement Boards, the Investments Division signed an agreement, effective September 15, 2022, to extend the Verus Advisory, Inc. contract, which had expired back in June 2022, to June 30, 2023.

It is noteworthy that a prior ORS prior contract with Verus Advisory, Inc. had expired on January 31, 2020, despite ongoing work. It was not until May 2020 that the Retirement Boards retroactively authorized ORS staff to extend that contract.

Investments Division memorandums requesting contract authorization omitted important information

In April 2023, the Investments Division presented memorandums to the Retirement Boards to request that they authorize extensions of the Verus Advisory, Inc. and Barra, LLC contracts for an additional year. The memorandums stated that in June 2020, the Retirement Boards approved retaining Verus Advisory, Inc., on a two-year contract with an additional one-year option to extend, which was exercised "as of July 1, 2022." The memorandums omitted the following important information:

- The Verus Advisory, Inc. contract had, in fact, expired on June 30, 2022, and it was not until September 2022 that the Investments Division, albeit without the required authority (see Appendix 1), extended the contract.
- the Investments Division had exercised the "option to extend" the Verus Advisory, Inc. contract in September 2022 without the required authorization from the Retirement Boards. The use of the passive voice³⁰ in the memorandum avoided this important disclosure (see Appendix 1, including the referenced supporting documents).

Moreover, the memorandums, which in April 2023 requested that the Boards authorize the renewal of the Barra, LLC contract for one year, did not disclose the following information:

- When the prior Retirement Board-authorized term for the Barra, LLC contract had ended on June 1, 2022 (see Appendix 1), there was no timely renewal effort, and the Investments Division paid for Barra, LLC services subsequent to June 1, 2022, using wire transfers, as previously discussed in this report.

²⁹ The Verus Advisory, Inc. contract did not have the boilerplate "auto renew" terms that were in the Barra, LLC contract. It was beyond the audit scope to determine whether and how the Barra, LLC contract is of use to the ORS without the Verus Advisory, Inc. contract.

³⁰ The passive voice is a verb form that often conceals the subject of a sentence.

- The Investment Division's requests in April 2023 for Retirement Board "action to renew the risk data service agreement with Barra LLC for one year for an amount not-to-exceed \$96,000" conflicted with the Investment Division's own perspective (i.e., when asked about ongoing Barra, LLC services and payment to Barra, LLC after the June 1, 2022, effective contract end date) that the contract had auto renew terms.

Appendix 1 provides, for additional context, a timeline of the actions of the Retirement Boards and the Investments Division that relate to the contracts with Barra, LLC and Verus Advisory, Inc.

ORS policy requires Retirement Board authorization to spend over \$50,000 under a vendor contract

ORS policy requires that the Retirement Boards approve any contracts that would result in a cumulative contract value with a single vendor in excess of \$50,000 over two consecutive fiscal years.³¹ In addition, ORS policy number 640.5 requires that the Investments Division:

- Notify the Retirement Boards when staff plan to negotiate with vendors whose contracts are expiring approximately six months prior to expiration.
- Based on records of the vendor's performance, recommend to the appropriate committee or Retirement Board, whether to extend or terminate the contract three months prior to the expiration date.

ORS policy requires a database of contracts and expiration dates

The ORS does not have a reliable and complete database of existing contracts and their expiration dates, as required by ORS policy number 640.1. Such a database could enable the ORS to monitor existing contracts and timely renew them, when necessary. ORS staff keep limited contract information in electronic folders. The Orange County Employees Retirement System (OCERS), an ORS benchmark agency, uses an online vendor and contract management system to track and manage contracts effectively and efficiently (see Finding 4).

City policy requires records of authorized contract terms and amounts in FMS

Despite ongoing services provided by Barra, LLC and Verus Advisory, Inc., as of September 2022, the City's Financial Management System (FMS) did not reflect valid, electronic contract records as required by City policy. To ensure that authorized contract funds are available to pay invoices, the City's [encumbrance policy](#) requires that City departments record the terms of authorized contracts (i.e., start and end dates), authorized contract amounts, and any authorized amendments (e.g., changes to the contract term or amount) in FMS. As discussed in Finding 4, reliable contract data is required to efficiently and effectively manage contracting risks and opportunities.

³¹ See "Policy Regarding Roles in Vendor Selection" under board governance & policies for the Federated and Police and Fire Plans on the [ORS website](#).

*Auto renewing
("evergreen")
contracts are not a
best practice*

San José procurement rules and existing ORS policies and procedures do not specifically prohibit the use of auto renewing or "evergreen" contracts (i.e., contracts without an obligatory expiration date). According to Investments Division staff, evergreen terms are used routinely in the ORS's investment manager contracts, which were outside the audit scope. Finance Department staff have provided the following general guidelines to City staff:

- Contract terms should generally be limited to five years; however, there may be legitimate reasons for long-term contracts.
- Assuming the same services are still required, there should be a public, competitive process after five years to award a new contract.

ORS Benchmark retirement agencies have procurement policies and procedures that mandate maximum contract terms. For example:

- Los Angeles County Employees Retirement Association (LACERA) procurement policies and procedures state, "Contracts shall be limited to a maximum of five (5) consecutive years with an optional extension of up to an additional two (2) years, with approval by the Chief Executive Officer or designee." A December 10, 2021, LACERA staff memorandum specifically stated, "Month-to-month evergreen contracts are not a best practice."
- Orange County Employees Retirement System (OCERS) procurement policies and procedures (see Appendix 2) state that the term of a contract will not exceed six years. OCERS staff confirmed that regardless of contract type (e.g., information technology, equipment, services), after six years, there must be a new procurement process and when warranted, a competitive vendor selection process. Investment manager contracts are not addressed in the procedures.

*Contracts do not
show approval "as to
form" by an attorney*

According to ORS Investments Division staff, the ORS's investment counsel prepares or reviews contracts prior to execution, but there is no formal process to do this or to define the purpose of the review (e.g., to ensure that ORS contracts conform to City and ORS procurement rules, to ensure that contracts reflect the authorization granted by the Retirement Boards). ORS Investments Division staff did not have records showing that investment counsel reviewed or prepared the Barra, LLC contract documents. Staff did have emails showing that investment counsel reviewed a 2020 contract with Verus Advisory, Inc.; however, the correspondence does not show what the purpose of the review was. San José Municipal Code section 4.04.060 states, "All contracts which are required to be in writing shall be approved as to form by the city attorney prior

to execution by the city."³² An attorney's review can help ensure that contract terms are consistent within a given contract document and between related contracts, when required. An attorney's review can also help ensure that actual procurement practices are compliant with procurement rules (i.e., official contracts include up-to-date terms that reflect the organization's procurement rules and policies, including its social policies).

The ORS did not have oversight records or performance measures for contracts with Barra, LLC or Verus Advisory, Inc.

The ORS did not have contract oversight records, vendor performance standards, or performance measurements to show that Barra, LLC and Verus Advisory, Inc. met their contractual obligations or that they met any particular performance requirement during their initial, three-year contract terms. In 2020, the Retirement Boards authorized contracts and contract amendments with Barra, LLC and Verus Advisory, Inc. without specific, documented vendor performance information. Moreover, the following specific information requested by the IAD pertaining to the Barra, LLC contract was not readily available:

- Reports on utilization or usage of the services. The ORS contract specified that there would be a process to provide and receive data. ORS staff did not have documentation of the process or data but did explain how it was used. If available, utilization reports could help demonstrate the value received under the contract.
- Records of the assignment and use of the five user licenses. The Barra, LLC contract stated that the Barra products (i.e., software and data products listed in the contract) may be accessed and used only by five specific, named users. The contract did not show the names of the users and information was not available to show how the ORS used the licenses or whether five licenses were required.
- Records of the invoice approval process. Investments Division staff approve and forward invoices to the ORS Accounting Division for payment but do not keep invoice records or use a predefined process to demonstrate that invoices were consistent with contract terms prior to approval. ORS Accounting Division staff do review invoices prior to payment to ensure that billing rates are consistent with contract terms and that invoice totals are accurate. However, Accounting's process does not document or ensure vendors' compliance with other key contractual obligations and performance standards that often require technical expertise to assess. Subject matter expertise is often required to provide sufficient vendor oversight and appropriately authorize payments.

³² A May 15, 2015, memorandum from the San José City Attorney stated, "With the adoption of Measure G in the November 2014 election, the Retirement Boards have the authority to appoint and direct their own attorneys..." The ORS contracts for outside legal services.

ORS Policy requires vendor performance reviews

ORS policy number 640.5 states, "The Retirement Department shall review the performance of the vendors who provide services related to the administration of the retirement plans *prior* [emphasis added] to renegotiating agreements and amendments between the Boards and vendors." The policy assigns the following responsibilities to the Investments Division:

- Determine appropriate measurements for each vendor. During the first year, review measurements to determine appropriateness and value added. Modify the measurements as necessary.
- Develop a rating form for each type of vendor.
- Make notes during the term of the agreement of any issues and comments relating to the performance of the vendor. Keep notes in the appropriate vendor file.
- Report the vendor review results to the appropriate committee or Board with a recommendation to extend the contract or to terminate the vendor three months prior to the expiration date.

San José vendor management guidelines require oversight of vendors

San José has vendor management guidelines (see Appendix 3) that require City staff to "set and expect standards of performance for the vendor," including measurable key performance indicators. The guidelines also require staff to "actively monitor the contract and conduct periodic performance assessments of the vendor."

The OCERS, an ORS benchmark agency, requires documented performance reviews of all vendors with contracts over \$100,000 at least once every three years to determine if they are meeting their contractual obligations.

ORS staff have conflicting views on the ORS's procurement requirements

Some ORS staff stated that the City's procurement rules apply to the ORS. Others, citing the ORS's independence from the City under Measure G,³³ stated that the ORS is not required but may choose to use the City's procurement rules. Regardless, there was no apparent process to ensure compliance with either existing ORS procurement policies and procedures or San José procurement rules. ORS policy 640.1 states that the ORS's contracts "shall be processed for consideration and action by the Board in accordance with applicable provisions in Chapter 4.04, 3.24, and 3.28, San Jose Municipal Code or as recommended by the City Attorney." There are no specific ORS procurement rules to clarify whether Measure G eliminated or modified the requirement to comply with San José's procurement rules. As discussed in the Background section of this report, the IAD believes that the audit criteria

³³ San José voters passed Measure G, which was on the November 4, 2014, election ballot, allowing for the creation of "one or more retirement boards with specified authority, including hiring an at-will chief executive."

ORS policies and procedures are not sufficiently used

referenced in this report reflect the standard of care for procurement and payment, which is mandated for the ORS under the California Constitution.

A 2022 ORS Internal Staff Survey [report](#) showed that in general, ORS policies and procedures were not sufficiently in use, with 14 (39 percent) of 36 respondents indicating that they almost never refer to the ORS's formal, written policies and procedures. Updated, official policies and procedures are needed to ensure that ORS executive management is informed, responsible, and accountable for business processes and that there are clearly assigned roles and responsibilities among ORS business units to achieve the ORS's objectives.

ORS procurement policies have not been updated or signed-off by senior management in over 20 years

The ORS has internal procurement policies and procedures that are over 20 years old and have not been signed-off by senior management or updated to either reflect existing San José procurement rules or any other rules or best practices. The Retirement Boards' Charters³⁴ for the ORS Director (CEO) state: "The CEO shall develop and approve all necessary operating procedures to guide staff and vendors in implementing board policy or direction." ORS policy number 810.1, titled "Policy and Procedure Maintenance," requires that the ORS regularly (i.e., at least annually) update its policies and procedures manual, date the revisions, and obtain the director's signature to authorize the revisions.

The ORS has not specifically assigned procurement responsibility to staff

Existing ORS procurement policies assign procurement activities mostly to Investments Division staff and payment-related activities to the Accounting Division. In practice, there is no designated staff position that is responsible for ensuring compliance with ORS or San José procurement rules. In contrast, the OCERS, a benchmark retirement agency, has a specific "contracts, risk & performance administrator" position whose job description includes:

- Creatively and systematically planning, developing, implementing and monitoring contracts.
- Identifying and implementing contract management and contract administration best practices
- Leading the development of Requests For Proposal (RFPs) and other procurement processes including the preparation and management of all aspects of soliciting bids/proposals, evaluating the provider responses, and provider selections.

³⁴ The "Charter" documents can be found on the ORS [website](#).

A designated procurement point of contact at the ORS can help design and maintain up-to-date procurement policies and procedures and help coordinate and manage the ORS's procurement activities.

Standards for policies and procedures

"Control Activities" is one of five components of an effective internal control system.³⁵ Standards for internal control require that management:

- Design policies, procedures, techniques, and mechanisms to achieve organizational objectives and address related risks.
- Document in policies for each unit its responsibility for an operational process's objectives and related risks, and control activity design, implementation, and operating effectiveness.
- Communicate to personnel the policies and procedures so that personnel can implement the control activities for their assigned responsibilities.
- Define and assign roles and responsibilities and delegate authority to achieve organizational objectives.

Recommendations

To ensure that the ORS complies with the City's vendor payment and applicable contracting rules, the IAD recommends that ORS management:

- 1.1** In coordination with the ORS's legal counsel and the City's Finance Department, identify and memorialize (e.g., in a policy) the procurement rules that the ORS is required to follow.
- 1.2** After implementing Recommendation 1.1, review and update all existing, outdated ORS procurement policies in accordance with policy number 810.1 titled "Policy and Procedure Maintenance." The update should include guidance on the permissible uses of "evergreen" terms, if any, and taking steps to ensure that contract terms are valid, consistent, and aligned with applicable contracting rules (e.g., use a check list, mandate an attorney's review of contracts "as to form"). Communicate the updated policies to all ORS staff with contracting or vendor payment responsibilities.

³⁵ Internal control is the system of processes that an entity's oversight body, management, and other personnel implement to provide reasonable assurance that the organization will achieve its operational, reporting, and compliance objectives. The five components are control environment, risk assessment, control activities, information and communication, and monitoring. See U.S. Government Accountability Office, "Standards for Internal Control in the Federal Government," Washington, D.C., 2014, P. 9, available at <http://www.gao.gov/products/GAO-14-704G>.

1.3 Communicate existing and ORS "governance" policies that define the roles and responsibilities for authorizing contracts (i.e., the Federated and Police and Fire Plan policies titled "Policy Regarding Roles in Vendor Selection") to ORS staff who have contracting or vendor payment responsibilities. Highlight in the communication the requirements for Retirement Board approval (e.g., "Board approval is also required for any contracts that would result in a cumulative contract value with a single vendor in excess of \$50,000 over two consecutive fiscal years").

1.4 Assign overall responsibility for procurement oversight to an ORS staff position. Provide necessary training to the staff member to meet the new job responsibilities. Update the list of official job duties for the position to include:

- Serving as an internal point of contact for procurement at the ORS.
- Training ORS staff on procurement rules.
- Serving to coordinate ORS procurement activities with the ORS's legal counsel and the Finance Department.
- Ensuring compliance with applicable procurement rules and policies and procedures.
- Administering the ORS's procurement processes to ensure that the ORS has complete, reliable, and useful data to manage its contracts and comply with applicable ORS and City procurement and payment rules.
- Monitoring procurement and payment activities to identify and address instances where ORS procurement activities do not comply with applicable ORS and City rules (e.g., vendor payments without contracts, vendor payments that violated payment rules, contract documents that do not include required terms, contract duration and maximum expenditure terms that are inconsistent with Retirement Board authorizations, contracts without vendor performance metrics, contracts renewed without reference to vendor performance metrics).

Finding 2**The ORS paid an insurance broker without a competitive vendor selection process or a contract to define the scope of services.****Summary**

From July 1, 2015, through June 30, 2022, the ORS paid about \$2.65 million to vendor Risk Strategies Company, an insurance broker, without a public, competitive vendor selection process or a contract to define the scope of services and to protect the ORS's business interests. Ongoing, annual payments to Risk Strategies Company increased from \$329,000 in FY 2016 to \$447,000 in FY 2022, a 36 percent increase.

The ORS paid \$2.65 million³⁶ to Risk Strategies Company without a contract

From July 1, 2015, through June 30, 2022, the ORS paid about \$2.65 million to vendor Risk Strategies Company, an insurance broker, without a legally enforceable services agreement (i.e., contract) to meet the following key objectives:³⁷

- To specify roles and responsibilities of the insurance broker, such as providing guidance on selecting insurance coverage and handling claims.
- To ensure that **all** broker compensation components (e.g., client-paid fees, commissions, insurance company-paid fees) are disclosed by the broker at the time it submits insurance policy proposals so that its economic incentive to recommend a proposal is clear.
- To establish liability for the insurance broker if circumstances show that the broker's advice resulted in obtaining inadequate or unsuitable insurance.
- To ensure that the broker has sufficient errors and omissions insurance to pay a malpractice claim.
- To specify the roles and responsibilities of the ORS in selecting insurance coverage and handling claims (e.g., the ORS uses a risk assessment process to identify its vulnerabilities and makes a risk-based decision regarding the types and levels of coverage, such as cyber liability insurance, that may be required).

Up until the start of this audit, the ORS did not recognize the need to contract with an insurance broker given that the primary objective was to purchase insurance policies. As of this writing, ORS management believes that a competitive vendor selection process should be used to contract with an insurance broker for the ORS.

³⁶ This figure includes payments to Risk Strategies Company dating back to FY 2016. It does not include payments to prior insurance brokers (e.g., MacCorkle, which was acquired by Risk Strategies Company in 2015) that may also have been made without a contract.

³⁷ Harkham, Finley T. "[Contracts With Insurance Brokers: Do's and Don'ts.](#)" Anderson Kill, 2015. Accessed July 6, 2022.

San José rules and regulations require contracts to pay vendors

San José Municipal Code section 4.04.060 states that all contracts, except for authorized purchases through use of a city credit card, having a maximum value of \$500 shall be in writing.³⁸ To meet their fiduciary responsibilities (i.e., to ensure that legally binding agreements consistent with agency rules are used to procure goods and services), governmental agencies, including benchmark pension systems (see Appendix 2), have rules, regulations, policies, and procedures that require contracts when anticipated payments to a single vendor or anticipated payments for a type of service or product (e.g., office supplies) exceed a predefined amount over a period of time.

ORS processes do not prevent vendor payments without a contract

According to ORS Accounting Division staff, the City's Finance Department will approve and pay ORS vendor invoices if ORS staff enter invoices in the City's Financial Management System (FMS) and provide documentation in FMS of ORS staff's preliminary invoice review and approval process. It was beyond the IAD's authority to determine why Finance Department processes and FMS allowed payments to Risk Management Company without a contract.

The ORS paid Risk Strategies Company without a public, competitive vendor selection process

The ORS used Risk Strategies Company's services without a public, competitive vendor selection process to meet the following objectives:

- To select the most qualified and cost-effective insurance broker that best meets the ORS's business needs.
- To inspire public confidence that ORS contracts are awarded equitably and economically, without favoritism.

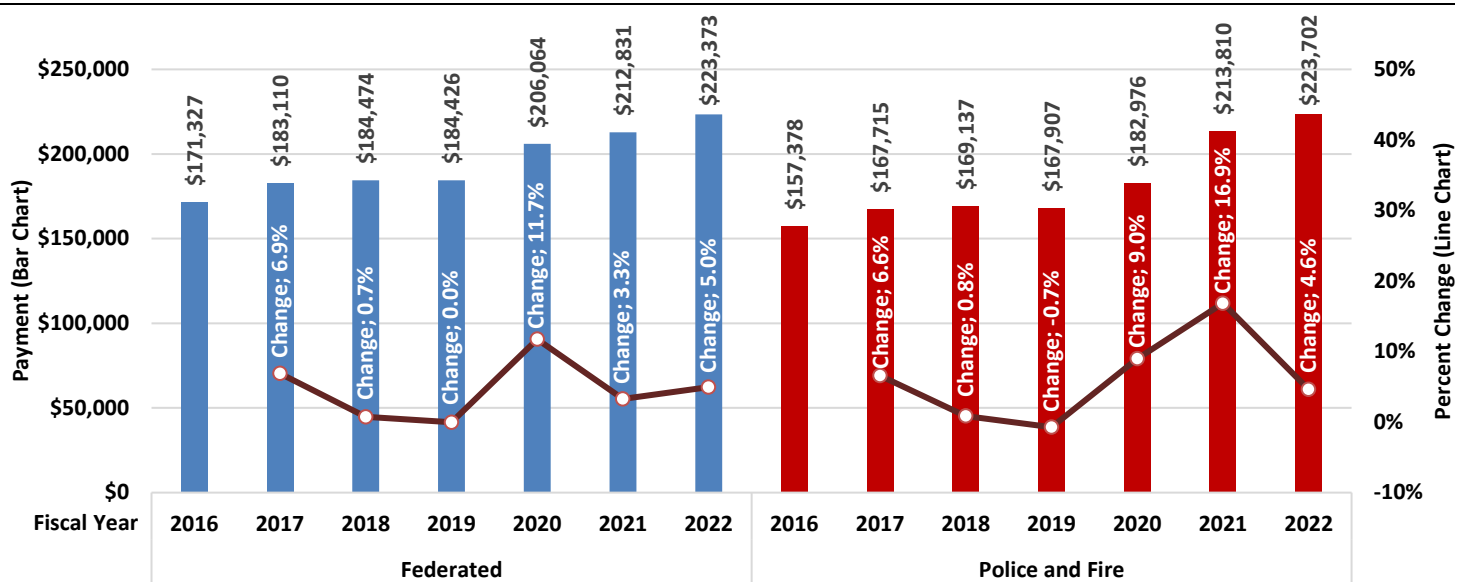
The ORS did not have a valid, documented reason (i.e., a "sole source exemption") to show that there was a reason to bypass the City's competition requirements. The IAD could not reliably determine whether the ORS could have saved money or obtained better services had it selected a different insurance broker.

Exhibit 10 shows the \$2.65 million in ORS payments to Risk Strategies Company by Fiscal Year and Retirement Plan, from July 2015 through June 2022.³⁹ During this period, total payments (i.e., for both the Federated and Police and Fire Plan) increased from about \$329,000 in FY 2016 to \$447,000 in FY 2022, a 36 percent increase.

³⁸ Current City of San José procurement training materials, summarized in Exhibit 3, show that contracts are required for services that cost over \$1,000.

³⁹ This amount includes both compensation to Risk Strategies Company and the value of the insurance policies. Although insurance policy documents showed "commission" percentages that appear to indicate compensation retained by Risk Strategies Company and not paid to the insurance companies, the ORS did not have a contract to ensure that all broker compensation components were disclosed.

Exhibit 10
ORS Payments to Risk Strategies Company



Source: City of San José Financial Management (FMS) System Records from July 1, 2015, through June 30, 2022

San José rules require competition to select the City's vendors

San José Municipal Code section 4.12.210 states that the City, where "practicable,"⁴⁰ shall engage in competitive procurement, and that competitive procurement, such as a Request for Proposal (RFP) process, shall be used for purchases of services with an estimated value of more than \$130,000 (effective July 1, 2019). To meet their fiduciary responsibilities (i.e., to obtain the best possible value for necessary goods and services, within legal boundaries), governmental agencies, including benchmark pension systems (see Appendix 2), have rules, regulations, policies and procedures that require a public, competitive procurement process, or a well-supported exemption, when anticipated vendor spend exceeds a predefined threshold.

Benchmark agencies used a competitive process to select their insurance brokers

Benchmark retirement systems performed due diligence in procuring and contracting for insurance broker services. For example, the Orange County Employees Retirement System (OCERS) issued a [Request for Proposal \(RFP\) for Insurance Broker Services](#) in March 2022. The 12-page, public solicitation document included the following key sections:

- Required scope of services (e.g., review and evaluate risks relevant to the OCERS that can be insured against, including cyber liability and employment practices liability; design and develop custom insurance plans; recommend/present plans to the Retirement Board; market approved

⁴⁰ San José Municipal Code section 4.12.215 states that the City is not required to engage in competitive procurement for emergency, public agency, sole source, or unique services purchases. For unique services, Muni Code Section 4.12.235 requires written determination of the basis for the procurement.

plans to qualified insurance providers, advise the OCERS on risk management and insurance matters)

- Minimum qualifications (e.g., the proposing firm must have experience procuring insurance and providing services to defined public and/or private pension plans with at least \$10 billion in assets)
- Point of contact for the RFP (e.g., the OCERS contracts, risk & performance administrator)
- An RFP schedule (e.g., RFP Release date, finalist selection date, award date)
- Evaluation criteria for the RFP (e.g., pricing and value, information provided by references, experience and reputation of the respondent)

Oversight of insurance broker services is needed to realize expected benefits

Except for the insurance policies that the ORS paid for, the ORS does not have records of the services or the quality of the services that Risk Strategies Company provided. According to ORS staff, Risk Strategies Company annually sends insurance applications to the ORS, solicits quotes from insurance companies, and provides insurance proposals for the ORS to review and approve. San José vendor management guidelines (see Appendix 3) require City staff to "set and expect standards of performance for the vendor," including measurable key performance indicators. The guidelines also require staff to "actively monitor the contract and conduct periodic performance assessments of the vendor." ORS policies and procedures require that the ORS supervise and direct all vendors on a regular basis. The OCERS, an ORS benchmark agency, requires performance reviews of all vendors with contracts over \$100,000, at least once every three years, to determine if they are performing their contractual obligations (see Appendix 2).

Invoices did not identify services provided by Risk Strategies Company

ORS staff notifications to the Federated and Police and Fire Plan trustees stated, "Staff worked with the insurance broker to obtain the lowest rates available that will provide the coverage needed."⁴¹ However, available ORS documentation, mostly limited to Risk Strategies Company invoices and the ORS's insurance policies, did not show these services. The FY 2022 policy documents did show that there were "commissions" that ranged from 14 percent to 17.5 percent included in the fees payable to Risk Strategies Company but did not specify the purpose of the commissions.⁴²

⁴¹ According to ORS Accounting Division staff, the memo should have stated, "Staff worked with the insurance broker, who obtained the lowest rates available that will provide the coverage needed."

⁴² Commissions may not include insurance company payments that reward a broker for generating business.

The ORS paid invoice amounts that were greater than original insurance policy quotes

In March 2022, Risk Strategies Company provided insurance policy documents that showed premiums totaling \$444,504 for the ORS. However, Risk Strategies Company invoiced the ORS, and the ORS paid \$444,879, an overage of \$375. ORS staff did not notice this discrepancy and approved the payment due to human error. According to Risk Strategies Company, the insurance carriers had erroneously omitted certain charges, and although the ORS was not informed in advance, Risk Strategies Company billed the ORS the corrected (i.e., increased) amounts based on corrected invoices from the insurance carriers.

The ORS does not have a risk assessment process to inform its insurance strategy

ORS does not have a formal process to periodically identify and assess business risks (e.g., cyber risk – high, fire risk – high),⁴³ existing controls to manage the risks (e.g., intrusion prevention software, sprinkler system), and the specific type and level of insurance required, based on ORS management's risk tolerance, to protect against the residual risks. According to ORS staff, when necessary, the ORS's legal counsel reviews coverage; however, the process is not documented. For comparison, OCERS senior management and legal staff, in coordination with the OCERS' insurance broker, regularly identify organizational risks and review and periodically adjust the OCERS' types and levels of insurance coverage.

The ORS did not consider purchasing cyber liability insurance

The ORS's insurance policies did not include at least one key area of coverage: cyber liability insurance to cover the costs of damage⁴⁴ from external (e.g., caused by an outside hacker) or internal (e.g., caused by staff) security breaches of its information systems (e.g., cyber extortion threats, theft or destruction of sensitive or mission-critical data). The ORS relies heavily on information technology and stores significant amounts of mission-critical and sensitive information both on local computer systems and on cloud-based (i.e., remote, third-party managed) applications and servers. The OCERS considers cyber liability insurance and earthquake insurance, another type of coverage that the ORS does not have, to be essential types of coverage.

The ORS may have been covered under the City's insurance policies

According to the City's current risk manager, the City has insurance policies that cover all City departments and their employees for various risks, including cyber, flood, and fire. However, the policies are confidential and are apparently not subject to disclosure, even to the ORS. Without knowledge of the City's specific insurance policies and levels of coverage, the ORS cannot effectively determine what types and levels of additional insurance, if any, it needs to

⁴³ The "Monitoring and Reporting Policy" of the Retirement Plans requires that ORS staff prepare an annual "operational risk assessment" report for the audit committee that identifies and assesses key risks and exposures (e.g., cash flow, personnel, information technology). This has not been done.

⁴⁴ Depending on coverage, cyber liability insurance may cover costs for investigative services, data recovery, identity theft, legal fees, public relations management, etc.

purchase. Moreover, without this knowledge, the ORS risks purchasing costly insurance that is redundant.

Recommendations

To ensure that the ORS protects its business interests in procuring insurance policies, the IAD recommends that ORS management:⁴⁵

- 2.1** In compliance with ORS policy and the City's procurement rules, use a public, competitive vendor selection process to select and contract with an insurance broker.
- 2.2** Create and communicate, as appropriate, a risk management policy that includes the following components:
 - A list of stakeholders (e.g., the Retirement Boards, ORS senior management, legal counsel, the insurance broker) who should have roles and responsibilities for identifying and addressing (i.e., managing) the ORS's business risks.
 - A defined process to periodically identify and document the ORS's business risks, whether to mitigate or accept those risks, and if applicable, the specific mitigation strategy (e.g., by procuring insurance).
 - A step to obtain details about the types and levels of Citywide insurance coverage that apply to the ORS.
 - A step to document the required types and levels of insurance coverage that the ORS needs to purchase beyond what is already provided by the City.

⁴⁵ Recommendations in Finding 1 address the need to update and communicate the ORS's procurement and vendor payment policies. Those recommendations are also applicable to this finding but are not restated.

Finding 3

The delayed purchase of ORS laptops in 2020 caused security vulnerabilities and raised operational risks.

Summary

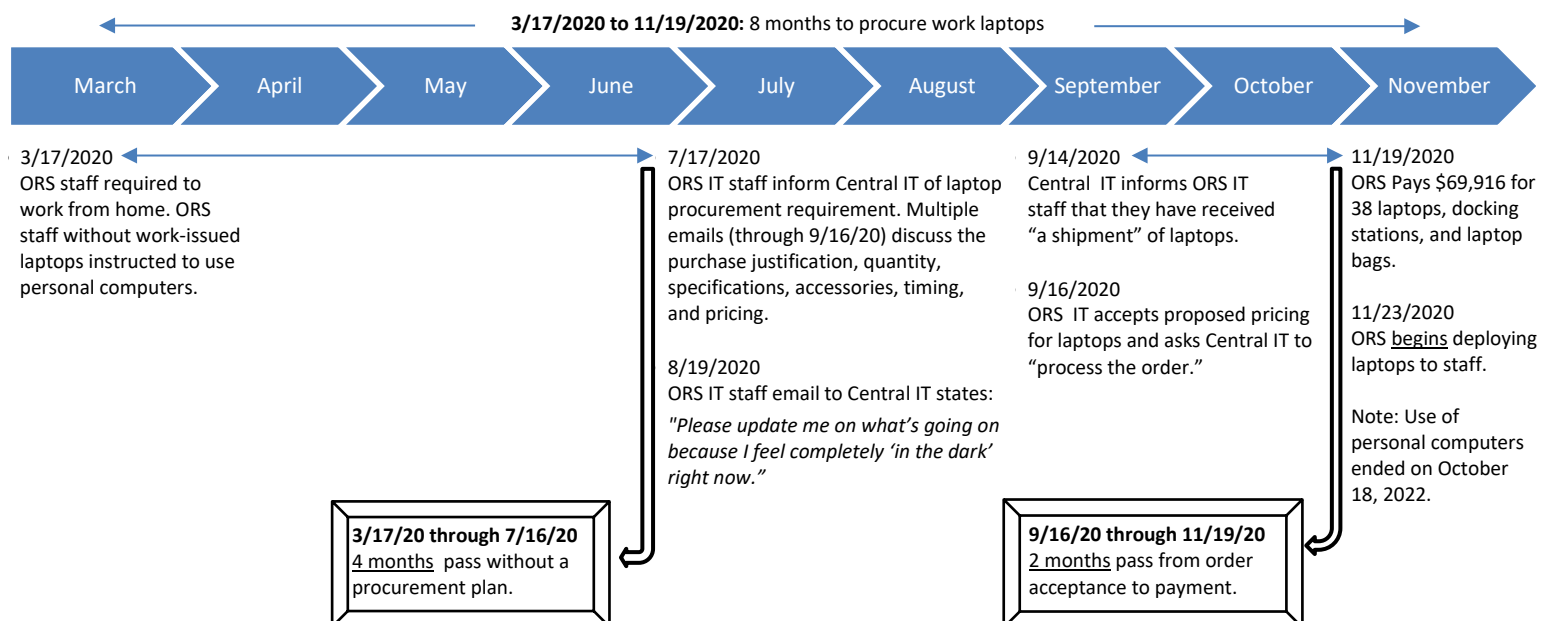
At the start of the COVID pandemic, in 2020, the ORS took eight months to purchase laptops for staff using a process that was administered by the City of San José IT Department instead of using the City's expedited, emergency procurement process. Laptop distribution was not completed until October 18, 2022, resulting in security vulnerabilities and operational risks. The ORS did not have records showing that it received the exact laptops and associated equipment (e.g., docking stations) that were ordered in good working condition.

An eight-month laptop purchase process risked operations and security

Due to the COVID pandemic and work-from-home mandate starting March 17, 2020, ORS staff, who mostly used larger desktop computers that were not meant to be portable, were required to work from home using their personal computers, networks, and connections to the internet. San José Financial Management System (FMS) records show that about eight months later, on November 19, 2020, the ORS entered a \$69,916 contract⁴⁶ to procure 38 laptops and associated accessories from the vendor “Technology Integration Group” for ORS staff who had been working from home. Exhibit 11 summarizes the eight-month timeline.

Exhibit 11

Timeline: ORS’s laptop purchase (prompted by the 2020 “work-from-home” mandate)



Sources: Email correspondence between ORS IT and City of San José IT Department (Central IT) staff, FMS records, ORS [2020 Internal Staff Survey](#)

⁴⁶ Specifically, FMS shows that this was an “Open Purchase Order,” which is defined by the City’s “[Encumbrance Policy](#)” as a type of contract recorded in FMS by the Finance Department to meet ongoing procurement requirements.

Work-issued laptops were necessary to avoid security vulnerabilities

From March 17, 2020, through November 2020, ORS staff used personally-owned computing devices (e.g., personally-owned laptops, smartphones, tablets) to access sensitive and confidential information in PensionGold and ORS shared drives without the protection of mandatory, preconfigured City of San José information security controls (e.g., strong passwords, encryption, antivirus software) to prevent security breaches.

The IAD provided a confidential memorandum dated December 22, 2020, to ORS management regarding security concerns related to the use of staff's personal computers and provided recommendations to mitigate the residual security vulnerabilities. Additional information regarding the memorandum is not provided in this report to prevent the disclosure of sensitive information and organizational vulnerabilities, in compliance with Government Auditing Standards sections 9.61 to 9.67.

ORS staff viewed the delay in receiving work laptops as a work obstacle

In the IAD's 2020 Internal Staff Survey, only 50 percent⁴⁷ of surveyed staff stated that they had sufficient information technology equipment and resources to do their work remotely during the pandemic. In written comments, ORS staff raised concerns about the requirement to use personal equipment, including cell phones and computers, because work-issued laptops were not available during the COVID pandemic, until November 2020.⁴⁸ Aside from security controls, computers that access work-related data and information systems should have:

- Any necessary work-related software (i.e., the software is installed).
- Computing speeds and storage levels that are consistent with job and software requirements.

The ORS did not have a process to expedite laptop purchases

San José Municipal Code section 4.12.220 states that in case of a public emergency, the "procurement authority"⁴⁹ may purchase supplies, materials, or equipment without a competitive procurement process and that it may use the "emergency reserve fund." Existing ORS policies and procedures do not, however, include guidance on implementing this section of the Municipal Code or provide an alternative method for emergency purchases (i.e., purchases of mission-critical goods or services during an emergency).

ORS records, including email correspondence between ORS IT Division and City of San José IT Department (Central IT), staff raise the following specific concerns:

⁴⁷ In the IAD's 2021 and 2022 Internal Staff Surveys, this figure was 96 percent and 86 percent, respectively.

⁴⁸ ORS management did not have specific records of when laptops were provided to ORS staff. Based on comments from ORS staff and the payment date for the laptops, issuance started on or after November 23, 2020, and may not have been completed until March 2021.

⁴⁹ The Municipal Code defines "procurement authority" as any person who has been duly authorized to procure a contract for the City of San José.

- **The procurement of laptops was not initiated in a timely manner.** ORS staff initiated the procurement process on July 17, 2020, about four months after the start of the work-from-home mandate. One benchmark agency (OCERS) reported that it placed an order for 25 laptops on March 18, 2020 (one day after the March 17, 2020, work-from-home mandate) and that it received most of the laptops and accessories by April.
- **There was no procurement plan.** ORS staff committed to purchasing laptops through Central IT. ORS emails do not show that there was a decision-making process to explore procurement alternatives to timely procure the laptops with the required specifications at the best possible price.
- **Over two months of unstructured email communications with Central IT did not communicate the urgent need for laptops.** From July 17, 2020, through September 16, 2020, there were multiple ORS emails, some copied to several City staff members, seeking to clarify the procurement process. The emails did not discuss the urgent need for laptops (i.e., that the laptops were essential to ensure business continuity and information security). One ORS staff email to Central IT on August 18, 2020, stated, "Please update me on what's going on because I feel completely 'in the dark' right now."

Records of laptops received were not maintained

Laptops are high value items that are subject to theft, loss, and breakage. The ORS did not have records showing that it received the exact laptops and associated equipment (e.g., docking stations) that were ordered in good working condition. Inventory and asset management procedures were beyond the audit scope. Likewise, an investigation to determine the current disposition of the laptops and associated equipment was beyond the audit scope.

Recommendations To ensure that the ORS is prepared to making emergency purchases, the IAD recommends that ORS management:⁵⁰

- 3.1** Update existing ORS procurement policies and procedures to acknowledge and implement San José Municipal Code section 4.12.220, which allows for expedited, emergency procurement. Communicate the update to staff with procurement roles and responsibilities.
- 3.2** Take an inventory of the laptops and associated equipment that the ORS purchased in 2020 to determine whether the procured laptops were received, as ordered. Follow up, as necessary, with the IT Department to ensure that the ORS received what was ordered and paid for.

⁵⁰ Recommendations in Finding 1 discuss the need to update and communicate the ORS's procurement and vendor policies. Those recommendations are also applicable to this finding but are not restated.

Finding 4

The ORS does not have monitoring processes and reliable data to comprehensively manage vendor payment and contracting risks.

Summary

The ORS does not have monitoring processes to identify and manage some contracting risks and to ensure compliance with applicable City and ORS rules and policies. Vendor spend and contract data available in the City of San José's Financial Management (FMS) System and the ORS's internal, manually created contract spreadsheets do not provide real-time and reliable (i.e., complete and accurate) data that are needed to monitor all ORS contracts, manage procurement risks and opportunities, and comply with contracting policies. The ORS may benefit from using a dedicated contract management system.

ORS processes do not identify and manage key contract risks

The ORS does not have monitoring processes or reliable (i.e., complete and accurate) reports to efficiently manage contract risks, such as:

- *Vendor payments without a contract⁵¹ or before a contract is in effect.* The ORS does not have a process to identify and prevent payments without a contract, when required (also see Findings 1 and 2). Moreover, the ORS does not record all contracts in FMS and some existing FMS data, such as contract end dates, are not available in FMS reports to use in analysis (see below discussion).
- *Vendors that do not meet service expectations or contractual obligations.* The ORS does not formally assess vendor performance and neither FMS nor internal ORS spreadsheets are designed to record vendor performance data (also see Findings 1 - 3).
- *Bypass of mandated competitive vendor selection requirements or misuse of "sole source" exemptions (see Findings 1 and 2).* The ORS does not have a process to record and analyze the method of contract award for its contracts and ensure compliance with relevant City rules.
- *Long-standing vendor relationships.⁵²* Although the data is available to assess long-standing vendor relationships, there is no process to identify and manage this risk. The risk assessment phase of this audit (see Background) showed that the ORS has long-term relationships with multiple vendors.

⁵¹ Governmental agencies, including OCERS, monitor vendor spend to ensure contracts are in place when total vendor spend or spend on a category of goods and/or services exceeds certain thresholds.

⁵² Long-term vendors may become "major stakeholders" in City processes and become selected for the same work year after year. The value of their services may diminish over time as they develop close relationships with City staff, become embedded in City processes, and diminish the opportunity for fair and open competition to other vendors. See the City Auditor's [report](#).

Process standards require the use of quality information to meet objectives and address risks

Standards for internal control in government (i.e., processes designed to achieve business objectives) state that management should:⁵³

- Design information systems to timely obtain and process necessary information to meet operational objectives and respond to risks.
- Evaluate the reliability of data sources and use quality information to achieve business objectives.

ORS contract data in San José's Financial Management System (FMS) and internal spreadsheets are incomplete

The ORS does not have reliable (i.e., complete and accurate) data and automated⁵⁴ reports to manage contract risks. Although the ORS had contracts with 9 (90 percent) of 10 vendors selected for review in this audit, FMS data did not show contract data for 6 (60 percent) of the 10 vendors (see Background section of this report). All but 1 of the 6 were investment manager contracts, which will be within the scope of the IAD's next audit.⁵⁵ Where contract data do exist, FMS reports available to staff for analysis do not provide access to all of the data (e.g., contract end date), requiring staff to manually look up the information in FMS. Reliable and real-time FMS data and reports are needed to efficiently monitor contract and vendor payment risks (e.g., soon to expire contracts). Moreover, in FMS, when a contract's budgeted amount is depleted, the data that does exist in FMS (i.e., contract start, contract end, contract amount) will no longer be available in real-time FMS reports required to retrospectively assess contract and payment risks (e.g., payments after contract expiration, vendor payments exceeding contract budgets).⁵⁶

City policy requires that contracts be recorded in FMS

The City's encumbrance policy requires that City staff enter contract data, including description, contract term (i.e., start and end dates), and budget in FMS. Contract data are identified in FMS using a numbering system that uniquely identifies each City contract and contract type (e.g., "AC27671"). According to ORS staff, the ORS is exempt from creating encumbrances for some contracts (e.g., investment manager contracts). This exemption is based on an informal, undocumented understanding between the City's Finance Department and the ORS. This exemption, however, results in incomplete contract data in FMS for the ORS.

⁵³ See U.S. Government Accountability Office, "Standards for Internal Control in the Federal Government," Washington, D.C., 2014, P. 51 and 59-60, available at <http://www.gao.gov/products/GAO-14-704G>.

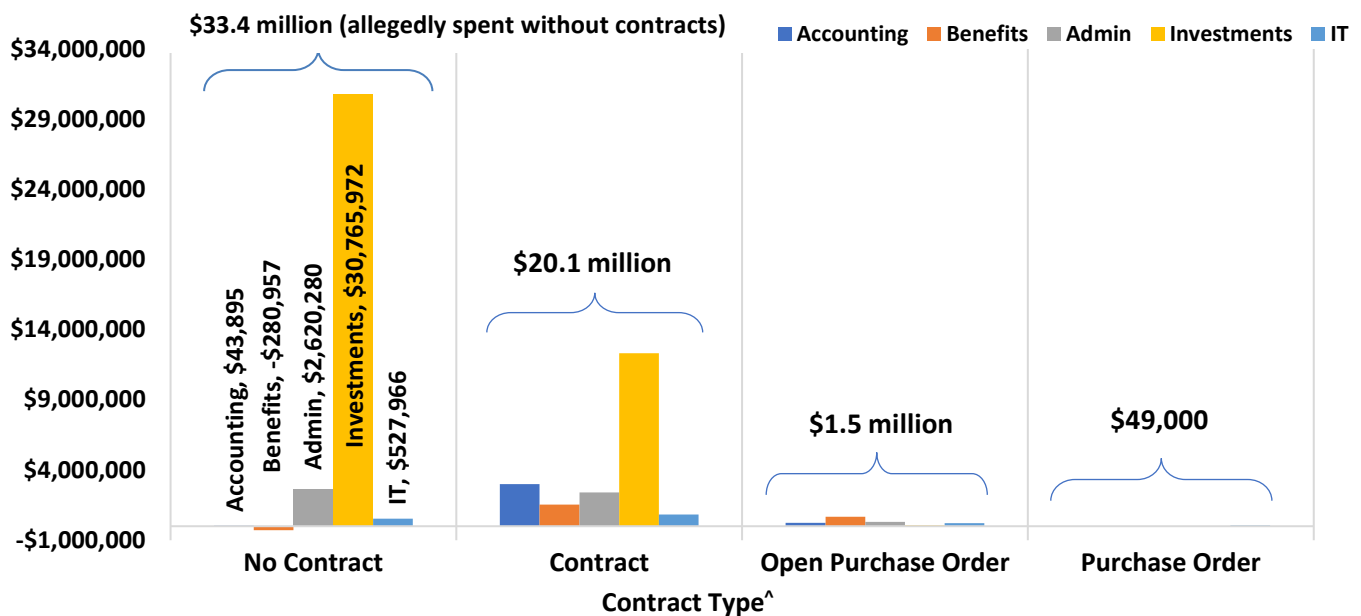
⁵⁴ Automated reporting processes are preferable to labor-intensive, error-prone manual processes to compile data and create reports.

⁵⁵ Finding 2 shows that the ORS did not, in fact, have a contract with its insurance broker, Risk Strategies Company. This finding does not include the concern that the ORS did not have a valid contract with Barra, LLC after May 31, 2002 (see Finding 1).

⁵⁶ Although not available in real-time, automated reports, users can manually look up this information, by contract, in FMS.

Exhibit 12 shows that in FMS, \$33.7 million (61 percent) of \$55.3 million in ORS vendor spend from July 1, 2018, through May 31, 2022, was not associated with any type of contract, and that of the \$33.7 million, \$30.8 million (91 percent) was associated with Investments Division activities. The false conclusion that most of the ORS's vendor spend is not associated with contracts results from the incomplete contract data in FMS.

Exhibit 12
Total ORS Vendor Spend (FY 2018 – FY 2022) by Contract Type & Division*



Sources: City of San José Financial Management System (FMS) Records from July 1, 2018, through May 31, 2022

* Division (e.g., "Investments") is based on the IAD's summary of "Charge Codes" included in vendor expense records.

^ "Contract Type" is based on FMS "Purchase Order" data associated with vendor expenses and associated definitions in the City's ["Encumbrance Policy,"](#) which states the following: 1) Encumbrances are estimated contract expenses 2) Contract encumbrances are created by departments to purchase goods and services 3) Open purchase order encumbrances are created by the Finance Department and used to meet ongoing procurement requirements 4) Purchase order encumbrances are created by the Finance Department for one-time purchases of goods and services

*Contract award
method and vendor
performance data
are not recorded*

The ORS's contract data in FMS and internal ORS contract spreadsheets do not include data on the method of contract award (e.g., sole source, competitive solicitation) or vendor performance (e.g., exceeds expectations for service timeliness). According to ORS Accounting staff, the ORS does provide the City information on the method of award for its contracts; however, the data is not internally recorded or used for any purpose (e.g., to ensure compliance with the City's competition rules).

There is no standard for organizing and storing ORS contract documents

ORS staff in different divisions store contract documents and related information (e.g., contract award records) in various electronic folders. There is no ORS policy or standard to ensure that the contents and organization of these folders are consistent. Some contract and contract-related documents requested for this audit were not readily available and required that ORS staff take time to research and find the information.

ORS procurement policies require a reliable system

The ORS does not have a contract file management system or a database to comply with ORS Policy 640.5, which requires that Investments Division staff:

- Prepare a profile on each vendor and keep [it] on file. Add a new profile each time a new vendor is hired.
- Determine appropriate measurements for each vendor. During the first year, review measurements to determine appropriateness and value added. Modify the measurements as necessary.
- Develop a rating form for each type of vendor (investment manager, custodian bank, real estate manager, etc.)
- Make notes during the term of the agreement of any issues and comments relating to the performance of the vendor. Keep notes in the appropriate vendor file.

ORS Accounting staff manually create a report to identify expiring contracts

ORS Policy 640.1 requires that Investments Division staff to "Maintain a database of existing contracts and keep track of when they are due to expire." The Investments Division does not do this. However, quarterly, ORS Accounting Division staff manually compile FMS contract data⁵⁷ into a "master contract list" to comprehensively identify ORS contracts nearing expiration and to ensure sufficient funds are available in FMS to pay future invoices. There is no policy or procedure to specifically define the purpose of this report and to ensure that the underlying methodology is consistent and repeatable over time (i.e., with turnover of staff). The master contract list, while useful, does not provide all information that is necessary before renewing a contract (e.g., vendor performance data, total vendor spend). Ideally, contract management reports should be automated, in real time, and provide flexibility to select and view relevant and available contract information.

⁵⁷ Some of the data are from a manually filtered, automated FMS report while other data are manually looked up in FMS and other sources (e.g., the contract document).

Administrative Division staff manually create a report to process some contracts

On an ongoing basis, ORS Administrative Division manually compile ORS contract data, except for Investments Division contract data, into a spreadsheet to ensure that existing ORS contracts are properly authorized and filed with the City Clerk's Office. However, the spreadsheet does not have real-time data (e.g., vendor spend to date) and was not designed as a contract management tool; the data that are stored are not standardized and cannot be used for analysis or reporting (e.g., amounts are entered as text, not numeric values that can be sorted; dates are inconsistently formatted; uniquely identifying vendor numbers are not included).

A benchmark agency uses a system to comprehensively manage its contracts

The Orange County Employees Retirement System (OCERS), an ORS benchmark agency, uses an online vendor and contract management system to store contract documents, store contract data, and monitor and manage contract risks. The system and its data, which support reporting and analysis needs, is being used by the OCERS to meet the following specific OCERS requirements:

- Recording contract data consistently (e.g., contract number, contract term, contract effective date, competitive vendor selection requirement, vendor type, contract description, contract signature date, status)
- Identifying contracts that are expiring
- Identifying expiring insurance certificates
- Identifying vendors that need performance reviews
- Administering vendor performance reviews (e.g., developing questionnaires and routing them to contract managers to complete within the system)
- Tracking vendors by overall performance score
- Storing contracts and contract-related documents (i.e., a PDF version of the actual contract document is stored and accessible in the system)
- Identifying key contacts (e.g., business contact, program manager, analyst)
- Classifying vendors by type (e.g., outside counsel, third party service provider) and criticality (e.g., extremely critical).
- Alerting staff that a new competitive vendor selection (i.e., RFP) process is needed nine months prior to contract expiration if vendor spend is greater than \$100,000 a year or the vendor is a "Named Service Provider" (i.e., there is direct oversight provided by OCERS's Board). In addition, the OCERS uses Microsoft SharePoint to manage its competitive vendor selection (e.g., RFP) process and store and organize relevant documents.

Recommendations To ensure that the ORS has sufficient, reliable contract data and reports to manage its contracts, the IAD recommends that ORS management:

4.1 After identifying, updating, and communicating the ORS's procurement mandates (i.e., after implementing Recommendations 1.1 through 1.4), in coordination with all ORS staff with contracting and vendor payment roles and responsibilities:

- Identify and list the ORS's minimum contract compliance and risk management **mandates** that should be periodically monitored.
- Identify and list contract and vendor payment **best practices** that are relevant and of high priority to the ORS. This list should be informed by widely available, industry standard practices to analyze and report contract and vendor payment data.
- Identify and list contract and vendor payment **data and reports** that are required to manage the ORS's contract and vendor payment risks, as identified in the first two bullets above. This list should include data and reports that may not yet exist (e.g., vendor performance management data).

4.2 After implementing Recommendation 4.1, in coordination with the City's Finance Department and IT Department, explore opportunities to obtain the data and reports that are needed to meet the ORS's contract and vendor payment objectives. Implementing this recommendation should include the following steps:

- Determining whether data that is needed but does not yet exist in FMS can be supported and recorded in FMS (e.g., method of contract award, vendor performance metrics).
- Ensuring that FMS includes all ORS contracts, including investment manager contracts.
- Ensuring that FMS reports provide the ORS access to **all** existing FMS contract data, including contract end date, regardless of the status of each contract.
- Ensuring that FMS reports provide ORS staff access to the information (i.e., generate the reports) using parameters that allow the user to readily filter out non-ORS data **and** to define the reporting period (i.e., the user should not be limited to reporting on one fiscal year).

4.3 After implementing Recommendation 4.2, in coordination with ORS staff with contracting and vendor payment roles and responsibilities, identify vendor and contract file management (i.e., storing contract documents) and data requirements (e.g., recording vendor performance data) that cannot be met using FMS. Explore and implement alternative systems to meet those needs, such as:

- An internally created system (e.g., using SharePoint) to manage the ORS's contract data and documents that cannot be stored in FMS.
- Purchase and implementation of a third-party, online vendor and contract management system.

APPENDIX 1 –Timeline for Contracts with Barra, LLC (Barra) & Verus Advisory, Inc. (Verus)

Notes:

- A) The referenced documents (see the far right "Reference" column) are provided in Appendix 7.
- B) Retirement Board actions are shown in **green**. ORS staff actions are shown in **black**.
- C) The Federated Plan is abbreviated as "FED" and the Police and Fire Plan is abbreviated as "PF" in the "Reference" column.
- D) For conciseness, Investment Committee actions are not shown.
- E) The arrows show, where applicable and properly implemented, the sequence of procurement activities.
- F) The IAD obtained the referenced Investments Division memorandums and Retirement Board minutes from the ORS's online, "Legistar" meeting and legislation portal. Referenced contract files were obtained from the City's online records database (i.e., "GILES").

Year	Month	Actions of the Retirement Boards and the Investments Division	Reference
2016	Dec.	The Investments Division completed an RFP (i.e., contract solicitation) process and recommended that the Retirement Boards authorize a 3-year, not-to-exceed \$1.4 million contract with Verus for risk advisory services, "paired with the Barra MSCI risk analytics system" (i.e., a separate contract with Barra), with two additional 1-year options (i.e., options for the Retirement Boards to authorize contract extensions). Comments: The Barra contract was required under the Verus contract (see page 94)	Staff Memos: • FED (P. 73) • PF (P. 76)
2017	Jan.	The Retirement Boards authorized a 3-year, not-to-exceed \$1.4 million contract with Verus , "paired with the Barra MSCI risk analytics system" (i.e., a separate contract with Barra), with two 1-year options, as recommended by Investments Division staff.	Minutes: • FED (P. 80) • PF (P.83)
	Mar.	The ORS Director/Chief Executive Officer (CEO), on behalf of the Retirement Boards, awarded a 3-year, \$885,000 contract to Verus , from 2/1/2017 to 1/31/2020, for "risk advisory services." Comments: This overarching contract, which required that the Boards enter a contract with Barra for the "MSCI BarraOne analytical toolset," had a term that was consistent with authorization from the Boards (see above row). There was no "auto renew" clause.	Verus Contract (P.84)
	Jun.	The CEO, on behalf of the Boards, awarded a 3-year, \$420,000 contract to Barra , commencing on 6/2/2017. Comments: The referenced Barra contract file and its attachments include multiple, conflicting start and end dates, including "auto renew" terms in the boilerplate section (P. 101). However, based on the term of the overarching Verus contract (see above rows), the Retirement Board-authorized term for the Barra contract, and the specific "Order Form for BARRAONE" contract page (P. 107), which takes precedence over the boilerplate terms, the Barra contract end date was, in effect, 6/1/2020. Moreover, as confirmation of this assertion, a July 2020 Investments Division memorandum also reflected 6/1/2020 as the end date for this contract (P. 171).	Barra Contract (P. 98)
2020	Apr. & May	The Investments Division recommended that the Boards authorize an extension of the 2/1/2017 Verus contract, which had expired on 1/31/2020, on a month-to-month basis through 9/30/2020. The not-to-exceed amounts for the extensions were \$100,000 for the Federated Plan and \$100,000 for the Police and Fire Plan.	Staff Memos: • FED (P. 134) • PF (P. 135)
	May	The Federated and the Police and Fire Boards each authorized an 8-month, not-to-exceed \$100,000 extension of the 2/1/2017 Verus contract through 9/30/2020. Comments: The Boards were approving an extension of a Verus contract that had expired several months prior, on 1/31/2020. The retroactive extension was not implemented (i.e., signed by the CEO, on behalf of the Boards, and Verus) until JULY 2020 (P. 151).	Minutes: • FED (P. 138) • PF (P. 140-141)

**See the July 2020 row (i.e., the third row) on the next page.

Year	Month	Actions of the Retirement Boards and the Investments Division	Reference
2020	Jun.	The Investments Division completed an RFP process and recommended that the Boards authorize a 2-year, not-to-exceed \$500,000 contract with Verus ("split 50/50" between the Federated and Police and Fire Plans), with an additional 1-year option, for "risk consulting services."	Staff Memos: • PF (P. 142) • FED (P. 144)
	Jun.	The Boards authorized a 2-year, not-to-exceed \$500,000 contract with Verus ("split 50/50" between the Federated and Police and Fire Plans).	Minutes: • FED (P. 148) • PF (P. 150)
	Jul.	The ORS Chief Investment Officer (CIO), on behalf of the Boards, awarded an 8-month, \$200,000 contract extension with Verus , from 2/1/2020 to 9/30/2020, for "risk advisory services." Comments: The Boards had authorized this extension back in May 2020, for the Verus contract that had expired months prior, on 1/31/2020.	Verus Extension 2020 (P. 151)
	Jul.	The CIO, on behalf of the Boards, awarded a 2-year, \$500,000 contract with Verus , from 7/1/2020 to 6/30/2022, for "consulting and risk advisory services." Comments: This overarching contract, which required that the Boards enter a contract with Barra for the "MSCI BarraOne analytical toolset", had a specific, contract term consistent with authorization from the Boards. There was no "auto renew" clause. This Verus contract expired 6/30/2022 and although it had an option to extend, the Boards did not authorize the option.	Verus Contract, through 6/30/22 (P. 155)
	Jul.	The Investments Division recommended that the Boards approve a 2-year extension of the contract with Barra , for a not-to-exceed amount of \$330,000, through 6/1/2022, with the fee being "shared between the two plans." Comments: The memorandum, which recommended a "2-year" term extension for the Barra contracted stated, "The renewal of Barra's agreement will coincide with the terms of Verus's agreement." The corresponding, overarching Verus contract had an end date of 6/30/2022 (P. 155). This confirms that the Barra contract, as authorized by the Boards, had an effective end date of 6/1/2022. Moreover, there was no mention of "auto renew" terms in the memorandum provided to the Boards. See Finding 1 in the Audit Report.	Staff memo re: Barra (P. 171)
	Aug.	The Boards authorized a 2-year, not-to-exceed \$330,000 extension of the 6/2/2017 Barra contract, with the fees shared "50/50" between the Federated and Police and Fire Plans. The effective, new authorized end date for the Barra contract was June 1, 2022. See above row for details.	Minutes: • FED (P. 173) • PF (P. 175)
	Sep.	The CIO, as authorized by the Retirement Boards, exercised an option to extend the Barra agreement through 6/1/2022, with an addition of \$330,000 to the not-to-exceed contract budget (i.e., a total not-to-exceed budget of \$750,000 for the extended contract). Comments: The contract amendment shows, in accordance with the Retirement Boards' authorization and corresponding to the overarching Verus contract's terms, that the Barra contract was valid to 6/1/2022. This agreement states that the "City of San Jose" is exercising the extension.	Barra contract extension 2020 (P. 176)
2022	Sep.	On 9/15/22, the CIO, without the required authorization of the Retirement Boards, entered (on behalf of the Boards) a 1-year, \$250,000 contract amendment to extend the term of the Verus contract, which had expired on 6/30/2022, to 6/30/2023. Comments: The Investments Division did not have the required authority to extend the Verus contract, which had expired several months prior, in June 2022. Moreover, it did not notify the Boards of the extension. In addition, the Verus contract required a valid Barra contract. The Barra contract had been authorized by the Boards through 6/1/2022 and there was no authorized renewal or extension of the Barra contract to correspond to this unauthorized extension of the Verus contract. See Finding 1 in the Audit Report.	Verus Extension 2022 (P. 180)

Unauthorized Extension

Year	Month	Actions of the Retirement Boards and the Investments Division	Reference
		Note: ORS policy requires that the Retirement Boards approve any contracts that would result in a cumulative contract value with a single vendor in excess of \$50,000 over two consecutive fiscal years.	
2023	Mar. & Apr.	<p>The Investments Division recommended that the Federated and Police and Fire Retirement Boards each authorize a 1-year, not-to-exceed \$125,000 renewal of the Verus contract which was "due to expire on June 30, 2023" and that they each authorize a 1-year, not-to-exceed \$96,000 renewal of the Barra contract. See Finding 1 in the Audit Report.</p> <p>Comments:</p> <ul style="list-style-type: none"> The memorandums stated, as "background," that previously, the Verus contract had been extended "as of July 1." As shown in the row above, the Verus contract had, in fact, expired on 6/30/2022, and it was not until September 2022 that the Investments Division, albeit without the required authorization from the Retirement Boards, extended the contract. The memorandums, by use of the passive voice,⁵⁸ did not disclose that the Investments Division had exercised the "option to extend" the Verus contract in September 2022 without the required authority. The memorandums, which in April 2023 requested that the Boards authorize the renewal of the Barra contract for one year, did not disclose the following: <ul style="list-style-type: none"> When the prior Retirement Board-authorized term for the Barra contract had ended on 6/1/2022, there was no timely renewal effort and the Investments Division paid for Barra, LLC services after 6/1/2022 by using wire transfers and not through the standard, authorized City and ORS payment process. The Investment Division's requests in April 2023 for Retirement Board "action to renew the risk data service agreement with Barra LLC for one year for an amount not-to-exceed \$96,000" conflicted with the Investment Division's perspective (i.e., when asked about ongoing Barra, LLC services and payment to Barra, LLC after the 6/1/2022 effective contract end date) that the Barra contract had "auto renew" terms. 	<p>PF Staff Memo re: Verus and Barra extensions (P. 187)</p> <p>FED Staff Memo re: Verus and Barra extensions (P. 189)</p>

⁵⁸ The passive voice is a verb form that often conceals the subject of a sentence.

APPENDIX 2 – OCERS Procurement and Contracting Policy**OCERS Board Policy
Procurement and Contracting****I. Purpose and Background****A. Purpose**

The Procurement and Contracting Policy (policy) establishes the guidelines by which OCERS will procure goods and services. Investment Management Agreements (as defined below) are exempt from this policy, and will instead be governed by the CIO Charter and the Investment Policy Statement.

B. Objectives

The objectives of this policy are to ensure that:

1. Contractual arrangements for the purchase of goods and services are made in a manner consistent with OCERS' fiduciary duty to its members and beneficiaries;
2. The procurement of goods and services is efficient, transparent, economical, fair, and in compliance with all applicable laws;
3. A system of internal controls related to the procurement of goods and services is implemented;
4. All contracting activities are performed by qualified individuals with specifically delegated authority using sound business practices in an ethical manner;
5. The selection of Contractors reflects a level of rigor that is commensurate with the importance and cost of the service or goods in question.

C. Roles and Responsibilities

1. The role of the Board of Retirement (Board) is to:
 - i. Establish appropriate policies to ensure selection decisions are prudent and sound;
 - ii. Oversee compliance with such policies
 - iii. Select and appoint Named Service Providers; and
 - iv. Authorize staff to execute contracts with Named Service Providers.
2. The role of the Chief Executive Officer (CEO) is to:
 - i. Approve the purchase of goods and services for which the CEO is responsible under this policy; and
 - ii. Keep the Board apprised of contract actions as necessary for the Board to carry out its oversight function.
3. The role of the Responsible Executive is to:
 - i. Approve the purchase of goods and services for which s/he is responsible under this policy;
 - ii. Keep the CEO apprised of all significant contract actions for which the Responsible Executive is responsible;

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- iii. Ensure that budget authority exists within the budget line item from which a contract will be paid;
 - iv. Select the appropriate procurement process to be used and participate in the preparation of the solicitation documents for the goods and services being procured.
 - v. Select, or recommend that the CEO select as the case may be, Contractors in the area for which the Responsible Executive is responsible;
 - vi. Negotiate, or delegate to an appropriate staff member who will negotiate terms and conditions of contracts for the purchase of goods and services for which s/he is responsible.
4. The role of the Contract Administrator is to:
- i. Manage the Contractor files and the lifecycle management system, and ensure compliance with best practices for Contractor management;
 - ii. Assemble, manage, and distribute all contract solicitations and other contract acquisition efforts;
 - iii. Maintain appropriate contract and solicitations templates in consultation with the Legal Division;
 - iv. Assist the Responsible Executive with selection of Contractors and negotiation of contractual terms;
 - v. Conduct due diligence for potential Contractors;
 - vi. Review Contractors' certificates of insurance to verify compliance with the contracted requirements for coverage;
 - vii. Serve as the CEO's designee under the Quiet Period Policy;
 - viii. Develop (subject to approval of the Responsible Executive and in consultation with the Legal Division) required and preferred terms and conditions to be included in OCERS contracts;
 - ix. Ensure all solicitations are reflected in the Quiet Period Report to the Board;
 - x. Coordinate and oversee the review of Contractors' performance;
 - xi. Monitor the expiration dates of all contracts to ensure either timely extension of the contract term or timely issuance of contract solicitation; and
 - xii. Report to the Board annually all contracts that exceed a Contract Value of \$100,000.
5. The role of General Counsel or his/her designee is to:
- i. Review contracts before execution for compliance with legal requirements and to provide assessment of risk to the agency;



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- ii. Assist the CEO, Responsible Executive, and Contract Administrator in preparing Requests for Proposals, Invitations to Bid and other solicitations when requested;
- iii. Assist the Responsible Executive and Contract Administrator in negotiation of contractual terms and conditions when requested; and
- iv. Assist the Contract Administrator in developing necessary and preferred terms and conditions and contract templates.

D. Definitions

- 1. Executive: The CEO, the Assistant CEOs, the Chief Investment Officer, and the General Counsel.
- 2. Responsible Executive: The Executive who manages the budget line item for the funds being committed under the contract.
- 3. Contract Value: For the purposes of the dollar thresholds in this policy, the value of a contract is the amount OCERS is obligated to pay for one year under the contract
- 4. Routine Items: expenses that are regularly budgeted on an annual basis:
 - i. Must have available funds in the approved budget, including any Board approved amendments to the budget.
 - ii. Can be approved by the Executive responsible for the budget item
 - iii. These items include but are not limited to the following:
 - a. Office supplies, postage, furniture, office equipment, subscriptions, temporary services, professional and consulting services engaged to supplement or support staff, and
 - b. General services contracts and agreements such as hearing officers, medical panel reviewers, property management, maintenance and repair of landscaping, building and equipment, printing, Board of Retirement elections, computer consulting, software licenses, messenger services, catering etc.
- 5. Non-Routine Items: expenses that are not regularly purchased or budgeted on an annual basis. Contracts or purchase orders for non-routine items require:
 - i. Available funds in the approved budget, including any Board approved amendments to the budget designated for the goods or services being procured,
 - ii. Approval by the Executive responsible for the budget in which the goods or services to be paid for expenditures valued at less than \$100,000,
 - iii. Approval by the Board for expenditures valued over \$100,000. The Board may approve of the expenditure either as part of the annual budget, budget amendment, annual Business Plan or a specific Board approval of the contract or purchase order.



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6. **Contractors:** For purposes of this policy, Contractors include providers of services and vendors of goods.
7. **Named Service Providers:** Contractors recommended by the CEO and selected and appointed by the Board where such providers are retained primarily to fulfill an independent audit or advisory role for the Board. See also below section V.
8. **Time and Material (T&M) Contracts:** agreements with Contractors where the value of the contract is variable based on the time and material costs of the Contractor. In these types of contracts, the contract will include a provision stating that the Contract Value is not to exceed a specified dollar amount, or the Contract Value will be limited by the available budget for the goods or services.
9. **Investment Management Agreements:** agreements of any kind that evidence and/or govern the investment of OCERS' assets in any investment class. Investment Consultant Agreements are not Investment Management Agreements.

II. Provisions Applicable to All Contracts

A. Contracting Philosophy

1. OCERS will consider as broad a universe of qualified Contractors as is practical and reasonable given budgetary, staffing, time and other relevant constraints and considerations.
2. The search, selection, monitoring, and reporting provisions contained in this policy serve as minimum requirements. If more stringent requirements are established under the law or within other policies of OCERS, the law and such other policies will control.
3. Consistent with Title 2, Division 6, Chapter 7 of the California Code of Regulations, §§ 18700-18720, no OCERS Board Member or staff will be directly or indirectly involved in an OCERS contracting decision if the decision will have a material financial effect on an economic interest of the Board Member, staff person, or the immediate family of the Board Member or staff person.
4. OCERS values diversity and inclusion and is committed to fostering diversity in its procurement process through the outreach to small and diverse businesses. In the distribution and publication of solicitations, OCERS will endeavour to reach beyond traditional sources and list opportunities in locations that will notify a diverse audience of Contractors.

B. Authority for Entering Into Contracts.

1. Before entering into any contract for goods or services, OCERS must have available funds in the current year's approved budget, including any Board approved amendments to the budget, to fund the current year's expense or Contract Value.
2. Only the Responsible Executive or his/her designee may bind or commit OCERS for the purchase of goods or services as set forth in this policy, except in emergencies and as may be otherwise authorized by the Board.

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3. An emergency is any circumstance that would interfere with OCERS' ability to meet its fiduciary obligations, threaten the health and safety of its staff, or compromise its legal rights or remedies. If a contract is needed as the result of an emergency, report of the contract will be made to the Responsible Executive or to the Board whose authorization is normally required for such contract as soon as practicable.
4. The CEO may delegate his/her authority to execute documents to an Executive.
5. A Responsible Executive may delegate his/her authority to approve check requests and/or purchase requisitions.
6. All delegations will be documented in writing, identifying the individual to whom the authority is delegated and any dollar restriction or budget account restrictions associated therewith.

C. Contract Term

The term of a contract will not exceed six years.

D. Performance Reviews

1. The Contract Administrator will coordinate the evaluation of all Contractors to determine if Contractors are performing their contractual obligations.
2. The performance of Named Service Providers and Contractors with Contract Values that exceed \$100,000 will be reviewed at least every three years. In addition, at least six months before the expiration of the initial term of a contract with a Named Service Provider and Contract Value over \$100,000, the continued appropriateness and cost-effectiveness of the Contractor will be assessed. For contracts with Named Service Providers, the CEO and the Board or the pertinent committee of the Board will make the performance review and assessment. For Contract Values over \$100,000, the CEO (or his/her designee) will make the performance review and assessment.
3. The results of performance reviews of Named Service Providers will be summarized and reported to the Board.

III. Search and Selection Process**A. Competitive Search and Selection Process**

Where a competitive search and selection process is required under this policy, the Responsible Executive will use one of the following procurement methods.

1. Invitation for Bid (IFB):
 - i. This method will be used when multiple bidders are available and willing to bid, and procurement needs can be stated in detail, with precision, or where services or products are standardized.



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- ii. The IFB process requires the evaluation of price, delivery and payment terms, and compliance with technical standards. The bid that provides the best pricing and delivery and payment terms will be selected.
 - iii. The bids may be reviewed by a minimum of three OCERS staff members to identify the bidder who provides the best value to OCERS.
- 2. Request for Proposal (RFP)
 - i. This method will be used where the product or service to be acquired cannot be stated with specificity (such as consulting services) or where OCERS may seek to evaluate a number of different types of professional services or products.
 - ii. The proposal that best meets OCERS' needs, with consideration for price, qualifications, and other relevant factors set forth in the RFP, will be selected.
 - iii. This method will be used in most circumstances where the Contract Value exceeds \$100,000. In cases where the Responsible Executive deems an RFP will not be of benefit, the Responsible Executive or designee will provide a report to the CEO detailing the reasons why an RFP is not beneficial. The CEO must approve the exception prior to selecting a Contractor.
- 3. Small Purchase Procedure
 - i. Where the Contract Value is at least \$1,000 but less than \$100,000, a minimum of three quotes from qualified sources must be obtained. If three qualified sources cannot be reasonably identified, then the Responsible Executive may authorize the use of a sole source process, as set forth below in Section III.C.
- 4. Process for Receiving Bids in Response to an RFP or IFB
 - i. The period for submitting bids in response to an RFP and IFB will be at least fifteen (15) days from the date the RFP or IFB is issued. All RFPs and IFBs will be posted on the OCERS website and distributed to entities that OCERS identifies as likely to be interested.
 - ii. The Contract Administrator or his/her designee will answer questions from any bidder or potential bidder, and all answers provided to any bidder will be made available to all bidders by posting on the OCERS website and by e-mailing all bidders.
 - iii. Best efforts will be made to have at least three OCERS personnel review the bids and recommend finalists. Best efforts will be made to include at least one representative from a department other than the one that has authority over the contract. In the case where external expertise is used to review the bids, at least one reviewer must be an OCERS employee.

B. Contracted Suppliers

Where a Contractor has been selected by OCERS pursuant to a competitive search and selection process or by the County of Orange or other governmental agency pursuant to a competitive search and selection process, the Contractor may be used as a Contracted Supplier under certain circumstances as set forth in this policy. Such Contracted Suppliers may include, by way of example, retail sellers of off the shelf office supplies contracted by the County of Orange or directly by OCERS.



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C. Sole Source

A sole source approach may be permitted under the following circumstances:

1. In cases where a competitive search and selection process will not likely yield a viable alternative to a known service provider; or
2. Where legal services are urgently needed, a competitive search and selection process will not be timely, and a known Contractor exists.

A report describing the unique characteristics of the situation, the known Contractor and sound justification for a sole source approach will be provided to the Executive who will either approve or deny the request to use a sole source approach. Executives who wish to use a sole source approach will provide the report to the CEO, who will either approve or deny the request. When the CEO is the Responsible Executive, the report will be provided to the Board Chair and Vice-Chair who will either approve or deny the request to use a sole source approach.

D. Exclusions

Notwithstanding any other provision in this policy, Contractor back-fill or temporary help for staff augmentation does not require Board approval or compliance with this policy as long as budgetary amounts are available for individual contractor positions.

E. Due Diligence

1. Before awarding a contract, the Contract Administrator will conduct due diligence of any bidder selected to ensure that the bidder:
 - i. Meets all minimum qualifications set forth in the solicitation document; and
 - ii. Meets all other standards which, in the exercise of sound business judgment, are required of the Contractor.
2. If a selected bidder is disqualified as a result of the due diligence process, the reason for the disqualification will be documented and forwarded to the Responsible Executive for confirmation.
3. For certain critical Information Technology Contractors, SOC2 reports will be requested during the due diligence process. These reports will then be requested from the Contractor annually to ensure proper Information Technology and security controls are in place.



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IV. Contract Guidelines Summary

Contract Value	Approver	Signatory	Procurement Requirements
Named Service Provider	Board of Retirement or represented committee	CEO (or CIO on Investment-related contracts) +1 Executive	IFB or RFP
\$100,000 or More	CEO	CEO (or CIO on Investment-related contracts) +1 Executive	IFB or RFP
\$1,000 to \$99,999	Responsible Executive	Responsible Executive + 1 Executive, Director or Manager	IFB, RFP, Small Purchase Procedure, or Contracted Supplier
Under \$1,000	Responsible Executive or designee	Responsible Executive or designee	Contracted Supplier, Small Purchase Procedure, Contracted Supplier
Investment Managers	CEO / CIO	CEO or CIO +1 Executive	In accordance with CIO Charter and IC Charter and IPS

V. Contracts with Named Service Providers

Contracts with Named Service Providers will comply with the requirements of this section.

A. Designation of Named Service Providers

The following service providers are designated as Named Service Providers:

1. Consulting actuary;
2. Actuarial auditor;
3. General investment consultant;
4. Alternative investments consultant;
5. Fiduciary counsel;
6. Securities lending manager;



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7. Financial auditor; and
8. Any additional consultant not named above but which the Board may, from time to time, designate.

B. Search and Selection Process

1. At least six months before the expiration of the final extension of a contract with a Named Service Provider, or upon direction of the Board following the review of the performance of the Named Service Provider, the CEO will conduct a competitive search and selection process for a Named Service Provider.
2. Prior to conducting a search for a Named Service Provider, the CEO or his designee will present a written summary to the Board, which will include:
 - i. The type of service provider being sought and the supporting rationale;
 - ii. The objectives and selection criteria to be met and their relative importance;
 - iii. An estimated timeline for completion of the search process; and
 - iv. A description of the search methodology that is deemed most appropriate and cost effective in the particular circumstances, and that addresses such issues as:
 - a. What method of competitive search and selection process will be used;
 - b. Whether a consultant is to be used to assist with the search process;
 - c. The due diligence efforts to be undertaken, including such efforts as site visits, and reference checks;
 - d. Such other information that the CEO believes may assist the Board in better understanding the search process.
3. The CEO will provide the Board (or a designated committee of the Board) with periodic reports on the status of all search processes involving Named Service Providers.
4. Upon completion of the analysis and due diligence involved in a search process for a Named Service Provider, the CEO will provide the Board (or a designated committee of the Board) with a written report containing, at a minimum:
 - i. A description of the due diligence activities undertaken;
 - ii. The recommended finalist(s) and analysis of the recommendation;
 - iii. Confirmation of compliance with the objectives, selection criteria and search methodology presented to the Board prior to the commencement of the search, or an explanation of any deviations that occurred;
 - iv. A description of performance expectations and the proper time horizon for evaluation of results;
 - v. A bid (pricing) summary with annotations regarding differentiating features; and



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- v. A description of the expected performance monitoring and reporting efforts to be carried out with respect to the Named Service Provider throughout the term of the contract, including the reporting to be provided to the Board.
- 5. The Board (or a designated committee of the Board) will interview the candidate or candidates recommended for appointment as a Named Service Provider. If a committee reviews the candidates, the committee will recommend to the Board the appointment of the Named Service Provider. If the Board interviews the candidates, the Board itself will decide on the appointment.
- 6. Upon selection of the candidate, the CEO (or his/her designee) will negotiate a final contract with the selected Named Service Provider, consistent with the terms of the contract solicitation, this policy, and any other direction from the Board. If, at any time during the negotiations, the CEO determines that there is an impasse in negotiations, s/he may recommend to the Board that the Board select an alternate bidder for the Named Service Provider.

C. Approval and Execution

Upon completion of negotiations with a Named Service Provider, the CEO or his/her designee will inform the Board of the general contract terms and conditions that have been negotiated. Contracts with Named Service Providers must be executed by the CEO and one other Executive.

D. Reports

- 1. The CEO will report promptly to the Board any failures by a Named Service Provider to comply with the terms of their contract.
- 2. At least annually, the CEO will provide the Board a schedule of the contracts with Named Service Providers due for renewal and those whose terms will expire in the coming year.
- 3. The CEO will report regularly and in a timely fashion to the Board on all monitoring efforts involving Named Services Providers, identifying any material issues and actions taken in response.

VI. Contracts with Contract Value of \$100,000 or More

Contracts for goods or services, excluding contracts with Named Service Providers, for which the Contract Value exceeds \$100,000 will comply with the requirements of this section.

A. Review and Renewal

- 1. At least six months before the expiration of the term of a contract with a Contract Value over \$100,000, the CEO (or his/her designee) will assess the continued appropriateness and cost-effectiveness of the Contractor in question.
- 2. Upon recommendation of the Responsible Executive (or his/her designee), the CEO will: 1) extend the term of the contract up to the maximum total term of six years; 2) direct the Responsible Executive (or his/her designee) to conduct a new search and selection process; or 3) determine that the goods or services are no longer necessary.

**OCERS Board Policy****Procurement and Contracting****B. Search and Selection Process**

1. Contracts for goods or services for which the Contract Value exceeds \$100,000, require a competitive search and selection process.
2. Upon completion of a competitive search and selection process, a written report will be provided to the CEO or his/her designee and will include at a minimum:
 - i. Purpose and need for the goods or services being procured;
 - ii. A description of the procurement process and due diligence activities undertaken; and
 - iii. The recommended finalist and analysis concerning the candidates.
3. Upon the CEO's, or his/her designee's approval of the candidate, the Responsible Executive (or his/her designee) will negotiate a final contract, consistent with the terms of the contract solicitation, this policy, and direction from the CEO. If, at any time during the negotiations, the Responsible Executive determines that there is an impasse in negotiations, s/he may recommend to the CEO that the CEO select an alternate candidate.

C. Approval and Execution

1. Contracts for goods or services with a Contract Value that exceeds \$100,000 must be executed by the CEO and one other Executive.
2. For contracts relating to Routine and Non-Routine Items, Board approval of the expenditure may be acquired through either the budgeting process or the annual Business Plan.

VII. Contracts with Contract Value Between \$1,000-\$99,999.99

Contracts for goods or services, excluding contracts with Named Service Providers, with a Contract Value that is at least \$1,000 but less than \$100,000 will comply with the requirements of this section.

A. Search and Selection Process

1. Contracts for goods or services, excluding contracts with Named Service Providers, with a Contract Value of at least \$1,000 but less than \$100,000, the Executive Responsible will require a competitive search and selection process. The use of a Contracted Supplier is permitted.
2. Upon selection of the candidate, the Responsible Executive (or his/her designee) will negotiate a final contract consistent with the terms of the contract solicitation, this policy, and direction from the CEO. If, at any time during the negotiations, the Responsible Executive determines that there is an impasse in negotiations, s/he may select an alternate candidate.

B. Approval and Execution

1. Upon completion of negotiations, the Responsible Executive will approve the contract.



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2. Any contract under this provision must be executed by at least two Executives.

VIII. Contracts with Contract Value Less than \$1,000

Contracts for goods or services, excluding contracts with Named Service Providers, for which the Contract Value is less than \$1,000 will comply with the requirements of this section.

A. Search and Selection Process

The Responsible Executive may enter into a contract with any qualified Contractor that the Responsible Executive determines is in the best interest of OCERS. Alternatively, the Responsible Executive may choose to use a competitive search and selection process if s/he determines it is in the best interest of OCERS.

Policy Review and History

- A. The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.
- B. The Board adopted this policy on Monday, November 18, 2002.
- C. This policy was revised May 19, 2008, March 22, 2010, May 20, 2013, January 20, 2015, October 15, 2018, and November 15, 2021.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

Date: 11/15/21

APPENDIX 3 – City of San José Vendor Management Guidelines



Finance Department
Purchasing Division

VENDOR MANAGEMENT GUIDELINES

The following information is provided as general guidelines for City Staff assigned to manage vendor contracts. Contracts can be in the form of a full agreement, a purchase order, an engagement letter, etc.

1. **Review the contract in its entirety.** Be sure you understand the City's responsibilities and the vendor's responsibilities. If further clarification is needed, consult with the Purchasing representative who assisted the department with the bid/contract.
2. **Follow the contract.** Do not work out "side-deals" or verbal agreements outside of the contract. If revisions are needed, Purchasing staff can prepare contract amendments and change orders to memorialize agreement changes.
3. **Set and expect standards of performance for the vendor.** Consider adding periodic business review meetings and clear, measurable key performance indicators (KPIs) in the solicitation and agreement. Ideally, these standards (such as through a service level agreement) are specified in the contract. Review and discuss expected service levels during your project kick-off meeting.
4. **City Staff are also responsible for the success of the contract.** 1) Follow these Vendor Management Guidelines. Contracted services require active management and engagement by City staff. 2) If City resources are required for the vendor to perform their responsibilities under the contract, ensure those resources are available when required. Otherwise, the vendor could have grounds for disputing a performance issue due to the City not meeting its obligations, especially if those obligations are specified in the contract.
5. **Establish a communication plan and path of escalation.** If not specified in your contract, discuss and establish this as part of your project kick-off meeting with the vendor. You should know (1) how to report a problem and (2) how to escalate the problem if it is not resolved within the required (or reasonable) amount of time.
6. **Actively monitor the contract and conduct periodic performance assessments of the vendor.** If there are performance issues, provide written *documentation* and hold the vendor accountable for correcting performance issues in a timely manner. If performance issues continue to be unresolved, provide written *documentation* again. If you have raised the same issues multiple times with the vendor and they are not being addressed to your satisfaction, contact Purchasing to discuss options. Purchasing will ask you to provide a copy of your written *documentation* that specified what issues occurred, when they occurred, what communications with the vendor took place to try to resolve the issues, etc.

7. **Review and process invoices and payments in accordance with applicable contract terms.** Departments are responsible for ensuring the vendor meets the contract requirements for quality, quantity, and timeliness of their work, and department staff must review invoices for accuracy and correctness before authorizing payment. As an example, for milestone-based payments, ensure all milestones are met per the contract terms and rates before signing off. For a time and materials contract, keep records of work order requests, validate staff classifications, and check invoice data against your records. Question fees and charges that do not comport to contract terms or rates and seek clarification from the vendor if the invoice does not contain sufficient detail. Obtain a corrected/updated invoice before you pay. Do not pay any invoice without a full understanding of what you are paying for.
8. **Submit requests for contract changes to Purchasing.** If changes are required to an agreement, refer to the Guidelines provided on the Finance-Purchasing website at <http://www.sjcity.net/DocumentCenter/View/18188> for instructions on submitting a request for contract amendments and change orders to Purchasing. If the contract vehicle for your project is a Purchase Order (PO), submit an adjustment through FMS.
9. **Before closing out a contract, ensure that all services have been satisfactorily performed and products delivered.** Do not pay final invoices, sign final acceptance certificates, etc., until all work has been satisfactorily completed/delivered. Debrief the vendor on their performance and provide them with feedback on what went right and where there were opportunities for improvement. Document the vendor's performance and keep a copy of it for your files. This information can be used to improve future solicitations and/or agreements.

APPENDIX 4 – ORS Management's Response and Perspective on the Audit Findings*

ORS Management believes that the Report serves an important function as a catalyst to encourage the Plans to better define their rights and obligations, policies and procedures, and to establish effective internal mechanisms for the procurement, monitoring, risk management and compliance of the Plans' contracting with vendors. Management agrees that this project should be considered a priority component of the Retirement Boards' business plans for FY 2023-24. Where relevant we have identified actions that can be taken as a response to the audit report and the time by which such actions can be completed.

* See Internal
Audit's Response
(Appendix 5)

We wish to note some general, overarching issues the Report raises:

1. The Report underscores the apparent absence of clarity over the legal roles and responsibilities of the City (including the Council, officers, and counsel) on the one hand, and those of the Retirement Plans (including their Boards, officers, delegated ORS staff and counsel). In Management's view, the Report mistakenly describes the authority of various City officers, and the Plans' obligation to comply with City policies and practices. The Report assumes without foundation that the City has certain discretionary authority over the Plans' contracting with vendors, not recognizing that with reference to the Plans' contracting and payment processes, the City's role is purely ministerial. ①
2. The Report confuses ORS' role and responsibilities, and treats it as a City Department carrying out the work of the City. The Report fails to acknowledge that ORS only acts upon delegated authority of the Boards of Retirement, to accomplish the work of the Plans, not of the City. It is unique in this manner from every other City department. ORS has no administrative policies or procedures other than those necessary to accomplish its delegated assignments. ②
3. The Report confuses historical practices that ORS may have followed with its legal obligations, per the direction of the Retirement Boards. That ORS followed certain City protocols in practice in the past does not bind the Plans to follow those protocols in the future. ③

If you have any questions please do not hesitate to reach out to Roberto Pena or Prabhu Palani, on whose behalf this Management Response has been issued.

Prabhu Palani, CFA
Chief Investment Officer
Police & Fire Department Retirement Plan
Federated City Employees' Retirement System
City of San Jose
1737 N 1st Street, 6th Floor
San Jose, CA 95112
[REDACTED]

APPENDIX 5 – Internal Audit’s Comments Regarding ORS Management’s Response

The table below provides the Internal Audit Division’s perspective on selected sections of ORS Management’s response to the audit report. The reference numbers in the far left column correspond to the numbers shown in the margin of ORS Management’s Response (see Appendix 4).

Ref. #	ORS Management’s Response	ORS Internal Audit Division’s Comments
①	<ul style="list-style-type: none"> “In Management’s view, the Report mistakenly describes the authority of various City officers, and the Plans’ obligation to comply with City policies and practices.” “The Report assumes without foundation that the City has certain discretionary authority over the Plans’ contracting with vendors, not recognizing that with reference to the Plans’ contracting and payment processes, the City’s role is purely ministerial.” 	<p>San José’s Municipal Code, consistent with existing ORS policies, requires that the ORS use City processes under the authority of the City’s Finance Director (i.e., the “custodian”) to pay invoices. The Muni Code states:⁵⁹</p> <ul style="list-style-type: none"> “...the city director of finance is the custodian of the retirement fund, [emphasis added] subject to the exclusive control of the board as to administration and investment.”⁶⁰ “All payments from the [retirement] fund shall be made in the manner required for the disbursement of other public funds, [emphasis added] but only upon authorization of the board.” “All payments from the [retirement] fund shall be made by the city director of finance [emphasis added] upon demands made by the retirement board.” <p>Exhibit 2 (see page 6) shows an example of a Finance Department reprimand to the ORS’s Director (CEO) for violating the City’s procurement policies and the CEO’s response committing to the policies.</p> <p>The following excerpts from San José’s City Charter show that the ORS is subject to the City’s budget, procurement, and payment rules:</p> <ul style="list-style-type: none"> “Each retirement board shall annually adopt a budget approved by the City Council [emphasis added].” “Each department, officer or agency to or for which an appropriation has thus been made shall be deemed authorized to use the money so appropriated, subject to the supervision and direction of the City Manager [emphasis added] and subject to such other restrictions as are elsewhere set forth in this Charter or are imposed by the Council. “ “No officer, department or agency of the City, during any budget year, shall expend or incur any obligation to expend money for any class or category of expenditure not authorized by or in excess of the amounts appropriated by the Council, or in excess of any allotments made by the City Manager [emphasis added].”

⁵⁹ See [Municipal Code](#) sections 3.28.320 and 3.36.520 for sections relevant to the Federated Plan and Police and Fire Plan, respectively.

⁶⁰ In practice, the Federated and Police and Fire “Retirement Fund” are each subdivided into multiple funds to enable the ORS to meet various tracking and administrative requirements.

Ref. #	ORS Management's Response	ORS Internal Audit Division's Comments
		<ul style="list-style-type: none"> “...the powers and duties of the Director of Finance shall be as follows:...(c) <i>Maintain a general accounting system for the City; and supervise and control disbursements and expenditures to assure that unexhausted and unencumbered appropriations exist therefor or that payment has been otherwise legally authorized</i> [emphasis added].”
②	<ul style="list-style-type: none"> “The Report confuses ORS' role and responsibilities, and treats it as a City Department carrying out the work of the City.” 	<ul style="list-style-type: none"> San José Municipal Code Section 2.04.3100 establishes the “<i>Department</i> [emphasis added] of Retirement Services.” San José City Charter Section 1500 states, “...the <i>City Council</i> [emphasis added] shall provide, by ordinance or ordinances, for the creation, establishment and maintenance of a retirement plan or plans <i>for all officers and employees of the City</i> [emphasis added].”
	<ul style="list-style-type: none"> “The Report fails to acknowledge that ORS only acts upon delegated authority of the Boards of Retirement, to accomplish the work of the Plans, not of the City.” 	<ul style="list-style-type: none"> The report section titled “Contracting Authority” (see page 7) shows the responsibility of the Retirement Boards for plan assets and administration and discusses the basis for the selection of audit criteria. The stated mission⁶¹ of the Office of Retirement Services is to “<i>Provide quality services in the delivery of pension and related benefits</i> [emphasis added] and maintain financially sound pension plans.”
	<ul style="list-style-type: none"> “It is unique in this manner from every other City department. ORS has no administrative policies or procedures other than those necessary to accomplish its delegated assignments.” 	<ul style="list-style-type: none"> The Retirement Boards' Charters⁶² for the ORS Director (CEO) state: “The CEO shall develop and approve all necessary operating procedures to guide staff and vendors in implementing board policy or direction.” Finding 1 (see page 26) states that ORS procurement policies and procedures have not been updated or signed off by senior management in over 20 years. Internal Audit used ORS management's own policies and procedures as criteria wherever possible. Those policies, though outdated, were generally consistent with the City's procurement and payment rules. ORS management did not provide either valid, alternative criteria to use in this audit or a valid basis for rejecting the criteria used in this report.

⁶¹ This is a segment from San José's “2022 – 2023 Adopted Operating Budget” document available on the [City website](#).

⁶² The “Charter” documents can be found on the ORS [website](#).

Ref. #	ORS Management's Response	ORS Internal Audit Division's Comments
③	<ul style="list-style-type: none">“The Report confuses historical practices that ORS may have followed with its legal obligations, per the direction of the Retirement Boards.”	<ul style="list-style-type: none">Together with audit criteria that are based on rules, regulations, policies, and procedures; historical and benchmark agency practices provide context to the discussion on internal controls and aberrations. The wire transfers that violated ORS and City payment rules and bypassed payment safeguards (see Finding 1, starting on page 15) constitute an aberration from ORS payment and procurement procedures and internal controls (e.g., segregation of duties) that are otherwise consistent with the “standard of care.”In a publication titled <u>“MANAGEMENT OVERRIDE OF INTERNAL CONTROL: The Achilles’ Heel of Fraud Prevention,”</u> the American Institute of Certified Internal Auditors (AICPA) states, “Because management is primarily responsible for the design, implementation, and maintenance of internal control, the entity is always exposed to the danger of management override of controls, whether the entity is publicly held, private, not-for-profit, or governmental.”

APPENDIX 6 – ORS Management’s Response to the Audit Recommendations

ORS management has agreed to take the following actions in response to the audit recommendations in this report. The IAD will report progress on implementation of these audit recommendations annually, until all recommendations have been implemented or dropped (i.e., if management disagrees with the recommendation and assumes the risk of taking no action).

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
1.1 In coordination with the ORS's legal counsel and the City's Finance Department, identify and memorialize (e.g., in a policy) the procurement rules that the ORS is required to follow.	Responsible Division: ORS Management Target Date: 6/30/2024 Concurrence: Partially Agree Action Plan: Determine relevant authorities of City and Retirement Plans and Boards-delegated staff at ORS, and develop appropriate policies.	
1.2 After implementing Recommendation 1.1, review and update all existing, <u>outdated</u> ORS procurement policies in accordance with policy number 810.1 titled "Policy and Procedure Maintenance." The update should include guidance on the permissible uses of "evergreen" terms, if any, and taking steps to ensure that contract terms are valid, consistent, and aligned with applicable contracting rules (e.g., use a check list, mandate an attorney's review of contracts "as to form"). Communicate the updated policies to all ORS staff with contracting or vendor payment responsibilities.	Responsible Division: ORS Management Concurrence: Agree Target Date: 6/30/2024 Action Plan: Evaluate and revise existing ORS procurement policies as it relates to Investment Division.	

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>1.3 Communicate existing and ORS "governance" policies that define the roles and responsibilities for authorizing contracts (i.e., the Federated and Police and Fire Plan policies titled "Policy Regarding Roles in Vendor Selection") to ORS staff who have contracting or vendor payment responsibilities. Highlight in the communication the requirements for Retirement Board approval (e.g., "Board approval is also required for any contracts that would result in a cumulative contract value with a single vendor in excess of \$50,000 over two consecutive fiscal years").</p>	<p>Responsible Division: ORS Management Concurrence: Agree Target Date: 6/30/2024 Action Plan: Communicate the revised ORS policies once completed as per recommendation 1.2</p>	
<p>1.4 Assign overall responsibility for procurement oversight to an existing ORS staff position. Provide necessary training to the staff member to meet the new job responsibilities. Update the list of official job duties for the position to include:</p> <ul style="list-style-type: none"> • Serving as an internal point of contact for procurement at the ORS. • Training ORS staff on procurement rules. • Serving to coordinate ORS procurement activities with the ORS's legal counsel and the Finance Department. • Ensuring compliance with applicable procurement rules and policies and procedures. • Administering the ORS's procurement processes to ensure that the ORS has complete, reliable, and useful data to manage its contracts and comply with applicable ORS and City procurement and payment rules. 	<p>Responsible Division: ORS Management Concurrence: Agree Target Date: 6/30/2024 Action Plan: Once ORS policies are updated Senior Management to identify one ORS staff with responsibility for Investment Division contracts and one responsible for other divisions in ORS</p>	

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<ul style="list-style-type: none"> Monitoring procurement and payment activities to identify and address instances where ORS procurement activities do not comply with applicable ORS and City rules (e.g., vendor payments without contracts, vendor payments that violated payment rules, contract documents that do not include required terms, contract duration and maximum expenditure terms that are inconsistent with Retirement Board authorizations, contracts without vendor performance metrics, contracts renewed without reference to vendor performance metrics). 		
<p>2.1 In compliance with ORS police and the City's procurement rules, use a public, competitive vendor selection process to select <u>and</u> contract with an insurance broker.</p>	<p>Responsible Division: ORS Management Concurrence: Agree Target Date: 12/31/2023 Action Plan: The ORS will issue an insurance broker RFP during 2023 for the 2024 - 2025 policies. The policy period is from 3/31 - 3/30 each year, and as such, it is too late to engage in an RFP process for the policy period 3/31/23 - 3/31/24. However, consistent with this audit recommendation, a contract has been obtained from the broker for the policy period 3/31/23 -3/31/24.</p>	

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>2.2 Create and communicate, as appropriate, a risk management policy that includes the following components:</p> <ul style="list-style-type: none"> • A list of stakeholders (e.g., the Retirement Boards, ORS senior management, legal counsel, the insurance broker) who should have roles and responsibilities for identifying and addressing (i.e., managing) the ORS's business risks. • A defined process to periodically identify and document the ORS's business risks, whether to mitigate or accept those risks, and if applicable, the specific mitigation strategy (e.g., by procuring insurance). • A step to obtain details about the types and levels of Citywide insurance coverage that apply to the ORS. • A step to document the required types and levels of insurance coverage that the ORS needs to purchase beyond what is already provided by the City. 	<p>Responsible Division: ORS Management Concurrence: Agree Target Date: 12/31/2023 Action Plan: The ORS will create and communicate a risk management policy that it will present to the Boards for their approval.</p>	
<p>3.1 Update existing ORS procurement policies and procedures to acknowledge and implement San José Municipal Code section 4.12.220, which allows for expedited, emergency procurement. Communicate the update to staff with procurement roles and responsibilities.</p>	<p>Responsible Division: ORS Management Concurrence: Management did not respond Target Date: Management did not respond Action Plan: Management did not respond</p>	
<p>3.2 Take an inventory of the laptops and associated equipment that the ORS purchased in 2020 to determine whether the procured laptops were received, as ordered. Follow up, as necessary, with the IT Department to ensure that the ORS received what was ordered and paid for.</p>	<p>Responsible Division: ORS Management Concurrence: Management did not respond Target Date: Management did not respond Action Plan: Management did not respond</p>	

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>4.1 After identifying, updating, and communicating the ORS's procurement mandates (i.e., after implementing Recommendations 1.1 through 1.4), in coordination with all ORS staff with contracting and vendor payment roles and responsibilities:</p> <ul style="list-style-type: none">• Identify and list the ORS's minimum contract compliance and risk management mandates that should be periodically monitored.• Identify and list contract and vendor payment best practices that are relevant and of high priority to the ORS. This list should be informed by widely available, industry standard practices to analyze and report contract and vendor payment data.• Identify and list contract and vendor payment data and reports that are required to manage the ORS's contract and vendor payment risks, as identified in the first two bullets above. This list should include data and reports that may not yet exist (e.g., vendor performance management data).	<p>Responsible Division: ORS Management Concurrence: Management did not respond Target Date: Management did not respond Action Plan: Management did not respond</p>	

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>4.2 After implementing Recommendation 4.1, in coordination with the City's Finance Department and IT Department, explore opportunities to obtain the data and reports that are needed to meet the ORS's contract and vendor payment objectives. Implementing this recommendation should include the following steps:</p> <ul style="list-style-type: none"> • Determining whether data that is needed but does not yet exist in FMS can be supported and recorded in FMS (e.g., method of contract award, vendor performance metrics). • Ensuring that FMS includes all ORS contracts, including investment manager contracts. • Ensuring that FMS reports provide the ORS access to all existing FMS contract data, including contract end date, regardless of the status of each contract. • Ensuring that FMS reports provide ORS staff access to the information (i.e., generate the reports) using parameters that allow the user to readily filter out non-ORS data and to define the reporting period (i.e., the user should not be limited to reporting on one fiscal year). 	<p>Responsible Division: ORS Management Concurrence: Management did not respond Target Date: Management did not respond Action Plan: Management did not respond</p>	

Recommendation	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>4.3 After implementing Recommendation 4.2, in coordination with ORS staff with contracting and vendor payment roles and responsibilities, identify vendor and contract file management (i.e., storing contract documents) and data requirements (e.g., recording vendor performance data) that cannot be met using FMS. Explore and implement alternative systems to meet those needs, such as:</p> <ul style="list-style-type: none">• An internally created system (e.g., using SharePoint) to manage the ORS's contract data and documents that cannot be stored in FMS.• Purchase and implementation of a third-party, online vendor and contract management system.	<p>Responsible Division: ORS Management Concurrence: Management did not respond Target Date: Management did not respond Action Plan: Management did not respond</p>	

APPENDIX 7 – Supporting Documents for Appendix 1



Memorandum

TO: Police and Fire Department Retirement Plan and
Federated City Employees' Retirement System
Investment Committees

FROM: Arn Andrews
Daryn Miller
Jay Kwon

SUBJECT: Risk RFP Award Recommendation

DATE: December 14, 2016

12/14/16

Recommendation

Staff recommends awarding Verus Advisory Inc. a three-year contract with two additional one-year options for risk advisory services paired with the MSCI risk analytics system and authorizing the secretary to negotiate and execute a contract not to exceed \$445,000 for the first year and \$475,000 for the second and third years.

Background

Staff has been working toward the acquisition of a permanent risk management solution to enhance the Plan's ability to assess, distribute and monitor portfolio risk. As part of this process, the Office of Retirement Services ("ORS") released a Risk RFP on June 30, 2016.

Scope

Staff designed the RFP to illicit responses for a comprehensive risk solution, including both risk advisory services and a risk analytics system. ORS accepted proposals from firms that owned both risk advisory services and a risk analytics solution, and from firms who collaborated with or sub-contracted for portions of the risk solution. Staff's research over the past year determined that peer attempts at internally onboarding their own risk analytics system was a suboptimal approach. The risk advisor is expected to bring significant experience in multi-asset risk management and a track record of working with asset allocators, including assisting trustees in understanding risk, facilitating the development of a risk philosophy and risk objectives, implementing risk policies, and guiding ongoing risk management discussions. In addition, significant experience with the implementation of a risk analytics system and subsequent robust data management capabilities will be very important to a successful implementation. From a technological standpoint, the system requirements required that the system is hosted or cloud based, and that ORS have direct access to the system.

Scoring Criteria

Staff used the following rubric for scoring the RFP proposals. Emphasis was placed on the experience of the engagement team, robustness in the data management process, and the capabilities of the risk analytics system. Succinct, clear, complete and direct responses were considered when scoring.

Scoring Rubric

Category	Possible Score
Engagement Team	
- Experience, strength, and depth of the engagement team; demonstrated capability and track record in timely implementation of a risk system; philosophy and fit	30
Data Management Capabilities	
- Ability to comprehensively manage the entire data process on an ongoing basis	25
Risk Analytic System Capabilities	
- Ability to adequately measure risk; suitability of system	20
Completeness	
- Questions were answered completely and directly	10
Price	
- Cost, not value	5
Local Business Preference	5
Small Business Preference	5
Total	100

Respondents and Evaluation

During the RFP solicitation period the ORS received seven written proposals from respondents. The following is a list of all respondents:

- Blackrock Solutions
- Maples
- Meketa Investment Group
- Pension Consulting Alliance
- State Street
- Verus Advisory Inc.
- Wilshire

ORS established a scoring-evaluator team comprised of three staff members from the investment program. Following the initial RFP review and scoring, the scoring-evaluator team identified the following short-list of respondents:

- Blackrock Solutions
- Maples
- Verus Advisory Inc.

The next phase of the RFP process involved inviting the three short-list candidate firms to participate in the interview phase of the process. The interviewing panel consisted of the three ORS scoring evaluators and a trustee representative from each Board. Board representatives assigned to the RFP panel were invited to participate based on their subject matter expertise but they were not scoring evaluators. However, the input from the Board subject matter experts was instrumental in fully evaluating the firms interviewed.

During the first interview phase, the three risk advisors were asked to convey their approach to risk philosophy and risk governance. The objective of the first interview was to compare and contrast how the firms would approach the formulation of a comprehensive risk culture. Based on an assessment of the initial interview phase, both Blackrock Solutions and Verus Advisory Inc. were invited to participate in the second interview phase.

The objective of the second interview was to see a more detailed system demonstration and understand how the two remaining respondents would utilize risk data to inform portfolio decisions.

Based on the initial RFP scoring and the two subsequent interviews the three staff scoring evaluators and the two Board representatives unanimously agree that Verus Advisory Inc. offered a more compelling solution and should be awarded the contract for risk advisory services paired with the MSCI risk analytics system.

/Daryn Miller/
Daryn Miller, CFA
Investment Officer

/Jay Kwon/
Daryn Miller, CFA
Investment Officer

/Arn Andrews/
Arn Andrews
Chief Investment Officer



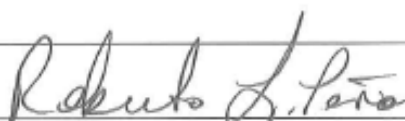
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BOARD OF ADMINISTRATION

City Hall
Wing Rooms 118-120
200 East Santa Clara
Street,
San Jose, CA 95113

Meeting Minutes - Final-revised Federated City Employees' Retirement System and Federated City Employees' Health Care Trust

Thursday, January 19, 2017

8:30 AM

City Hall Wing Rooms 118-120

CALL TO ORDER AND ROLL CALL

The Board of Administration of the Federated City Employees Retirement System and Health Care Trust met on Thursday, January 19, 2017 at 8:30 a.m. at City Hall Wing Rooms 118-120 East Santa Clara Street, San Jose, California 95113. Chair Loesch called the Pension and Health Care Trust meeting to order at 8:31 a.m.

Harvey Leiderman, General and Fiduciary Counsel, reviewed the seat of the retiree Trustee. He stated that a new retiree Trustee had not been appointed by City Council. Therefore, Mr. Overton is still a member of the Board, holding over his seat until a replacement is sworn in.

Present: 6 - Chair Matt Loesch, Michael Armstrong, Martin Dirks, Udaya Rajbhandari, Chair Prabhu Palani and Chair Anurag Chandra

Trustee Overton was absent.

Retirement Staff Present: Roberto L. Peña, Arn Andrews, Donna Busse, Ron Kumar, Chris Huynh, Sonia Morales, Sue Diehl, Linda Alexander.

Also Present: Harvey Leiderman, General and Fiduciary Counsel; Bill Hallmark, Cheiron; Michael Schionning, Cheiron.

CLOSED SESSION

The Board entered into closed session at 8:32 a.m.

CLOSED SESSION AGENDA ITEMS WILL BE HEARD AT 8:30 A.M.

I. CLOSED SESSION OLD BUSINESS/CONTINUED-DEFERRED ITEMS

- a. **CLOSED SESSION:** CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1).
FEDERATED CITY EMPLOYEES RETIREMENT SYSTEM v. CITY OF SAN JOSE, ET AL.
SANTA CLARA COUNTY SUPERIOR COURT NO. 16CV302829
- b. **CLOSED SESSION:** CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT

Chair Loesch led the discussion regarding the Retiree Trustee vacancy and stated that he will send a letter to the City that they appoint former Trustee Overton as the retiree incumbent until the position is filled. Harvey Leiderman, General and Fiduciary Counsel, stated that under state law electeds who hold positions carry over. The State does not like vacancies as written in the California constitution. It affects quorum and staffing. Counsel encouraged the process with the City Council. Non-voting Board Member Councilmember Davis spoke to the item and stated that this was discussed at Council. The assumption was that the retiree Trustee would stay on the Board. Chair Loesch directed staff to follow up with the City Council for status.

4.0 INVESTMENTS

- a. Oral update from the CIO of Retirement Services, Arn Andrews.

Mr. Andrews updated the Board on the following:

-There has been a new configuration for the Investment Committee. Trustee Armstrong will not be on the Investment Committee. Mr. Andrews thanked Trustee Armstrong for his work on the Investment Committee.

- b. Discussion and action on Asset Allocation ranges.

Mr. Andrews led the discussion regarding the Asset Allocation ranges and answered questions from the Board. He stated that staff recommendation is to approve the Asset Class Range Clarification as noted on page 2 of the attached memo.

A motion was made to approve staff's recommendation of the Asset Allocation ranges as noted on page 2 of the memo.

Approved. (M.S.C. Rajbhandari/Dirks 6-0-0). The motion passed unanimously.

- c. Discussion and action on recommendation for Verus as comprehensive risk solution provider, based on results from risk RFP process, in the amount of \$445,000 for the first year and \$475,000 for the second and third years, amounts to be split equally with Police and Fire.

Mr. Andrews led the discussion regarding Risk RFP Award and answered questions from the Board. He went over the RFP process and stated that Trustee Armstrong from Federated and Trustee Evnine from Police and Fire assisted the panel. Staff recommends awarding Verus Advisory Inc., a three-year contract with two additional one-year options for risk advisory services paired with the MSCI risk analytics system and authorizing the secretary to negotiate and execute a contract not to exceed \$445,000 for the first year and \$475,000 for the second and third years, to be split equally with the Police and Fire Plan.

A motion was made to approve staff's recommendation in awarding Verus Advisory Inc. a three-year contract with two additional one-year options for risk advisory services paired with the MSCI risk analytics system and authorizing the secretary to negotiate and execute a contract not to exceed \$445,000 for the first year and \$475,000 for the second and third years, to be split equally with the Police and Fire Plan.

Approved. (M.S.C. Palani/Dirks 6-0-0). The motion passed unanimously.

- d. Discussion and action on Investment Policy Statement Amendments.



BOARD OF ADMINISTRATION

City Hall
Wing Rooms 118-120
200 East Santa Clara
Street,
San Jose, CA 95113

Meeting Minutes - Final-revised Police & Fire Department Retirement Plan and Health Care Trust

Thursday, January 5, 2017

8:30 AM

City Hall, Wing Rooms 118-120

CALL TO ORDER AND ROLL CALL

The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met on Thursday, January 5, 2017 at 8:30 a.m. in regular session at City Hall Wing Rooms 118-120, 200 East Santa Clara Street, San Jose, California 95113. Chair Muyo called the Pension Plan and Health Care Trust meeting to order at 8:31 a.m.

Present: 9 - Richard Santos, Drew Lanza, Nick Muyo, Vincent Sunzeri, Stephen Brennan, Ghia Griarte, Jeremy Evnine, Andrew Gardanier and Franco Vado

Trustee Santos departed at 1:56 p.m.

Non-voting member Councilmember Johnny Khamis was absent. Chief of Staff Shane Patrick Connelly was present for Johnny Khamis.

Retirement Staff Present: Roberto L. Peña, Arn Andrews, Donna Busse, Benjie Chua-Foy, Toni Johnson, Brian Starr, Ron Kumar, Dhinesh Ganapathiappan, Chris Huynh, Sonia Morales, Sue Diehl, Linda Alexander.

Also Present: Harvey Leiderman, General and Fiduciary Counsel; Bill Hallmark, Cheiron; Tim Doyle, Cheiron; Michael Schoenning, Cheiron; Dan Hennessey, NEPC; Sean Kaldor, President SJFF Local 230.

AGENDA

CLOSED SESSION

The Board entered into Closed Session at 8:31 a.m.

CLOSED SESSION AGENDA ITEMS WILL BE HEARD AT 8:30 A.M.

I. CLOSED SESSION INVESTMENTS

- a. **CLOSED SESSION:** CONFERENCE WITH INVESTMENT CONSULTANT PURSUANT TO GOVT. CODE SECTION 54956.81 TO CONSIDER PURCHASE OF PARTICULAR PENSION FUND INVESTMENTS (ONE INVESTMENT).

Police & Fire Department
Retirement Plan and Health Care
Trust

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- c. San Jose Police & Fire Dashboards- Draft.

1.7 Education and Training

- a. The Cortex Report January 2017 - Conferences, Seminars, and Educational Programs.
- b. CalAPRS General Assembly, Monterey Marriott, Monterey, CA - March 4-7, 2017.

1.8 Notice of Alternate Payee Benefit Election

- a. Approval of Alternate Payee Benefit election of Full Monthly Option to be paid to Nina Pedemonte, ex-spouse of Fire Captain, Tim Pedemonte, to be effective January 6, 2017 under Part 17, Section 3.36.3600 of the San Jose Municipal Code.

1.9 Approval of Administrative Matters

- a. Report of the Plan Expenses for October 2016. Receive and file.

1.10 Market Update

- a. Presentation 2nd Quarter 2016 Private Equity Review by NEPC.
- b. Presentation of 2nd Quarter 2016 Real Estate Review by NEPC.
- c. Presentation of November 2016 Flash reports for the Pension Trust and the Health Care Trust by Staff and NEPC.

2. INVESTMENTS

- a. Oral update from the CIO of Retirement Services, Arn Andrews.

Item 2a was heard after item 7.4a.
Mr. Andrews noted that most of his items are on the agenda and he is looking forward to 2017.
- b. Discussion and action on recommendation for Verus as comprehensive risk solution provider, based on results from risk RFP process.

Mr. Andrews led the discussion regarding the IPS and answered questions from the Board. He stated that staff recommended awarding Verus Advisory Inc., a three-year contract with

Police & Fire Department
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two additional one-year options for risk advisory services paired with the MSCI risk analytics system and authorizing the secretary to negotiate and execute a contract not to exceed \$445,000 for the first year and \$475,000 for the second and third years. The contract amounts are to be shared 50/50 between the Federated and Police and Fire systems.

A motion was made to approve staff's recommendation.

Approved. (M.S.C. Evnine/Brennan 8-0-0). The motion passed unanimously.

c. Discussion and action on Investment Statement Policy (IPS) Amendments.

Mr. Andrews led the discussion regarding the Investment Policy Statement (IPS) and answered questions from the Board. He reviewed the attached memos which included red line changes. Harvey Leiderman, General and Fiduciary Counsel, recommended that the language in Action items #4 & #5 be changed from "presented" to "adopted" to reflect that the annual work plan has to be approved by the Board.

A motion was made to approve the IPS as with the amendment noted by counsel.

Approved. (M.S.C. Sunzeri/Muyo 8-0-0). The motion passed unanimously.

d. Discussion and action regarding the Real Assets IPS Appendix.

Mr. Andrews introduced the item. Mr. Kumar presented the Real Assets IPS Appendix and answered questions from the Board.

A motion was made to accept the Real Assets IPS Appendix.

Approved. (M.S.C. Lanza/Evnine 8-0-0). The motion passed unanimously.

e. Discussion and presentation by NEPC of Presidential election and market impacts.

Dan Hennessy of NEPC presented and answered questions from the Board regarding the Presidential election potential market impacts.

f. Discussion on presentation of the first annual (2015) Asset Allocation Fee Report.

Mr. Andrews introduced the item. Mr. Ganapathiappan presented the first Annual (2015) Asset Allocation Fee Report and answered questions from the Board. He stated that as part of the Fiscal year 2016-2017 Investment Program Work Plan, staff committed to performing a comprehensive aggregation of all fees associated with the systems asset allocation. It is staffs' intention to initially capture fee data for 2015 and then going forward to present the annual fee report each summer for the previous calendar year end reporting period. Mr. Andrews presented the attached tables 1-7. The Board made a request to have management fees and incentive fees separated on tables 2-5. Mr. Andrews noted that the fees reported here differ from the fees reported on the CAFR for the preceding year and that the CAFR would have to be amended. Harvey Leiderman, General and Fiduciary Counsel, gave acknowledgement to Mr. Ganapathiappan and stated that Investment Staff is way ahead of their peers in attempting to identify and quantify investment expenses. Mr. Peña, Mr. Andrews and Chair Muyo all gave Mr. Ganapathiappan acknowledgement and thanked staff for their hard work.

3. OLD BUSINESS CONTINUED-DEFERRED ITEMS

EXECUTORY COPY
CONSULTING AGREEMENT
RISK ADVISORY SERVICES

City of San Jose
Office of the City Clerk

MAY 25 2017

☒ ACCEPTED
☐ REJECTED

This Agreement is made and entered into effective as of February 1, 2017 (the "Agreement") by and between Verus Advisory, Inc., a Washington corporation, having its principal offices at 999 Third Avenue, Suite 4200, Seattle, WA 98104 ("Consultant"), and San Jose Federated City Employees' Retirement System and San Jose Police & Fire Department Retirement Plan (the "Client"). Client hereby retains Consultant to provide a comprehensive Investment Risk Solution with respect to Client's assets, inclusive of Risk Advisory Services and a Risk Analytics System.

1. SCOPE OF SERVICES.

Consultant shall perform those services specified in detail in SCHEDULE A entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein. Additional services, which are not committed for by Client at this time but may be requested by Client in writing in the future, are detailed in SCHEDULE B. The addition of any additional services outlined on SCHEDULE B, and the terms on which such additional services are to be performed, will be documented in a separate written addendum to this Agreement which shall be fully executed by Client and Consultant before effective.

2. TERM OF AGREEMENT.

The term of this Agreement shall be from February 1, 2017 to January 31, 2020, inclusive, subject to the provisions of SECTION 13 of this Agreement.

3. FEES.

In consideration of the services to be rendered by Consultant, Client shall pay Consultant in accordance with the Fee Schedule stipulated in SCHEDULE C.

4. METHOD OF PAYMENT.

Fees for professional services will be billed monthly in arrears. Each month, Consultant shall furnish to the Office of Retirement Services ("ORS") a statement of the services for fees during the preceding month. All invoices for fees shall be payable within thirty (30) days of receipt.

5. CLIENT INFORMATION.

Client agrees to provide, or cause its custodian bank, administrator, attorney, trustee, present or former investment consultant, actuary, consultants, other third parties, or investment managers (hereinafter referred to as "Representatives") to provide Consultant with any and all the necessary and appropriate information for Consultant to begin to perform its obligations under this Agreement. This information

San Jose FCERS and PFDRP Verus Agreement

includes liquidity needs, historical performance information, investment guidelines, and other pertinent information as requested by Consultant from time to time, including, without limitation, a written summary of any investment limitations or restrictions. If Client represents a Plan, Client agrees to provide, or cause its Representatives to provide, Consultant (in addition to the information described in the preceding sentence) with a copy of any applicable Plan documents, a list of any investment restrictions set forth therein and a list of parties-in-interest with respect to the Plan. The Client, directly or through its Representatives, also agrees to inform the Consultant immediately of any change in circumstances affecting the needs or goals of the Client, as the case may be. Client understands that in providing its services hereunder, Consultant will rely on the information from time to time provided to it by Client and Client's Representatives. Consultant shall not be required to verify any information obtained from Client or Client's Representatives. Consultant shall not be liable for the accuracy and completeness of information furnished or representation made by such Representatives.

6. LIMITS OF RESPONSIBILITY.

Consultant's advice to Client pursuant to this Agreement is limited to the Risk Advisory Services and the management of the Risk Analytics System as provided in SCHEDULE A. Client shall retain absolute discretion over and responsibility for the implementation of Consultant's recommendations. Nothing herein shall require Client to follow any recommendation provided by Consultant. Consultant makes its recommendations based upon information obtained and analyzed by a wide variety of public and private sources, including those provided by the Risk Analytics System. Although the information collected by Consultant is believed to be reliable and is compiled in accordance with accepted industry standards, Consultant cannot guarantee the accuracy or validity of such information.

Consultant will not manage Client's Assets or exercise any investment discretion or perform any discretionary trading with respect to the Assets. Consultant shall have no responsibility for voting any proxies solicited by or with respect to issuers of securities in which the assets of Client may be invested from time to time. Consultant and its employees will not render, or be responsible for rendering, any legal, accounting or actuarial advice to Client or prepare for Client any legal, accounting or actuarial document.

Although not currently included in the services to be provided by this Agreement, if Client has requested Consultant to assist it in the selection of an investment manager, Consultant will recommend investment managers (or mutual funds), which appear to be suitable for Client, based upon Client's stated investment objectives, risk/return expectations and financial needs. Consultant does not assume any responsibility, nor shall it be liable for the conduct or the investment performance, either historical or prospective, of any investment manager recommended by Consultant and selected by Client. Consultant shall have no authority to enter into any agreement with any investment manager on behalf of, or otherwise bind Client.

7. NONEXCLUSIVE RELATIONSHIP.

Client recognizes and acknowledges Consultant performs risk advisory services for various clients. Client

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agrees Consultant is permitted to give advice and make recommendations to its other clients that may differ from advice given or action taken with respect to Client even though the investment objectives may be the same or similar. Nothing in this Agreement shall be deemed to in any way restrict the right of Consultant to perform risk advisory services or other services for any other person or entity, and the performance of such services for others shall not be deemed to violate or give rise to any duty or obligation to the Client or Plan.

8. INDEPENDENT CONTRACTOR.

It is understood and agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of City of San Jose ("City") or Client; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

9. ASSIGNABILITY.

The parties agree that the expertise and experience of Consultant are material considerations for this Agreement. Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant's obligations hereunder, without the prior written consent of ORS, and any attempt by Consultant to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

10. INDEMNIFICATION.

Consultant shall defend, indemnify and hold harmless ORS, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this Agreement due to the fraud, bad faith, willful or negligent acts (active or passive) or omissions by Consultant's officers, employees or agents. The acceptance of said services and duties by ORS shall not operate as a waiver of such right of Indemnification.

11. INSURANCE REQUIREMENTS.

Consultant warrants that it now has in full force and effect and agrees to provide and maintain in effect a policy of liability insuring Consultant against claims based upon alleged errors and omissions by Consultant in the performance of its responsibilities, such policy being and to be maintained in an amount of not less than \$10,000,000. In addition and if losses are not included in Consultant's errors and omissions policy, Consultant shall have and maintain in full force and effect cyber liability insurance with data protection liability insurance covering financial loss resulting or arising from acts, errors, or omissions in building, customizing, operating or maintaining the Risk Advisory and Risk Analytics System in an amount of no less than \$1,000,000 including damages it is obligated to Client or any third party, which are associated with any Security Breach (as hereafter defined) or loss of Personal Data, regardless of cause (including,

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without limitation, Consultant's negligence or gross negligence and unlawful third party acts). For the purposes of, "Security Breach" means (1) the failure by the Consultant to properly handle, manage, store, destroy or otherwise control, or the unauthorized disclosure by the CONSULTANT of: (Personal Data or Financial Data in any format or (b) third party corporate information in any format specifically identified as confidential and protected under a confidentiality agreement or similar contract; and (2) an unintentional violation of the Consultant's privacy policy or misappropriation that results in the violation of any applicable data privacy laws or regulations; or (3) any other act, error, or omission by Consultant in its capacity as such which is reasonably likely to result in the unauthorized disclosure of sensitive data. Consultant further warrants that it now has in full force and effect and agrees to maintain in effect a crime theft policy or fidelity bond covered in the amount of \$1,000,000 to protect client from loss due to any fraud or other dishonesty for which Consultant is responsible. Insurance shall be placed with insurance carriers maintaining a rating of A-, VII or higher by A M Best or Standard and Poor's.

Consultant shall furnish Client with current certificates of Insurance described in this Agreement, including details of any deductible or retention amounts. Each Sub-Manager appointed by Verus pursuant to this Agreement shall maintain an insurance policy protecting the Sub-Manager (and its officers, directors, shareholders, partners and/or employees) against liability or loss for a breach of fiduciary responsibility.

Verus shall not receive any remuneration, directly or indirectly, from any Sub-Manager

12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

13. TERMINATION.

- A. The Agreement may be terminated by Client or Consultant, without cause and at will, upon written notice by either party to the other. Termination will become effective 30 days after receipt of such written notice. By mutual written agreement, the parties may establish a different effective date for termination. Upon termination of this Agreement, to the extent there are amounts owed by Client to Consultant (fees for professional services as provided in Section 3 above) upon the effective date of termination of this Agreement, Client agrees to pay such amounts to Consultant in the normal billing cycle under this Agreement without further notice or demand. Anything herein to the contrary notwithstanding, Client shall have the right to terminate this Agreement, without penalty, within five business days of the date of the initial execution of this Agreement by Client and to receive a full refund of all amounts paid to Consultant.

San Jose FCERS and PFDRP Verus Agreement

- B. If Consultant fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, Client may terminate this Agreement immediately upon written notice.
- C. The CEO of Retirement Services is empowered to terminate this Agreement on behalf of Client.
- D. In the event of termination, Consultant shall deliver to Client copies of all reports, documents, and other work performed by Consultant under this Agreement, and upon receipt thereof, Client shall pay Consultant for services performed incurred to the date of termination.

14. GOVERNING LAW.

Client and Consultant agree that the law governing this Agreement shall be that of the State of California, without regard to the provisions, policies or principals thereof relating to choice or conflict of laws.

15. COMPLIANCE WITH LAWS.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments including having any bonds or insurance as may be applicable by any regulating federal, state or local governments.

16. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized in writing in advance by Client, or as required by applicable law.

17. OWNERSHIP OF MATERIALS.

All reports, documents or other materials developed or discovered by Consultant or any other person engaged directly or indirectly by Consultant to perform the services required hereunder shall be and remain the property of Client without restriction or limitation upon their use.

18. WAIVER.

Consultant agrees that waiver by Client of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by Client of the performance of any work or services by Consultant shall not be deemed to be a waiver of any term or condition of this Agreement.

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19. CONSULTANT'S BOOKS AND RECORDS.

- A. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to Client for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement.
- B. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to Client, at any time during regular business hours, upon written request by the CEO, or a designated representative. Copies of such documents shall be provided to Client for inspection at their offices when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
- D. Where Client has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, Client may, by written request by any of the above-named officers, require that custody of the records be given to Client and that the records and documents be maintained in their offices. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

20. CONFLICT OF INTEREST.

Consultant shall avoid all federal, state or applicable city prohibited conflicts of interest and use its best efforts to avoid an appearance of conflict of interest and to remedy an appearance of a conflict in interest when it becomes known in performance of this Agreement.

Consultant shall file an Assuming Office Disclosure Statement of Economic Interests (Form 700) entitled "DISCLOSURE STATEMENT." Such statement shall be filed within thirty (30) days of the date of this Agreement and annually thereafter by the first of April. Upon termination of this Agreement, Consultant shall file a Leaving Office Disclosure Statement of Economic Interest (Form 700).

21. GIFTS.

- A. Consultant is familiar with City's prohibition against the acceptance of any gift by a City officer or

San Jose FCERS and PFDRP Verus Agreement

designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.

- B. Consultant agrees not to offer any City or ORS officer, board member or employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this Agreement by Consultant. In addition to any other remedies City or Client may have in law or equity, Client may terminate this Agreement for such breach as provided in SECTION 13 of this Agreement.

22. DISQUALIFICATION OF FORMER EMPLOYEES.

Consultant is familiar with the provisions relating to the disqualification of former officers and employees of City in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance"). Consultant shall not utilize either directly or indirectly any officer, employee, or agent of Consultant to perform services under this Agreement, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

23. NOTICES.

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To Client:

Investment Program
Office of Retirement Services, City of San José
1737 North First Street, Suite 600
San José, CA 95112

To Consultant:

Verus Advisory, Inc.
999 Third Avenue,
Suite 4200
Seattle, Washington 98104

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

24. VENUE.

San Jose FCERS and PFDRP Verus Agreement

Consultant hereby agrees that Client may be subjected to suit only in the courts of San José, California. In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

25. PRIOR AGREEMENTS AND AMENDMENTS.

This Agreement, including all Schedules attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may be modified only by a written amendment duly executed by the parties to this Agreement.

AGREED to this 28th day of March, 2017.

By Roberto L. Lera
Signature of Client

Chief Executive Officer
Title If Applicable

AGREED AND ACCEPTED:

Verus Advisory, Inc.

By Jeffrey
Principal

San Jose FCERS and PFDRP Verus Agreement

**SCHEDULE A
SCOPE OF SERVICES**

1. RISK ADVISORY SERVICES

Consultant agrees to provide Client with Risk Advisory and Risk Analytics stipulated in this Schedule A. Consultant will offer advice to ORS and the Boards solely in the interest of the plan participants and beneficiaries of San Jose Federated City Employees' Retirement System ("FCERS") and the San Jose Police & Fire Department Retirement Plan ("PFDRP"). The risk advisory services provided shall be for the Investment Program's four assets pools, which include Pension assets and Health Care Trusts assets for both FCERS and PFDRP.

2. RISK ANALYTICS SYSTEM SERVICES

Consultant agrees to manage a Risk Analytics System that is capable of comprehensively modelling a risk of complex, highly diversified asset pools at multiple levels, including the investment manager, sub-asset class, asset class, and total plan levels across asset classes. The Risk Analytics System, while managed by Consultant, will be made available to Client through a web-based interface. It is the intent of Consultant to utilize MSCI, Inc. to provide BarraOne risk analytics and BarraOne risk management services.

3. RISK MANAGEMENT PROCESS

- A. Consultant shall manage the development of a risk policy to be incorporated into the Client's investment policy statement through interaction with Clierit and by aligning of the Client's investment enterprise objectives with the ongoing decision about portfolio implementation and development.
- B. Consultant shall provide Risk Analytics reporting through the Verus propriety Risk Dashboard, a system used for calculating and communicating the level and nature of risk in the client's portfolio. It is intended that the Risk Dashboard and risk analytics provided are an integration of the Client's Risk Policy Statement with Client's existing portfolio of investments and Investment Policy Statements.
- C. It is understood that in addition to a number of technologies utilized to produce the Risk Dashboard, Verus will utilize MSCI's BarraOne analytical toolset.
- D. Consultant shall provide training, support and guidance on report usage and interpretation.

San Jose FCERS and PFDRP Verus Agreement

- E. Consultant shall support Client in incorporating risk measurements in the investment process. Such communication shall include working with Client to determine the appropriate allocation to risk and return drivers.

4. RISK POLICY

After assessment of the organization's Enterprise Risk Tolerance, Consultant shall make recommendations to the Client and assist in the creation of a risk management policy to be integrated into the Investment Policy Statement.

5. DATA MANAGEMENT

- A. Consultant shall be accountable to Client and responsible for the data management process. Client's involvement and responsibility shall be limited to those aspects of the process to provide a deeper understanding of the most material aspects of the system and its implementation.
- B. Consultant shall engage with MSCI BarraOne in its role and responsibilities as Consultant to Client to provide the services under this Agreement.
- C. Client shall be supported by dedicated data management individuals at both Consultant and MSCI and MSCI will assign a dedicated Managed Services contact to interface with Consultant regarding the design and execution of the data management processes.

6. RISK REPORTING

- A. Consultant shall provide monthly risk dashboard reports.

Consultant shall also provide training and education to Client as is reasonable to empower Client to design and prepare additional reports from the risk dashboards. Specific training on the Barra platform is to be provided by Barra; provided, however, Consultant is willing to assist in this process in connection with the training and education provided to Client on the design and preparation of risk dashboard reports.

- B. Consultant will actively engage with Client on the design and implementation of risk reports and provide Client with education and training on using BarraOne as is appropriate to utilize our combined abilities to create a "culture of risk" across the organization.

7. TRAINING, EXTRA RESOURCES AND VIEWS

Consultant shall be responsible for ongoing risk management training and education, as reasonably needed. The training and education may be provided via conference calls, webinars and in-person meetings.

8. RISK ANALYTICS SYSTEM.

San Jose FCERS and PFDRP Verus Agreement

Client shall enter into agreement with Barra, LLC ("Barra"), whose ultimate parent company is MSCI Inc. ("MSCI"), to provide the analytic tool set described in this Agreement. Consultant shall obtain such permission or enter into such agreement with Barra, LLC to gain unfettered access to the tools provided pursuant to the Barra contract entered into by Client to facilitate providing the services contemplated in this agreement. It is understood that a contract directly between Barra, LLC and Client, enables Barra, LLC to provide training on the Barra systems directly to the Client.

Consultant shall interact with Barra to negotiate terms of the Barra agreement so that the total fees under the Barra Agreement do not exceed One-Hundred-Twenty-Thousand Dollars (\$120,000) in year one and One-Hundred-Fifty-Thousand Dollars (\$150,000) in years 2 and 3. It is understood that Client may need to obtain Indices data from third party providers to be loaded into the Barra analytical system to enable Consultant to provide the services under this Agreement. Consultant shall interact with such Indices providers to negotiate the terms of such agreements, if desired by Client. The cost of the Indices needed by Consultant to perform the services under this agreement will be \$30,000 per annum or less. Accordingly, the total costs to Client for the services hereunder, plus the fees under the Barra agreement, and the fees needed for additional indices will not exceed Four Hundred Forty Five Thousand Dollars (\$445,000) in year one and four Hundred Seventy Five Thousand Dollars (\$475,000) in years 2 and 3.

San Jose FCERS and PFDRP Verus Agreement

SCHEDULE B
ADDITIONAL SERVICES NOT UNDER THIS AGREEMENT

The following is a list of services and related fees not stipulated under this agreement. Client agrees to pay Consultant provided that Client engages Consultant on such projects prior to the commencement of work and that Client approves in advance the additional expenditure. Fees will be based on scope of the services provided and agreed.

- (a) Conduct Investment Manager searches and provide recommendations on manager selection. Verus general consulting services provides unlimited investment manager search reports featuring managers covered by Verus Advisory, Inc.'s "Focus-List" (Includes all traditional categories covered within our asset allocation advice as well as funds-of-funds and specialty niche alternatives). An additional fee for "custom" manager searches will apply; "custom" indicates searches driven by Client requests such as the inclusion of specific managers that are not covered by Verus Advisory, Inc. "Focus List" and/or mandates not central to our asset allocation advice.
- (b) Provide "Direct" hedge fund and private equity portfolio development and manager selection.
- (c) Conduct an Asset-Liability study.
- (d) Assume responsibility for executing investment decisions as a discretionary consultant or OCIO, within the parameters set forth by Client the including manager selection and portfolio construction (standard fee structure begins at 30bps on the first \$100 million).
- (e) Provide manager fee negotiation and implementation assistance.
- (f) Provide litigation support and other administrative services when authorized by Client for the following hourly rates:

Senior Consultant	\$450/hour
Consultant	\$400/hour
Associate	\$200/hour
Analyst	\$150/hour

Consultant shall furnish Client with appropriate hourly detail to justify bills submitted.

San Jose FCERS and PFDRP Verus Agreement

**SCHEDULE C
FEES**

For the services agreed to be provided in this Agreement, client agrees to pay Consultant an annual fee of Two-Hundred-Ninty-Five-Thousdand Dollars (\$295,000) per annum.

See Schedule A , item 8, regarding Barra and Indices agreements and related fees and costs.

CONTRACT/AGREEMENT TRANSMITTAL FORM		662378-0
TO: <input type="checkbox"/> CITY MANAGER (CM signature required) <input checked="" type="checkbox"/> New Contract <input checked="" type="checkbox"/> CITY CLERK (City Manager signature not required) <input type="checkbox"/> Amendment (List # of Amendment) 		
Original Contract CHAD # if known 		
Basic Information	Name of Contractor: Verus Advisory	
	Business Tax License # 	Phone number (206) 622-3700
	Business Contact Email sanjosecity@verusinvestments.com	
	Term of this agreement: 2/1/2017 to 1/31/20	
	Amount of contract: Change to original? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Dept. Info	Start date: End date: 	
	Term of ORIGINAL agreement: to 	
	Amount of Original Contract: 	
	RETRACTIVE Agreement? <input type="checkbox"/> Yes <input type="checkbox"/> No Please Explain: 	
	Department: Retirement	
Detailed Information	Dept. Contact Name: Sue Griffiths	
	Department Contact Phone: 794-1048	
	Type of Contract: 	
	Council Date: Council Item #: Resolution #: 	
	Form 700 Required? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Insurance verification	Description of contract: (What work will the contractor accomplish? Be Specific.)	
	<div style="border: 1px solid black; background-color: #f0f0f0; padding: 5px;">Risk Advisory and Risk Analytics for Federated and Police and Fire Plans</div>	
	<input type="checkbox"/> RFP <input type="checkbox"/> RFQ <input type="checkbox"/> Sole Source/Unique? Date Conducted: Description of selection process below: 	
	Notes & further information: 	
	CONTRACT & INSURANCE VERIFICATION (MANDATORY) Please initial and provide description of insurance for ALL contracts valued \$269,999 and less. Risk Management will verify insurance for contracts valued at \$270,000 and above. <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px 5px; margin-right: 5px;">sign here</div> <div> I attest that the insurance verification of this contract have been met and all information is correct including policy limits, policy terms and City of San José named as "Additional Insured." <i>[if this contract should be exempt from insurance requirement, please note why in the box below] Contract will not be processed if needed insurance is missing. Sign</i> </div> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">Description of Insurance exemption</div>	
Approvals	Coordination: <input type="checkbox"/> City Attorney's Office (Required) <input type="checkbox"/> Human Resources <input type="checkbox"/> Risk Management <input type="checkbox"/> Other: 	
	Department Head Signature: Roberto L. Perez Date: 5/22/17	
Office of the City Manager Signature: DATE: 		

City of San Jose
Office of the City Clerk

 ORIGINAL

JUL - 7 2017

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 ACCEPTED
EX-155076

LICENSE AGREEMENT FOR APPLICATION SERVICES

This License Agreement for Application Services ("License Agreement") is made and entered to be effective as of the Commencement Date set forth below between Barra LLC, a Delaware limited liability company with its principal place of business at 2100 Milvia Street, Berkeley, CA 94704 ("Barra"), and the Client identified on the signature page hereto ("Client" and together with Barra, the "Parties"). Client's affiliated entities and units expressly named in each Order Form shall be included in the definition of "Client" and shall have the same rights and obligations of Client under this License Agreement, subject to the limitations in such Order Form. Notwithstanding the foregoing, the Client entity expressly identified on the last page hereof shall indemnify Barra for and remain liable for any breach of the Agreement by its affiliated entities and units. Terms defined or described in the applicable Order Form(s) shall have the same meaning when used herein.

1. DEFINITIONS.

- 1.1. "Agreement" means collectively, this License Agreement and any Order Form executed by Client and Barra, including any amendments, exhibits, addenda or other attachments thereto.
- 1.2. "ASP Services" means the services, systems, equipment and software utilized by Barra or its Service Providers to deliver the Products to Client hereunder, including but not limited to, hosting, co-location, network services and the operation and maintenance of such systems and services.
- 1.3. "Authorization Information" means account login and other related information (e.g., Client IDs, user IDs and passwords) required for Users to access and use the Products.
- 1.4. "Data" means the models and data distributed in any form by Barra which Client receives pursuant to the Agreement.
- 1.5. "Derived Materials" means any research, reports, computational results, information or material obtained or derived by Client in whatever form from the use of the Products but shall specifically exclude any Client records, statements or account information that have not been modified by use of the Products as well as any information that Client can demonstrate as in its possession prior to the date of this agreement or derived principally from Client's own records and/or efforts.
- 1.6. "Documentation" means installation and user guides, manuals, operation instructions, requirements, specifications, training and other documentation in any form (e.g., hard copy, electronic, or otherwise) provided by Barra for use of the Products.
- 1.7. "Order Form" means each Order Form, signed by the Parties, by which Client contracts to receive Products from Barra pursuant to this License Agreement. The terms of each Order Form relate only to the Products set forth in that specific Order Form.
- 1.8. "Permitted Increase" means any increase in Fees (i) equal to or less than the greater of 2% of the Fees or the standard inflation measure in the country or currency union in whose currency such Fees are denominated, (ii) due to any addition of Products, Users, Locations or Upgrades or other enhancements or Versions for which Barra generally charges additional fees, or (iii) due to changes in the fees charged to Barra by its Vendors provided that such increase is equal to or less than 2% in the aggregate during any calendar year.
- 1.9. "Products" means the Software and Data specified on the applicable Order Form(s), any Vendor software or content, and Documentation, including any of the foregoing items downloaded by Client via Barra's website (<https://www.barraone.com> for BarraOne and <https://bpm.barraone.com/bpm/bpm.jnlp> for Barra Portfolio Manager, and their subdomains) or the ASP Services. The term "Products" also refers to and includes any and all derivative works, translations, and adaptations of all, a part of, or any component thereof.
- 1.10. "Service Providers" means independent third parties who may provide certain essential aspects of the ASP Services, such as network services, hosting or co-location providers.
- 1.11. "Software" means the application software set forth in any applicable Order Form that Client accesses through the ASP Services, including any Upgrades thereto.
- 1.12. "Support" means Barra's standard support relative to the Products, in whatever form, as more fully described on the applicable Order Form and any other services that Barra elects to provide to Client with respect to the Products.

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- 1.13. **"Upgrade"** means a release of a Product made generally available to licensees of the Product that contains significant improvements to the current Version of the Product.
- 1.14. **"User(s)"** means the individual employees or agents of Client that are authorized to use the Products in accordance with the Agreement regardless of whether the individual(s) actively use(s) the Products at any given time. The individual(s) designated as User(s) by Client may be changed pursuant to changes in personnel or responsibilities as long as the Authorized Number of Users specified in the applicable Order Form(s) is not exceeded.
- 1.15. **"Vendors"** means certain third parties that have granted Barra the right to use and distribute their data, software, or other proprietary property.
- 1.16. **"Version"** means a specific release number for a Software program or model, including Upgrades.

2. **GRANT OF LICENSE.**

2.1 Products. Barra grants Client a nonexclusive, nontransferable, limited, and revocable right to remotely access and use the Products solely (a) via the ASP Services, (b) for its internal purposes with respect to assets owned or managed by Client or with respect to Client's own brokerage or trading accounts or those of Client's brokerage or trading customers, and (c) by using the Authorization Information provided to Client.

2.2 Restrictions on Use. Client may not use the Products or ASP Services in any manner not expressly permitted by the Agreement. All rights not specifically granted in the Agreement are expressly reserved by Barra. Without limiting the generality of this Section 2.2, Client shall not:

- a. publish, transfer, display or grant direct or indirect access to any Product or Derived Materials to any third party who is not a User or to any person outside the Location(s);
- b. copy the Products;
- c. modify, improve, manipulate, translate, reverse-engineer, decompile or disassemble any Product or any part thereof;
- d. use the Products or Barra's or a Vendor's name in connection with a prospectus or the creation, issuance, offer, or promotion of a financial instrument or security;
- e. use any Data in a configuration or with software not specified in the applicable Order Form or use any Data with any third party software;
- f. use any Product for the benefit of a third party other than with respect to third parties whose assets are managed by Client or who have brokerage or trading accounts with Client;
- g. use, evaluate, or view any Product for the purpose of designing, modifying, or otherwise creating any software program, or any portion thereof, which performs functions similar to, or that compete with, the functions performed by any Product(s);
- h. distribute, display, transmit, or make available to a third party any security identifiers (including but not limited to CUSIPs, ISINs or RICs) or Barra identifiers delivered with the Data, without first obtaining written consent directly from the owner of such identifiers;
- i. use any Product in a manner that would substitute for the addition of a User or a license or purchase of any portion of a Product (for example, use any Data to create a separate or substitute database); or
- j. use network monitoring or discovery software to determine the website architecture, or extract information about usage or Users or preclude or hamper the right of Barra to view files that log the number of users accessing the Products or Client's usage of the Products; or
- k. cause, permit, or authorize others to do any of the above.

2.3 Change of Vendors, Content, Format or Platform. Barra may, in its sole discretion, change its Vendors and/or Service Providers and amend or otherwise change the content and format of the Products and ASP Services or amend its privacy and security policies or the operating system platform upon which any of the Products are offered or delivered. Barra shall notify Client within ten (10) business days of any such change to the extent that the change materially and adversely affects the Products (a "Material Product Change Notice"), in which case Client shall have the rights described in Section 5.3 below.

2.4 Reporting Requirements and Audit Rights. Upon written request from Barra, no more than once in any twelve (12) month period, Client shall submit a report to Barra signed by an authorized Client representative certifying the Locations

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where the Products licensed under the Agreement are being used and the number of persons using the Products. Client shall, during the term of the Agreement and for a period of one (1) year thereafter, keep and maintain full and complete records and books of account related to its activities under the Agreement. During the term of the Agreement and for a period of one (1) year thereafter, Barra shall have the right, on no more than one occasion in any consecutive twelve (12) month period, to audit (either by itself or by engaging an independent auditor reasonably acceptable to Client) the records of Client to ensure compliance with the terms of the Agreement; provided that Barra provides Client with no fewer than thirty (30) days notice of such audit. Unless otherwise agreed to by the Parties, the audit shall be conducted on Client's premises, shall take place during Client's business hours and shall not unreasonably interfere with Client's activities. Barra shall bear the cost of the audit; provided, however, that in the event the audit reveals an underpayment to Barra in excess of five percent (5%) or a material breach by Client of Section 2.2 Client shall reimburse Barra the costs of the audit, including reasonable attorney fees and costs, if any. In the event the audit discloses an underpayment Client shall also immediately pay the amount of such underpayment to Barra. In the event the audit discloses an overpayment Barra shall also immediately pay the amount of such over-payment to Client. Any information obtained by Barra during such audit shall be deemed "Confidential Information" as defined in Article 9 and Barra shall not use or disclose such Confidential Information except to: (i) verify Client's adherence to, and for the purpose of enforcing Barra's rights under, the Agreement; or (ii) provide reports on Client's usage to Vendors as required by Barra's agreements with such Vendors.

3. SYSTEM AND EQUIPMENT CONFIGURATION.

- 3.1. **Client Systems and Equipment.** Client shall be solely responsible for the procurement, installation, operation, maintenance, testing and all expenses and costs of the necessary hardware, software and services (including, but not limited to, telecommunications lines, Internet access, equipment, browser software and the maintenance of proper browser software settings) (collectively, the "Client Systems") necessary to connect to the ASP Services and use the Products. Barra shall incur no liability for Client's inability whatsoever to use the Products and/or losses suffered by Client attributable to Client Systems (including but not limited to, loss of data and loss of use).
- 3.2. **Minimum System Configurations.** Barra shall not be responsible for Client's failure to maintain the published minimum system configurations required for access and use of the ASP Services and Products.
- 3.3. **Availability of Products.** Client expressly acknowledges that Barra utilizes Service Providers for certain essential aspects of the ASP Services. As such, the Products shall be unavailable during any scheduled or unscheduled downtime established by or caused by Service Providers.
- 3.4. **Passwords and Authorization Information.** Barra shall provide Client with the initial Authorization Information to access and use the Products. Client shall maintain the confidentiality of the Authorization Information and shall not allow Users to share the Authorization Information with any person who is not a User. Client is solely responsible for all activities that occur from use of the Authorization Information provided to it (including activity or usage resulting from use of Authorization Information by third parties other than Client, such as fraudulent use).

4. FEES AND PAYMENT.

- 4.1. **Payment of Fees.** Client shall pay to Barra the Fees as set forth in the applicable Order Form(s). The Fees are subject to change by Barra at any time upon thirty (30) days' written notice to Client; provided that during the Initial Term of any Order Form the Fees shall not change unless due to (i) any addition of Products, Users, Locations or Upgrades, or other enhancements or Versions requested by Client and for which Barra generally charges additional fees, or (ii) changes in the fees charged to Barra by its Vendors and provided further that if the Initial Term exceeds one (1) year Barra may increase the Fees after the first year of such Initial Term as long as such increase is a Permitted Increase. All Fees and expenses are due and payable thirty (30) days after receipt of an invoice therefor. Past due amounts bear interest at a rate of 1.5% per month (or the highest rate allowed by law, whichever is less) beginning from the date first due until paid in full. Client shall pay all sales, VAT and other taxes, however designated or levied, based on the Fees, Client's use of the Products or otherwise arising in connection with the Agreement. Barra shall be solely responsible for taxes based on its income. Client shall be liable for all reasonable costs relating to or arising out of the collection of any delinquent payment, including, but not limited to, any and all Barra's collection fees, reasonable attorneys' fees, court costs and expenses.
- 4.2. **Additional Data Fees.** Notwithstanding Section 4.1, Client acknowledges that certain Data available from Barra may require that Client obtain separate additional consents or agreements and/or pay additional fees imposed by a Vendor at

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any time for receipt of such Data through Barra. Accordingly, in the event any such consents, agreements or fees are required by a Vendor, Client agrees to be solely responsible for (i) obtaining and complying with all necessary consents or agreements; and (ii) paying, as applicable, either directly to the Vendor or through Barra any applicable fees (including any increases in such fees). Barra does not represent or warrant that Client will be able to obtain any or all necessary Vendor consents or agreements. Certain Software may enable importation and use of data not provided under an Order Form. Client is solely responsible for obtaining any required authorization to import or use such data, and for any fees and any technical and support issues in connection therewith.

5. TERM AND TERMINATION.

5.1. **Term and Renewal.** This License Agreement shall be effective from the Commencement Date until terminated pursuant to this Article 5. Any termination of this License Agreement shall terminate all related Order Form. Each Order Form shall be effective from the Start Date specified therein until the end of the Initial Term specified therein unless this License Agreement or the applicable Order Form is terminated pursuant to this Article 5 prior to the end of such Initial Term. Thereafter the term of each Order Form shall be automatically extended for consecutive Renewal Periods specified therein unless written notice terminating the Order Form is given by either Party not less than 30 days before the end of the Initial Term or any Renewal Period or unless this License Agreement or the applicable Order Form is terminated pursuant to this Article 5 prior to the end of such Initial Term or Renewal Period.

5.2. **Termination by Client.** Client may, upon written notice to Barra, terminate its use of any Product within thirty (30) days after receipt of notice of an increase in the Fees for such Product(s) under either Section 4.1 or 11.1 unless such increase is a Permitted Increase. If after thirty (30) days no such Client notice is received by Barra, Client will be deemed to have accepted all changes in the Fees pursuant to Section 4.1. Client's right of termination hereunder only applies to the Product(s) subject to the notice provided pursuant to Section 4.1, and if and to the extent timely notice of termination is given by Client as a result of an increase in Fees, Client shall not be responsible for any increase in Fees.

5.3. **Termination Upon Material Product Change.** Client may, upon written notice to Barra, terminate its use of any Product(s) within thirty (30) days after receipt of a Material Product Change Notice from Barra regarding such Product(s). Barra may, upon written notice to Client, terminate any Order Form(s) with respect to any Product if Barra loses a Vendor and such loss materially affects the Product(s) or if Barra generally discontinues any Product(s). Upon any termination in accordance with this Section 5.3, Client shall receive a pro rata refund of Fees prepaid for the terminated Product(s) and Barra shall have no other liability to Client hereunder with respect to changes to, or discontinuation of, the terminated Product(s).

5.4. **Termination for Breach.** Either Party may terminate the License Agreement and/or any applicable Order Form(s) if the other Party materially breaches the License Agreement and/or such Order Form(s) and fails to cure the breach within thirty (30) days after receiving written notice specifying the breach. Consent to extend the cure period shall not be unreasonably withheld if the breaching Party is endeavoring in good faith to cure the breach. Notwithstanding the foregoing, Barra may in its discretion terminate the Agreement immediately, and Client shall not be afforded the opportunity to cure the breach, if Client breaches any of the provisions contained in Section 2.2, Articles 9 or 10, or upon a willful misappropriation of Barra's or a Vendor's intellectual property.

5.5. **Effect of Termination.** Upon any termination or expiration of the License Agreement and/or any applicable Order Form(s): (a) the Product licenses under any terminated or expired Order Form shall terminate; (b) Client will return to Barra or, upon Barra's request, certify as destroyed all versions and copies of the Confidential Information (as defined in Section 9.1), and (c) the Parties' rights and obligations with respect to any terminated or expired Order Form under Sections 2.2, 2.4, this Section 5.5, Articles 7, 8, 9, 10, and 11, and any payment obligations that accrued on or prior to the effective date of termination shall survive.

6. CONSULTING SERVICES AND ADDITIONAL SUPPORT.

The Fees for the Products shall include Support for Users as set forth in the applicable Order Form. If Client requests additional support beyond the contractual Support, Barra shall provide such additional services in accordance with a separate consulting services agreement at Barra's then current consulting services fees.

7. LIMITED WARRANTY, INFRINGEMENT INDEMNIFICATION AND DISCLAIMER OF WARRANTIES.

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7.1. **Limited Warranty and Infringement Indemnification.** Barra warrants that it has all rights required to permit Client to use the Software pursuant to the Agreement without infringing any copyright, patent, trade secret or any other intellectual property right(s) of any third party. Barra shall indemnify, defend at its expense, and hold Client harmless against any claims brought against Client alleging breach of the foregoing warranty, and will pay any expenses reasonably incurred by and costs and damages finally awarded against Client in such action or constituting a settlement of such claim, provided, however, that (i) Client notifies Barra promptly in writing of such claim; (ii) Barra has sole control of such defense and any settlement thereof; and (iii) the claim does not arise out of any breach by Client of the Agreement. Client shall have the right at its own expense to participate in the defense of any such claim through counsel of its own choosing, and shall in any event cooperate fully with Barra at Barra's expense in the defense of such claim. If any Software is held or is believed by Barra to infringe any copyright, patent or trade secret of any third party, Barra shall have the option, at its expense, to (a) modify the Software to be noninfringing; or (b) obtain for Client a license to continue using the Software, or (c) terminate the license for the infringing Software and any Products rendered unusable by such termination, and refund to Client the Fees paid for such Products, prorated from the date they became unusable. **The above states Barra's entire liability and Client's exclusive remedy for breach of the warranty in this Section 7.1 and for any other claims of infringement.**

7.2. **Disclaimer of Warranties.** Except for the warranty in Section 7.1 above, which is made by Barra alone, **BARRA, THE VENDORS AND THE SERVICE PROVIDERS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED REGARDING THE PRODUCTS, THE ASP SERVICES AND SUPPORT (AND ANY RESULTS TO BE OBTAINED FROM THE USE THEREOF), INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, ACCURACY, TIMELINESS, COMPLETENESS, AND ORIGINALITY, NONINFRINGEMENT AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING AND USAGE OF TRADE OR THEIR EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION, AND THE PRODUCTS, THE ASP SERVICES AND SUPPORT ARE PROVIDED "AS IS."** Neither Barra nor any of the Vendors or Service Providers warrant that the Products, the ASP Services or the Support shall be uninterrupted, free from error or from unauthorized hidden programs introduced into the Products without their knowledge, or that the Products, ASP Services or Support shall meet the needs of Client or resolve any problems encountered by Client. Client acknowledges that the Internet and other networks (including private networks in the control of Service Providers) are potentially unreliable and unsecure dissemination mechanisms, and therefore Barra is unable to guarantee the uptime, availability, performance, security, privacy and timeliness of access of any Product, the ASP Services or other content via the ASP Services. Further, Client acknowledges and agrees that (i) the Products contain a number of analytical tools that should only be used by sophisticated investment professionals having professional experience in matters relating to investment activity and the Products; and (ii) there is no representation or guaranty made by either Barra or any of the Vendors that the financial instruments identified by the Products or the Support shall perform in a manner that is consistent with their historical characteristics or assure the profitability or utility of forecasts or expected values. Neither Barra nor any Vendor shall be deemed to be providing investment management, broker-dealer, supervision or advisory services. As such, Client acknowledges that the Products are only intended to act as a basic market information and intelligence tool and for the avoidance of doubt, none of the information and material forming part of the Products (including but not limited to, the Data) is intended to constitute investment advice or a recommendation to make (or refrain from making) any kind of investment decision. Client shall not use or continue to use the Products if to do so would result in the breach of any applicable local laws or regulations within Client's jurisdiction.

8. **LIMITATION OF LIABILITY AND INDEMNIFICATION.**

8.1. **Limitation of Barra's Liability.** Except with respect to Barra's indemnification obligations (and then only to the extent Barra is required to indemnify) in Section 7.1, under no circumstances shall Barra or any Vendor or Service Provider be liable to Client under any contract, tort, or other legal or equitable theory for (i) any lost profits or lost savings, data or use; (ii) inability to use, loss of, and/or corruption of the Data or other data within Client's control, computer malfunction, delays, or interruption of services, or of the ASP services or a Barra website, whether or not claimed to have arisen from any of the Products; (iii) any claim or action against Client by a third party; (iv) any indirect, incidental, special, consequential, cover, or punitive damages or costs; (v) any interruption, delay, downtime in delivery, or degradation in performance of the Products, ASP Services or the Support; or (vi) any damages resulting from a cause or condition beyond the reasonable control of Barra or any Vendor or Service Provider. Without limiting the foregoing sentence, the maximum collective liability of Barra, the Vendors and the Service Providers to Client and Client's exclusive remedy under any contract, tort, or other legal or equitable theory for all damages or other amounts, regardless of the form of the action, shall be the amount of Fees paid under the applicable Order Form(s) during the twelve (12) month period preceding the date such damages were incurred. Such limits shall apply whether or not Barra

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or the Vendors and/or Service Providers have been advised of or could have foreseen the possibility of such damages. Client shall not bring any action, regardless of form, arising out of or in connection with the Agreement against Barra and/or any Vendor or Service Provider more than one (1) year after the cause of action has accrued.

- 8.2. **Client's Obligation to Indemnify Barra.** Except as set forth in Section 7.1, Client is solely responsible for using the Products, ASP Services and Support, for itself or in providing services to its own clients, and for ensuring the accuracy and adequacy of the results of such use and services. Client assumes the entire risk of any use made of the Products, ASP Services and Support, and shall have full responsibility for any decisions and/or analyses in which any element of the Products, ASP Services or Support may be used or relied upon. Any reliance by Client or others upon the Products, ASP Services or the Support will not diminish that responsibility. Accordingly, and except as set forth in Section 7.1, neither Barra nor any Vendor (nor any of their respective affiliates, directors, officers, employees, or agents) shall be liable for, and Client shall indemnify to the maximum extent permissible by law, defend and hold Barra and the Vendors (and their respective affiliates, directors, officers, employees and agents) harmless from and against any and all claims, liabilities, losses and expenses (including legal, accounting and other professional fees and expenses) in connection with any claim or action by Client or any third party arising out of or relating to the use of the Products, ASP Services or Support, or any third party data used with the Products, or relating to any decisions or analyses arising out of such use. Solely to the extent such claim relates to a breach by Barra of the warranty under Section 7.1, Client's responsibilities under this Section 8.2 do not supersede Barra's responsibilities under Section 7.1 above.

9. **CONFIDENTIAL INFORMATION.**

- 9.1. **Definition and Exclusions.** "Confidential Information" collectively means (i) with respect to Client, whether disclosed in writing, orally or otherwise, specific information concerning the portfolios and specific assets and holdings of Client and its customers; (ii) with respect to Barra, whether disclosed in writing, orally or otherwise, the Products, methods in providing the ASP Services or Support, information concerning current and future Barra products, services, and pricing, the terms of the Agreement, Authorization Information, and the data of any Vendor; and (iii) with respect to either Party, any other written information or material that is clearly marked as confidential at the time of its disclosure. Excluded from the foregoing definition of "Confidential Information" shall be information and materials that (a) is or becomes a part of the public domain through no fault of the receiving Party; (b) can be affirmatively demonstrated in documentary form to have been in the receiving Party's lawful possession prior to the disclosure and had not been obtained by the receiving Party, directly or indirectly, from the disclosing Party or any other party who is bound, directly or indirectly, by an obligation or duty of confidentiality to the disclosing Party; (c) can be affirmatively demonstrated in documentary form to have been lawfully disclosed to the receiving Party by a third party who is not and/or does not represent or act for a person or entity who is bound, directly or indirectly, by an obligation or duty of confidentiality to the disclosing Party; (d) can be affirmatively demonstrated in documentary form to have been independently developed by the receiving Party without use of any of the disclosing Party's Confidential Information; or (e) is required to be disclosed pursuant to a duly served legal process or a requirement of a governmental agency, regulation or law, in which case the receiving Party shall, prior to any disclosure pursuant to such legal process or requirement and to the extent permitted in connection with such legal process or requirement of governmental agency, regulation or law, give prompt written notice to the disclosing Party and the disclosing Party may, in its sole discretion and with the reasonable cooperation of the receiving party (provided that such cooperation does not require any expense by the receiving party) attempt to quash or abate such legal process or compliance or to seek a protective order, but at the expense of the disclosing Party. Notwithstanding anything herein to the contrary, basic information regarding number of users and locations of the Products licensed by Client may be disclosed to Vendors as part of Barra's required reporting to such Vendors.
- 9.2. **Confidentiality Obligations.** Each Party shall hold in strict confidence all Confidential Information disclosed to it, and (i) neither Party shall alone or by directing, cooperating with, or acting in concert with others, use, disclose, publish, disseminate, or otherwise make available any aspect of the Confidential Information of the other except as permitted by the Agreement; and (ii) each Party shall use the same degree of care and security as such Party takes with its own comparable confidential information and materials, that in no event shall be less than the care that would be exercised by a reasonably prudent business under similar circumstances, and that, at a minimum, shall require such Party to obligate all users and other persons having access to the Confidential Information of the other to enter into standard confidentiality agreements with protections substantially similar to those set forth in this Article 9.
- 9.3. **Equitable Relief.** Each Party agrees that remedies at law are inadequate to protect the other or the Vendors in the event of a violation of a Party's or Vendor's intellectual property or confidentiality rights, and that in addition to any other remedies which may be available to the non-breaching Party or Vendor, the non-breaching Party or the Vendors may seek injunctive and other equitable relief for breach of the terms of the Agreement.

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- 9.1 Third-Party Links and Sites.** Barra is not responsible for complying with the privacy policies or the terms of use of any third party website(s) which may be linked to by the Products. Client shall be solely responsible for reviewing and complying with such terms.

10. PROPRIETARY RIGHTS.

Client acknowledges that Barra and/or the Vendors are the exclusive owners of all proprietary rights (including without limitation all intellectual property rights) in the ASP Services, the Products, any Upgrades or other enhancements thereto and all modifications or derivatives thereof and no ownership interest in the ASP Services or the Product is hereby conveyed to Client. Client will take reasonable measures to protect the proprietary rights (including without limitation the intellectual property rights) of Barra and the Vendors in the ASP Services and the Products related to its use of the ASP Services or the Product. The ASP Services and the Products may include the trademarks and other proprietary notices of Barra and/or the Vendors. Client shall not remove any trademark, copyright, trade secret, or other proprietary notice from any of the ASP Services or the Products or other Confidential Information, whether belonging to Barra or a Vendor.

11. MISCELLANEOUS.

- 11.1 Assignment.** Neither Party may assign any of its rights or obligations under the Agreement, by operation of law or otherwise, without the prior written consent of the other Party. Notwithstanding the foregoing, either Party may assign the Agreement, in whole or in part, without the other Party's consent, to (a) any entity which controls, or is controlled by, or is under common control with the assigning Party, (b) any entity resulting from any merger or consolidation with the assigning Party, or (c) any person or entity which acquires substantially all of the assets of the assigning Party as a going concern; provided that (x) if either party hereto desires to make any assignment pursuant to this Section 11.1, it shall first so notify the other in writing and in the event of an assignment by Client, Barra shall have the right to refuse such assignment for competitive reasons in its absolute discretion, and (y) Barra may change the Fees for any Products based on changes in the types and locations of use, and in the number of users, assets under management or any other factors upon which Barra bases its fees for the Products, subject to Client's right to terminate this Agreement in accordance with Section 5.2. For purposes of clarification, the parties hereto acknowledge and agree that a change in Fees pursuant to this Section 11.1 shall not constitute a Permitted Increase.
- 11.2 Notices.** All notices required or permitted to be given by one Party to the other under the terms of the Agreement will be sufficient if given via hand delivery or if sent via first class mail, certified mail or recognized overnight delivery service to the address of the Party appearing in the applicable Order Form, or if not so set forth, to the address for the Party on the last page of the License Agreement, or by facsimile or electronic mail if followed by first class mail. For purposes of the Agreement, written notice shall be deemed to be given (i) three (3) days after deposit in first class mail or certified mail; (ii) one (1) day after sent via recognized overnight delivery service; and (iii) upon receipt if hand delivered or sent via facsimile or electronic mail. All notices required or permitted to be given by Barra under the Agreement will be sent to Client's Business Contact specified in the applicable Order Form. All invoices shall be sent to Client's Billing Contact specified in the applicable Order Form. All notices required or permitted to be given by Client under the Agreement shall be sent to Barra's Business Contact specified in the applicable Order Form with a copy to Barra's Legal Contact. Client shall immediately notify Barra in writing if there is any change in the identity of the Business Contact or Billing Contact. If Client fails to provide such notice to Barra, all notices sent to the attention of the Business Contact named in the applicable Order Form shall be deemed sufficient under the terms of the Agreement, whether or not such notice is actually received by Client.
- 11.3 Relationship Between the Parties.** Barra and Client are independent contractors and nothing herein shall be construed to create a partnership, joint venture, agency or employment relationship between the Parties. Each Party will be solely responsible for payment of all compensation owed to its employees, as well as employment-related taxes, and neither Party is granted any express or implied authority by the other to assume or create any obligation or responsibility on behalf of or in the name of the other Party, or to bind the other Party in any manner or thing whatsoever.
- 11.4 Entire Agreement; Modification.** Each Party has read the Agreement and agrees to be bound by its terms. The Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous communications or representations relating hereto whether written or oral. No modification or waiver of the Agreement shall be binding unless it is written and signed by both Parties.

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- 11.5 Waiver.** The waiver by either Party of any breach by the other Party of any of its obligations hereunder or the failure of either Party to exercise any of its rights in respect of such a breach shall not be deemed a waiver of any previous or subsequent breach.
- 11.6 Headings.** The section headings appearing in the Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any such section nor in any way affect the Agreement.
- 11.7 Governing Law and Jurisdiction.** The Agreement will be governed by the laws of the State of California without regard to conflict of law principles. All suits, proceedings or claims in connection with the Agreement shall be brought in the courts of the State of California in the City and County of San Francisco and the Parties hereby consent to the jurisdiction and venue of those courts. The Parties expressly disclaim the application of the Uniform Computer Information Transactions Act.
- 11.8 Attorneys' Fees.** Should any litigation or arbitration be commenced (including any proceedings in a bankruptcy court) between the Parties hereto or their representatives concerning any provision of the Agreement or the rights and duties of any person or entity hereunder, the prevailing Party in such proceeding shall be entitled, in addition to such other relief as may be granted, its reasonable attorneys' and court costs resulting from or related to such litigation or arbitration.
- 11.9 Export Controls.** Barra and Client acknowledge that the law and regulations of the United States and other jurisdictions may restrict the export and re-export of technical data of United States origin, including the Products, ASP Services and Confidential Information. Client agrees that it will not export or re-export any of the Products, ASP Services or Confidential Information, or any portion thereof in any form without the appropriate United States and foreign governmental approvals. Client shall indemnify, defend and hold harmless Barra against any and all claims, liabilities, losses, and expenses (including legal, accounting, and other professional fees and expenses) arising from or relating to Client's breach of this Section 11.9.
- 11.10 Counterparts.** The Agreement may be executed in one or more counterparts, each of which will be deemed an original, but collectively will constitute one and the same instrument.
- 11.11 Severability.** If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will be deemed modified so as to have the most nearly similar permissible economic or other effect in order to be valid and enforceable, or, if no such modification is possible, then the Agreement shall be enforced only to the extent that it is not invalid or is not otherwise unenforceable and all other provisions of the Agreement shall remain in full force and effect.
- 11.12 Third Party Beneficiaries.** Each Vendor is a third party beneficiary hereunder to the extent required to enable such Vendor to enforce its proprietary rights in the Software, Data, and ASP Services, the applicable use restrictions, and the disclaimers, liability limitations and other provisions that benefit the Vendors herein. Except for the provisions of the prior sentence, nothing in the Agreement shall create any legal right or benefit for a third party.
- 11.13 Insurance.** Barra shall maintain insurance covering its activities under this Agreement as specified on the attached Exhibit A.

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IN WITNESS WHEREOF, the parties have executed this License Agreement as of the Commencement Date set forth below.

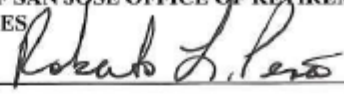
BARRA, LLC

Signed: 

Name: Alex Gil
Executive Director

Title: _____

CITY OF SAN JOSE OFFICE OF RETIREMENT SERVICES

Signed: 

Name: Roberto Piza

Title: Chief Executive Officer

Principal Place of Business

1737 North First Street
6th Floor
San Jose, 95112 California United States of America

Commencement Date of this License Agreement: 2-Jun-2017

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ORDER FORM
for
BARRAONE

This Order Form for BarraOne ("Order Form") is entered into as of the Start Date specified below, between Barra, LLC, a Delaware limited liability company with its principal place of business at 2100 Milvia Street, Berkeley, CA 94704 ("Barra"), and Client identified below ("Client"). This Order Form shall be governed by the License Agreement identified below, including any amendments, exhibits or addenda attached thereto. The Parties to this Order Form accept the respective rights and obligations under the License Agreement of Barra and Client. Terms defined in the License Agreement shall have the same meanings when used herein. To the extent a provision in this Order Form conflicts with a provision contained in the License Agreement, the provision contained in this Order Form shall control.

- 1 **CLIENT.** For purposes of this Order Form, "Client" shall mean only the following specific department(s) or unit(s) of the following entity with the understanding that other departments or units located at the same Location shall not be entitled to use the Products pursuant to this Agreement:

City of San Jose Office of Retirement Services, for the San Jose Police & Fire Department Retirement Plan and San Jose Federated Employees Retirement System

- 2 **LOCATION.** For purposes of this Order Form, "Location" shall mean only the Client address(es) specified below where the Products are authorized for use:

1737 North First Street
6th Floor
San Jose, CA 95112
United States of America

- 3 **TERM.** **Start Date:** 2-Jun-2017 **Initial Term:** 1-Jun-2018 **Renewal Period:** One (1) year

- 4 **GOVERNING LICENSE AGREEMENT.** License Agreement between Barra and Client, dated 2-Jun-2017 (Barra internal reference: Master-LA_00219192.0).

- 5 **PRODUCTS.** For purposes of this Order Form, "Products" shall include the Software and/or Data specified below. The Software and Data items may only be used in connection with each other (i.e., the Data may only be used with Barra-provided Products, and vice-versa, as opposed to any use with third party software or data). Each Product may be accessed and used only by the Authorized Number of Users and by the specific named Users identified below.

Products	Application
	BarraOne Data Implementation Services via BarraOne BarraOne Data Processing & Reporting via BarraOne BarraOne BIM Private Equity Model via BarraOne BarraOne BIM Standard Factor Risk Package via BarraOne BarraOne BIM with GEM2 Equity Factor Risk Package via BarraOne BarraOne BIM303-Long Version via BarraOne BarraOne BIM303-Short Version via BarraOne BarraOne BIM303 with GEM3 Equity Factors via BarraOne BarraOne BIM303-XL Version via BarraOne BarraOne Covariance Date Choice via BarraOne BarraOne Macro Factors Model via BarraOne BarraOne Optimizer via BarraOne BarraOne Report Tool via BarraOne BarraOne Time-Dimensional Trees via BarraOne BIM Hedge Fund Model on BarraOne via BarraOne Private Real Estate Model via BarraOne
	JP Morgan EMBI+ Third Party Index Data for BarraOne via BarraOne Barclays Global Third Party Index Data for BarraOne via BarraOne Barclays US Third Party Index Data for BarraOne via BarraOne JP Morgan GBI-EM Diversified Third Party Index Data for BarraOne via BarraOne Merrill Lynch - Fixed Third Party Index Data for BarraOne via BarraOne MSCI Third Party Index Data for BarraOne via BarraOne Russell US Third Party Index Data for BarraOne via BarraOne

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	S/P Standard Third Party Index Data for BarraOne via BarraOne
Users	5

- 6 **FEES.** "Fees" shall mean the amounts specified below and any other amounts required by additional agreements or addenda hereto which the Parties agree to in writing. All Fees shall be paid semi-annually in advance.

Products	Annual Fees
BarraOne Data Implementation Services via BarraOne BarraOne Data Processing & Reporting via BarraOne BarraOne BIM Private Equity Model via BarraOne BarraOne BIM Standard Factor Risk Package via BarraOne BarraOne BIM with GEM2 Equity Factor Risk Package via BarraOne BarraOne BIM303-Long Version via BarraOne BarraOne BIM303-Short Version via BarraOne BarraOne BIM303 with GEM3 Equity Factors via BarraOne BarraOne BIM303-XL Version via BarraOne BarraOne Covariance Date Choice via BarraOne BarraOne Macro Factors Model via BarraOne BarraOne Optimizer via BarraOne BarraOne Report Tool via BarraOne BarraOne Time-Dimensional Trees via BarraOne BIM Hedge Fund Model on BarraOne via BarraOne Private Real Estate Model via BarraOne	
JP Morgan EMBI+ Third Party Index Data for BarraOne via BarraOne Barclays Global Third Party Index Data for BarraOne via BarraOne Barclays US Third Party Index Data for BarraOne via BarraOne JP Morgan GBI-EM Diversified Third Party Index Data for BarraOne via BarraOne Merrill Lynch - Fixed Third Party Index Data for BarraOne via BarraOne MSCI Third Party Index Data for BarraOne via BarraOne Russell US Third Party Index Data for BarraOne via BarraOne S/P Standard Third Party Index Data for BarraOne via BarraOne	
First 6 Months (System Onboarding) Fee in USD	\$45,000.00
Second 6 Months Fee in USD	\$75,000.00
Year 2 Total Annual Fee in USD	\$150,000.00
Year 3 Total Annual Fee in USD	\$150,000.00

7 **CONTACT INFORMATION.**

In order for Barra to be able to deliver the Products to the Client, the Client shall first provide Barra with all required invoicing and user details.

Personal information, such as business contact information, of Client's personnel will be used by MSCI Inc. and its subsidiaries and affiliates (together, "MSCI Group") to provide the products and services hereunder, to provide information about MSCI Group's future products and services, and to manage the business relationship between MSCI Group and Client. Such information will be stored and processed globally in MSCI Group's internal systems and/or third-party systems hosted on MSCI Group's behalf, including MSCI Group's contact databases and finance systems. MSCI Group will adhere to all confidentiality requirements set forth in the License Agreement and maintain an information security program, which includes physical, technical and administrative / organizational measures, designed to protect data against unauthorized use or disclosure.

Client's Business Contact	Client's Billing Contact	Client's Legal/Contract Administrator
Name: Arn Andrews	Name: Daryn Miller	Name:
Title/Position: Chief Investment Officer/ Assistant Director, Retirement Services	Title/Position: Chief Investment Officer/ Assistant Director, Retirement Services	Title/Position:
Department:	Department:	Department:
Address (if different from Address above):	Address (if different from Address above):	Address (if different from Address above):
Phone: (408) 794-1040	Phone: (408) 794.1042	Phone:
Email: arn.andrews@sanjoseca.gov	Email: daryn.miller@sanjoseca.gov	Email:

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Barra's Business Contact	Barra's Billing Contact	Barra's Legal Contact
Name: Bryan Murphy	Attn: Revenue Operations Manager	Attn: General Counsel
101 California Street Suite 910 San Francisco, CA 94111 USA	7 World Trade Center 250 Greenwich Street, 49th Floor New York, NY 10007, USA	7 World Trade Center 250 Greenwich Street, 49th Floor New York, NY 10007, USA
Phone: +1 (415) 836-8834	Phone:	Phone:

8 NOTES.

8.1 Additional License Grant. Notwithstanding anything in the License Agreement to the contrary, Client's consultant, Verus Advisory, Inc. ("Verus"), may access and use the Products licensed hereunder so long as Verus remains validly licensed under its own Order Form for the same Products, subject to any other terms and conditions as specified in such Order Form between Barra and Verus.

8.2 Client Portfolio Data

(a) Notwithstanding anything in the License Agreement or this Order Form to the contrary, Client acknowledges and agrees that it is responsible for obtaining, loading, delivering and using any Client Portfolio Data in the Product. Client represents and warrants that it has all appropriate authority necessary to obtain, load, deliver and use all Client Portfolio Data in connection with the Product, including any delivery through a third party such as a custodian, and will comply with all applicable laws and regulations relating thereto. As used herein, "Client Portfolio Data" means any portfolio or investment data, content or information that is uploaded or delivered by Client (or a third party on behalf of Client) for use in the Product.

(b) Notwithstanding anything in the License Agreement or this Order Form to the contrary, Client acknowledges and agrees that: (i) Barra does not require any Personal Data relating to Client's customers in order to provide the Product, and Client shall not input, add, upload and/or store any Personal Data on the Product; (ii) Barra performs, calculates, distributes, stores and hosts the Product from data centers around the world; (iii) Barra will not screen Client Portfolio Data to avoid the input, addition, upload and/or storage of Personal Data; and (iv) Barra is in no way an agent of Client with respect to any Client Portfolio Data. As used herein, "Personal Data" means personally identifiable information, or information about an identified or identifiable natural person, as defined in any applicable Privacy Law; and "Privacy Law" means any privacy, data protection or banking secrecy law, rule or regulation.

8.3 Client may request access to third party indexes through the Products from time to time by sending an email to Barra at: miscianalyticsapprove@msci.com. For the avoidance of doubt, (i) any such permissioning is subject to any and all consents or agreements required by the relevant Vendor, (ii) Client's use of such indexes is subject to the relevant terms and conditions in the Agreement and any agreements with the relevant Vendor, and (iii) access to such indexes may be terminated at any time if required by the Vendor. If, any time, any such indexes require the payment of fees or Vendors require Barra to have the clients sign separate terms and conditions, then Client will be required to sign separate Order Forms for such indexes that address the foregoing.

8.4 Notwithstanding anything in the License Agreement to the contrary, the Client may provide research and reports derived from the Products containing limited portions of the Derived Materials to its board of directors and as otherwise required by law, rule or regulation. Except as provided in the prior sentence, Barra reserves the right to restrict the Client's publication or distribution of such research and reports if, in Barra's reasonable judgment, Barra or any of its Vendors may be foregoing the opportunity for direct revenues from those entities.

8.5 Notwithstanding anything in the License Agreement to the contrary, in the event of a termination of this Order Form the Client may retain and have a perpetual license to use research and reports derived from the Products containing manager level or higher Derived Materials for transition and its internal business purposes; provided, however, all provisions in the License Agreement relating to the use and confidentiality of the Derived Materials (as the same is modified by Section 8.4 and this 8.5) shall continue to remain in full force and effect.

8.6 Standard & Poor's CUSIP SERVICE BUREAU

To the extent any of the Products include CUSIP identifiers, Client agrees and acknowledges that the CUSIP Database and the information contained therein is and shall remain valuable intellectual property owned by, or licensed to, the American Bankers Association ("ABA", and CUSIP Global Services ("CGS") (CGS is operated

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on behalf of the ABA by S&P Capital IQ), and that no proprietary rights are being transferred to Client in such materials or in any of the information contained therein. Any use by Client outside of the clearing and settlement of transactions requires a license from CGS, along with an associated fee based on usage. Client agrees that misappropriation or misuse of such materials will cause serious damage to CGS and ABA, and that in such event money damages may not constitute sufficient compensation to CGS and ABA; consequently, Client agrees that in the event of any misappropriation or misuse, CGS and ABA shall have the right to obtain injunctive relief in addition to any other legal or financial remedies to which CGS and ABA may be entitled.

Client agrees that Client shall not publish or distribute in any medium the CUSIP Database or any information contained therein or summaries or subsets thereof to any person or entity except in connection with the normal clearing and settlement of security transactions. Client further agrees that the use of CUSIP numbers and descriptions is not intended to create or maintain, and does not serve the purpose of the creation or maintenance of, a master file or database of CUSIP descriptions or numbers for itself or any third party recipient of such service and is not intended to create and does not serve in any way as a substitute for the CUSIP MASTER TAPE, PRINT, DB, INTERNET, ELECTRONIC, CD-ROM Services and/or any other future services developed by CGS.

NEITHER CGS, ABA NOR ANY OF THEIR AFFILIATES MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY OF THE INFORMATION CONTAINED IN THE CUSIP DATABASE. ALL SUCH MATERIALS ARE PROVIDED TO CLIENT ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE NOR WITH RESPECT TO THE RESULTS WHICH MAY BE OBTAINED FROM THE USE OF SUCH MATERIALS. NEITHER CGS, ABA NOR THEIR AFFILIATES SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY ERRORS OR OMISSIONS NOR SHALL THEY BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF CGS, ABA OR ANY OF THEIR AFFILIATES PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEE PAID BY CLIENT FOR ACCESS TO SUCH MATERIALS IN THE MONTH IN WHICH SUCH CAUSE OF ACTION IS ALLEGED TO HAVE ARISEN. FURTHERMORE, CGS AND ABA SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DELAYS OR FAILURES DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL.

Client agrees that the foregoing terms and conditions shall survive any termination of its right of access to the materials identified above.

Notwithstanding anything to the contrary herein, the foregoing terms and conditions shall not affect, but shall be subject to, any direct agreement between (i) Client and (ii) CGS or ABA.

Upon acceptance by both Parties, this Order Form shall be effective as of the Start Date specified above.

Barra, LLC

Client: City of San Jose Office of Retirement Services

By: By: 

Name: _____

Name: _____

Alex Gil
Executive Director

Roberto Peña

Title: _____

Title: _____

Chief Executive Officer

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SUPPORT EXHIBIT

A. 24x5 Hour Global Support Desk

Barra operates a 24x5 Global Support Desk from its offices worldwide. This is the first point of contact for any question or problem concerning a Barra product. The support analysts are available Monday 01:30 a.m. Coordinated Universal Time (UTC)/GMT to Saturday 01:30 a.m. UTC/GMT ("Business Hours") to assist with common technical, data, product-usage and model-related questions. The Support Desk has direct access to other resources within Barra that can address more detailed questions or issues.

B. Technical Services Group

The Barra Technical Services group consists of technical analysts for troubleshooting technical issues. The Technical Services group is also available during Business Hours.

C. Client Support Website

The client support website offers a variety of services and information including access to Product home pages, current update status, a searchable database of solved problems, and an extensive library of research papers, model handbooks, technical support documentation and user guides.

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Rider

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The JP Morgan EMBI and JP Morgan GBI-EM Diversified are not sponsored, endorsed, sold or promoted by J.P. Morgan. J.P. Morgan makes no representation or warranty, express or implied, to the owners of the JP Morgan EMBI and JP Morgan GBI-EM Diversified or any member of the public regarding the advisability of investing in securities generally, or in the JP Morgan EMBI and JP Morgan GBI-EM Diversified particularly, or the accuracy, completeness or quality of the data provided by J.P. Morgan therein or in addition thereto. J.P. Morgan's only relationship to City of San Jose of Retirement Services is the licensing of the JP Morgan EMBI and JP Morgan GBI-EM Diversified which are determined, composed and calculated by J.P. Morgan without regard to City of San Jose of Retirement Services or the JP Morgan EMBI and JP Morgan GBI-EM Diversified. J.P. Morgan has no obligation to take the needs of City of San Jose of Retirement Services or the owners of the JP Morgan EMBI and JP Morgan GBI-EM Diversified into consideration in determining, composing or calculating the JP Morgan EMBI and JP Morgan GBI-EM Diversified. J.P. Morgan is not responsible for and has not participated in the determination of any timing of, prices at, or quantities of the JP Morgan EMBI and JP Morgan GBI-EM Diversified to be issued or in the determination or calculation of the equation by which the JP Morgan EMBI and JP Morgan GBI-EM Diversified are to be converted into cash (if applicable). J.P. Morgan has no obligation or liability in connection with the administration, marketing or trading of the JP Morgan EMBI and JP Morgan GBI-EM Diversified.

THE LICENSED J.P. MORGAN INDEXES AND PERMITTED LICENSEE PRODUCTS ARE PROVIDED "AS IS" WITH ANY AND ALL FAULTS. J.P. MORGAN DOES NOT GUARANTEE THE AVAILABILITY, SEQUENCE, TIMELINESS, QUALITY, ACCURACY AND/OR THE COMPLETENESS OF THE LICENSED J.P. MORGAN INDEXES AND/OR THE PERMITTED LICENSEE PRODUCTS AND/OR ANY DATA INCLUDED THEREIN, OR OTHERWISE OBTAINED BY LICENSEE, OWNERS OF THE PERMITTED LICENSEE PRODUCTS, OR BY ANY OTHER PERSON OR ENTITY, FROM ANY USE OF THE LICENSED J.P. MORGAN INDEXES AND/OR PERMITTED LICENSEE PRODUCTS. J.P. MORGAN MAKES NO EXPRESS OR IMPLIED WARRANTIES, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE OR USE WITH RESPECT TO THE LICENSED J.P. MORGAN INDEXES OR ANY DATA INCLUDED THEREIN, OR OTHERWISE OBTAINED BY [LICENSEE], OWNERS OF THE PERMITTED LICENSEE PRODUCTS, OR BY ANY OTHER PERSON OR ENTITY, FROM ANY USE OF THE LICENSED J.P. MORGAN INDEXES AND/OR PERMITTED LICENSEE PRODUCTS. THERE ARE NO REPRESENTATIONS OR WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS DOCUMENT, IF ANY. ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE LICENSED J.P. MORGAN INDEXES AND/OR PERMITTED LICENSEE PRODUCTS, ARE DISCLAIMED INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE AND/OR AGAINST INFRINGEMENT AND/OR WARRANTIES AS TO ANY RESULTS TO BE OBTAINED BY AND/OR FROM THE USE OF THE LICENSED J.P. MORGAN INDEXES AND/OR THE USE AND/OR THE PURCHASE OF THE PERMITTED LICENSEE PRODUCTS. WITHOUT LIMITING ANY OF THE FOREGOING, IN NO EVENT SHALL J.P. MORGAN HAVE ANY LIABILITY FOR ANY SPECIAL, PUNITIVE, DIRECT, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PRINCIPAL AND/OR LOST PROFITS, EVEN IF NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES.

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Exhibit A

INSURANCE

1. **Coverage.** During the Term, Barra's parent, MSCI Inc., shall, at the minimum, obtain and maintain, and shall ensure that its subcontractors maintain, without interruption, the insurance coverages stipulated hereunder.
 - a. **Commercial Automobile Liability Insurance** covering liability arising out of the ownership, maintenance or use of all hired autos with limits of no less than USD\$1,000,000, or the applicable limit in local currency, per accident for bodily injury and property damage liability to third parties.
 - b. **Commercial General Liability Insurance** (third party liability or public liability) providing coverage for liability for bodily injury or property damage to third parties arising out of Barra's activities hereunder, including coverage for Premises and Operations, Personal/Advertising Injury, Contractual Liability, and Products/Completed Operations, with limits of no less than USD\$1,000,000 per occurrence or the equivalent thereof in local currency.
 - c. **Worker's Compensation/Employer's Liability insurance** as mandated under the worker's compensation laws of the State, Federal body or country having jurisdiction over the location of the project or operation. Employers Liability insurance shall have limits of not less than USD\$1,000,000 per accident, USD\$1,000,000 per employee by disease and USD\$1,000,000 aggregate by disease or the equivalent thereof in local currency.
 - d. **Umbrella Liability** providing coverage in excess of the insurance required above with limits of no less than USD\$2,000,000 per occurrence and USD\$2,000,000 in the aggregate or the equivalent thereof in local currency.
 - e. **Technology E&O Insurance** providing coverage for third party claims arising out of or alleging negligence, errors or omissions in the performance of technical services and/or failure of your technical services or products to perform as promised in this agreement, including without limitation, coverage for unauthorized computer access or use, failure to protect privacy, virus transmission, denial of service and infringement of intellectual property (exclusive of patent or trademark) or copyright with respect to any licenses being provided with limits of no less than \$1,000,000 each claim and \$1,000,000 in the aggregate or the equivalent in local currency.
 - f. **Cyber Risk Insurance** (Network Security and Privacy Liability Insurance) providing coverage for third party claims due to unauthorized computer access or use, including coverage for, but not limited to third party claims arising out of cyber-attack, privacy breach, virus transmission, denial of service, regulatory investigation and copyright infringement, plus first party coverage for privacy breach expenses (for forensic investigation, notification of affected parties and credit/identity monitoring), with limits of no less than \$1,000,000 each claim and \$1,000,000 in the aggregate or the equivalent in local currency. *(To the extent Cyber Risk coverage is included in the Professional Liability/E&O Insurance, and separate Cyber Risk Insurance is not maintained, confirmation of coverage for all risks of loss listed in this section is required.)*
 - g. **Employee Dishonesty/Commercial Crime Insurance** providing coverage for employee dishonesty, loss of money and securities, computer fraud and depositor's forgery with limits of not less than USD\$1,000,000 per loss naming Client as loss payee and endorsed to cover losses to Client resulting from dishonesty on the part of Barra and its personnel. Computer Fraud shall include coverage for computer systems fraud, data processing service operations, voice-initiated transfer fraud, telefacsimile fraud, and destruction of data or programs, for loss or damage arising out of or in connection with any fraudulent or dishonest acts committed by the employees of Barra, acting alone or in collusion with others, including the property and funds of others in their possession, care, custody, or control.
2. **Insurance Companies.** All insurance required above shall be carried with responsible insurance companies of recognized standing, and licensed or authorized to do business in the subject state or jurisdiction where the Services are performed, and having a rating of at least A VIII in Best's Key Rating Guide or Standard & Poors A rating (or the equivalent in the jurisdiction where Services are performed).

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3. **Waiver of Subrogation.** All Commercial General Liability, Umbrella Liability and Workers Compensation policies described above shall, be endorsed to contain a waiver of subrogation benefiting Client, its officers, directors, employees, agents and representatives unless such waiver is prohibited by law. For the avoidance of doubt, the endorsement containing the waiver of subrogation shall be included in the certificate(s) of insurance that Barra shall provide to Client upon Client's request.
4. **Evidence of Insurance; Certificate of Insurance; Other Requirements.** Barra shall deliver to Client at the inception of this Agreement and, upon Client's request, at each renewal thereafter certificates of insurance as evidence of the insurance and limits stipulated above. Client shall be named as an "Additional Insured" on all Commercial General Liability insurance policies required herein. Client shall be named as loss payee as its interest may appear on the property insurance policies of Barra when applicable.

INSTRUCTIONS FOR INSURANCE APPROVAL:

Forward the following to:

RISK MANAGEMENT,

200 E. Santa Clara St.

San Jose, CA 95113-1905

1. This form (149-7) completed;
2. Copy of face page of Contract;
3. Copy of insurance requirements included in contract.

NOTIFICATION OF CONTRACT BEING PROCESSEDDATE: 5/10/17

Service Provider: Barra Inc. subsidiary of MSCI Inc. Phone No. (415) 836 8834

Project: Risk System for the Federated Retirement System and the Police and Fire Retirement Plan.

Project Amount: \$120,000 year 1, \$150,000 years 2 & 3

Estimated
Start Date: May 15, 2017Estimated
Completion Date: May 15, 2020

Scope of Work: Risk Analytics System

Department: Office of Retirement Services

Division: Investment Group

Department

Extension 408.794.1042

Contact: Daryn Miller

COMPLIANCE WITH INSURANCE REQUIREMENTS

Comments:

Signature:


 Risk Management
Date: 6-2-17
 FOR RISK MANAGEMENT USE ONLY
 Date Forwarded to City Clerk:
COMPLIANCE WITH BOND REQUIREMENTS

Signature:

City Clerk

Date:

Contract Reference Number: LA_00220182.0

Account Number: 129892

Services Agreement

This Services Agreement (the "Agreement") is entered into between Barra, LLC (formerly known as Barra, Inc.) with offices at 2100 Milvia Street, Berkeley, CA 94704 ("Barra"), and City of San Jose of Retirement Services, with principal offices at 1737 North First Street, 6th Floor, San Jose, California 95112 United States of America ("Client"), as of 2-Jun-2017 (the "Commencement Date"). Client's affiliated entities and units expressly named in each Order Form shall be included in the definition of "Client" and shall have the same rights and obligations of Client under this Agreement, subject to any further limitations set forth in such Order Form. Notwithstanding the foregoing, the Client entity expressly identified on the last page hereof shall indemnify Barra for and remain liable for any breach of the Agreement by its affiliated entities and units. Terms defined or described in the applicable Order Form(s) shall have the same meaning when used herein.

1. Definitions

In addition to other terms defined throughout this Agreement, the following terms as used herein shall have the meanings ascribed to them below:

1.1 **"Client Data"** means Client's portfolio, fund, investment, security and related data and specifications provided to Barra by Client (or a third party on Client's behalf) in connection with the Services.

1.2 **"Derived Materials"** means any research, reports, computational results, information or material derived in whatever form from the Services, but shall specifically exclude any Client Data or other Client records, statements or account information that have not been modified by use of the Products as well as any information that Client can demonstrate as in its possession prior to the date of this agreement or derived principally from Client's own information and/or efforts.

1.3 **"Intellectual Property"** means all (i) patents, patent applications, patent disclosures and inventions (whether patentable or not), (ii) trademarks, service marks, trade dress, trade names, logos, corporate names, Internet domain names, and registrations and applications for the registration thereof together with all of the goodwill associated therewith, (iii) copyrights and copyrightable works (including computer programs and mask works) and registrations and applications thereof, (iv) trade secrets, know-how and other confidential information, (v) waivable or assignable rights of publicity, waivable or assignable moral rights and (vi) all other forms of intellectual property.

1.4 **"Locations"** means the locations of Client's offices set forth in an Order Form that are permitted to receive and use the Services.

1.5 **"Order Form"** means each order form, signed by the parties, by which Client contracts to receive Services from Barra pursuant to this Agreement. The terms of each Order Form relate only to the Services set forth in that specific Order Form.

1.6 **"Permitted Increase"** means any increase in Fees (i) equal to or less than the greater of 2% of the Fees or the standard inflation measure in the country or currency union in whose currency such Fees are denominated (e.g., in the United States, the CPI for All Urban Consumers, U.S. City Average, for all Items (1982-1984 = 100)), (ii) due to any addition of Services, Users, Locations or other enhancements or modifications for which Barra generally charges additional fees, or (iii) due to changes in the fees charged to Barra by its Vendors, provided that such increase is equal to or less than 2% in the aggregate during any calendar year.

1.7 **"Services"** means the services and deliverables set forth on an Order Form to be provided to Client hereunder.

1.8 **"Users"** means the individual employees or agents of Client that are authorized to receive and use the Services as specified in each Order Form. The individuals designated as Users by Client may

be changed pursuant to changes in personnel or responsibilities as long as the authorized number of Users specified in the applicable Order Form is not exceeded.

1.9 “Vendor” means a third party whose data, software, systems, network, facilities or other property or services is included in, or has been used in performing, the Services.

2. The Services

2.1 Barra shall perform the Services set forth in each Order Form. Client may use the Services as set forth herein solely for its internal purposes with respect to assets owned or directly managed by Client or with respect to Client’s own brokerage or trading accounts or those of Client’s brokerage or trading customers. Any change in the scope of Services must be mutually agreed in writing by the parties.

2.2 Client shall provide, or arrange for its custodian or other third party to provide, to Barra the Client Data and any other information and reasonable assistance necessary for Barra to perform the Services. Client acknowledges that timely provision of Client Data in the format and manner reasonably specified by Barra is essential to the performance of the Services. Client understands that Barra will not verify or evaluate the quality, completeness, accuracy or appropriateness of any Client Data. All Services will be based upon information provided to Barra by Client or its designee and Client or its designee is responsible for the quality, completeness, accuracy, appropriateness and timely delivery of all such information. Upon receipt of the Services, Client will promptly review all reports, data and information produced or delivered by Barra for accuracy, completeness and conformity with Client’s records.

2.3 (a) Client may not use the Services in any manner that is not expressly granted in this Agreement. All rights not specifically granted in this Agreement are expressly reserved by Barra. Without limiting the generality of the foregoing, unless expressly permitted in the Agreement or as expressly set forth in an Order Form, Client may not:

- i. publish, transfer, display or grant direct or indirect access to any Service or Derived Materials to any third party or to any person who is not a User or who is outside the permitted Locations;
- ii. duplicate all or any part of the Services;
- iii. modify, improve, manipulate, translate, reverse-engineer, decompile or disassemble any Service or any part thereof;
- iv. use the Services or Barra’s or a Vendor’s name in connection with a prospectus or the creation, issuance, offer, or promotion of a financial instrument or security;
- v. use any Service for the benefit of a third party other than with respect to third parties whose assets are managed by Client or who have brokerage or trading accounts with Client;
- vi. use any Service for the purpose of designing, modifying, or otherwise creating any service, software program, or model that performs functions similar to, or that compete with, the Services;
- vii. distribute, display, transmit, or make available to a third party any security identifiers (including but not limited to CUSIPs, ISINs or RICs) or Barra identifiers delivered with the Services without first obtaining written consent directly from the owner of such identifiers;
- viii. use any Service in a manner that would substitute for the addition of a User or a license or purchase of any portion of a Service; or
- ix. cause, permit, or authorize others to do any of the above.

(b) Notwithstanding the foregoing, Client may distribute any risk reports included in the Services to its Board members, investment committees and consultants for use in connection with reviewing and evaluating Client's investment portfolio.

2.4 This Agreement is subject to any requirements of Barra's Vendors, including those requirements which may be imposed on Barra or Client from time to time. Barra's provision of any Vendor data or services hereunder is expressly conditioned on the effectiveness and terms and conditions of Barra's agreements with its Vendors. Barra shall no longer use or make Vendor data or services available to Client upon termination of the license granted by the relevant Vendor. Client acknowledges that it may be required under the terms or conditions of certain agreements between Barra and its Vendors to enter into a direct agreement with the Vendor for receipt of data or services provided by such Vendor to Barra. Barra shall, if known to Barra through written notice from such Vendors, notify Client of any such direct agreements required by a Vendor. Any direct licensing fees required by a Vendor are the sole responsibility of Client and may not be included in fees assessed by Barra for the pass-through of data or services from such Vendors under this Agreement.

2.5 Barra may change its Vendors and the content, format or means of delivery of the Services. Barra shall notify Client within ten (10) business days of any such change to the extent that the change materially and adversely affects the Services (a "Material Change Notice"), in which case Client shall have the rights described in Section 4.2 below.

2.6 The data and information that Client may access or receive through the Services may include securities (or other financial instruments) pricing data, descriptive data, fundamental data, econometric data, analytical data and evaluations. "Evaluations" may include mathematically derived approximations, such as estimated value, risk forecasts, factor exposures, asset modeling and instrument proxying. Evaluations are not, and are not intended to be, the prices, transaction terms or other characteristics of a security or other financial instrument or terms of conditions under which an investment can be purchased or sold. Evaluations are based upon certain market assumptions and evaluation methodologies and may not conform to trading prices or terms or other information available from third parties. Certain Evaluations are sometimes referred to as "pricing services", "prices", "valuations", "values" or "forecasts" solely for the convenience of reference. Evaluations do not represent an offer or a recommendation to purchase or sell any security or other financial instrument.

2.7 Client acknowledges the Services should only be used by persons having professional experience in matters relating to investment activity. Client has full responsibility for any decisions or analyses in which any element of the Services may be used or relied upon, and acknowledges it exercises its own independent judgment in its selection of any of the Services, its selection of the use or intended use of such, and any results obtained thereby.

2.8 The Services do not constitute, and Barra and Client each agree that they do not intend or desire the Service to constitute, investment management, investment advisory, broker-dealer, supervision, accounting, pricing or other regulated or licensed services or activities. Client acknowledges that the Services are only intended to act as a basic market information and intelligence tool and none of the information and material forming any part of the Services (including, but not limited to, any data, report, valuation, proxy, methodology, model, optimization, risk analysis, calculation or other information contained or technique used therein) is intended to constitute investment advice or a recommendation to make (or refrain from making) any kind of investment decision.

2.9 Client will not recruit or solicit Barra's personnel or employees involved in the provision of the Services until the earlier of one year after (i) the termination of this Agreement or (ii) that person is no longer employed by Barra.

2.10 Upon Barra's reasonable request to be made no more frequently than twice during any consecutive twelve (12) month period, an authorized officer of Client shall certify in writing whether Client is in compliance with its obligations and the restrictions set forth in this Agreement. Barra or its representative may, on giving Client ten (10) business days prior written notice, audit the records and systems of Client to verify compliance with this Agreement. A shorter notice will be allowed, in Barra's sole discretion, where Barra in good faith suspects a breach or threatened breach of the Agreement by Client. Barra retains the right to audit Client for one (1) year after termination or expiration of this Agreement. Client shall cooperate with any reasonable requests of Barra to facilitate any such audit. Unless otherwise agreed to by the parties, the audit shall be conducted on Client's premises, shall take place during Client's business hours and shall not unreasonably interfere with Client's activities. Barra shall bear the cost of the audit; provided, however, that in the event the audit reveals an underpayment to Barra in excess of five percent (5%) or a material breach by Client of Section 2.3. Client shall reimburse Barra the costs of the audit, including reasonable attorney fees and costs, if any. In the event the audit discloses an underpayment Client shall also immediately pay the amount of such underpayment to Barra. In the event the audit discloses an over-payment Barra shall also immediately pay the amount of such over-payment to Client.

2.11 Client agrees to use the Services in accordance with all applicable laws, rules and regulations. Except as expressly set forth herein, Client shall have no other rights or license of any kind with respect to the Services.

3. Fees and Payment

3.1 Client shall pay to Barra all fees, expenses and charges set forth in each Order Form (the "Fees"). The Fees are subject to change by Barra at any time upon thirty (30) days' written notice to Client; provided that during the Initial Term of any Order Form the Fees shall not change unless due to (i) any addition of Services, Users, Locations, or other enhancements to the Services requested by Client for which Barra generally charges additional fees, or (ii) changes in the fees charged to Barra by its Vendors and provided further that if the Initial Term exceeds one (1) year Barra may increase the Fees after the first year of such Initial Term as long as such increase is a Permitted Increase.

3.2 All Fees are due and payable thirty (30) days after receipt of an invoice therefor. Past due amounts bear interest at a rate of 1.5% per month (or the highest rate allowed by law, whichever is less) beginning from the date first due until paid in full. Client shall pay all sales, VAT and other taxes, however designated or levied, based on the Fees, Client's use of the Services or otherwise arising in connection with the Agreement. Barra shall be solely responsible for taxes based on its income. Client shall be liable for all reasonable costs relating to or arising out of the collection of any delinquent payment, including, but not limited to, any and all of Barra's collection fees, reasonable attorneys' fees, court costs and expenses.

4. Term and Termination

4.1 This Agreement shall be effective from the Commencement Date until terminated pursuant to this Article 4. Any termination of this Agreement shall terminate all Order Forms hereunder. Each Order Form shall be effective from the date specified therein until the end of the Initial Term specified therein unless this Agreement or the applicable Order Form is terminated pursuant to this Article 4 prior to the end of such Initial Term. Thereafter the term of each Order Form shall be automatically extended for consecutive Renewal Periods specified therein unless written notice terminating the Order Form is given by either party not less than thirty (30) days before the end of the Initial Term or any Renewal Period or unless this Agreement or the applicable Order Form is terminated pursuant to this Article 4 prior to the end of such Initial Term or Renewal Period.

4.2 Client may, upon written notice to Barra, terminate any Service within thirty (30) days after receipt of notice of an increase in the fees for such Service under Section 3.1 or 9.1 unless such increase is a Permitted Increase. If after thirty (30) days no such Client notice is received by Barra, Client

will be deemed to have accepted all changes in the fees pursuant to Section 3.1. In addition, Client may, upon written notice to Barra, terminate any Service within thirty (30) days after receipt of a Material Change Notice from Barra regarding such Service. If and to the extent timely notice of termination is given by Client as a result of an increase in fees, Client shall not be responsible for any increase in fees.

4.3 Either party may terminate the Agreement or any applicable Order Form if the other party materially breaches the Agreement or such Order Form and fails to cure the breach within thirty (30) days after receiving written notice specifying the breach. Consent to extend the cure period shall not be unreasonably withheld if the breaching party is endeavoring in good faith to cure the breach. Notwithstanding the foregoing, Barra may in its discretion terminate the Agreement immediately, and Client shall not be afforded the opportunity to cure the breach, if Client breaches any of the provisions contained in Section 2.3, or Articles 7 or 8, or upon a willful misappropriation, infringement or violation of Barra's or a Vendor's intellectual property.

4.4 Upon expiration or termination of all Order Forms hereunder, this Agreement shall automatically terminate.

4.5 Upon any termination or expiration of this Agreement (i) except as required by applicable law, rule or regulation the Client shall return to Barra or certify as destroyed all copies of Barra Confidential Information, (ii) and the parties' rights and obligations under Sections 2.9, 2.10, this Section 4.5, and Articles 5, 6, 7, 8 and 9 and any payment obligations that accrued before termination, shall survive.

5. Disclaimer of Warranties

BARRA AND THE VENDORS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED REGARDING THE SERVICES (INCLUDING ANY DATA AND EVALUATIONS CONTAINED THEREIN AND ANY RESULTS TO BE OBTAINED FROM THE USE THEREOF), INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, ACCURACY, TIMELINESS, COMPLETENESS, ORIGINALITY, NONINFRINGEMENT AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING AND USAGE OF TRADE OR THEIR EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION. THE SERVICES ARE PROVIDED "AS IS."

Neither Barra nor any of the Vendors warrant that the Services shall meet the needs of Client or resolve any problems encountered by Client. Barra makes no representation or guaranty that the securities or other financial instruments identified by the Services shall perform in a manner that is consistent with their historical characteristics or assure the profitability or utility of forecasts or expected values.

6. Limitation of Liability; Indemnification

6.1 Under no circumstances shall Barra be liable to Client under any contract, tort, or other legal or equitable theory for (i) any lost profits, savings, data or use; (ii) any claim or action against Client by a third party; (iii) any indirect, incidental, special, consequential, cover, or punitive damages or costs; or (iv) any damages resulting from a cause or condition beyond the reasonable control of Barra. Without limiting the foregoing sentence, the maximum liability of Barra, and Client's exclusive remedy, under any contract, tort, or other legal or equitable theory for all claims, damages or other amounts in the aggregate, regardless of the form of the action, shall be the amount of fees paid under the applicable Order Form(s) during the twelve (12) month period preceding the date the first such claims, damages or other amounts were incurred. The limitations set forth in this Section 6.1 shall apply whether or not Barra has been advised of or could have foreseen the possibility of such damages. Client shall not bring any action, regardless of form, arising out of or in connection with the Agreement against Barra more than one (1)

year after the cause of action has accrued. Client acknowledges that Vendors have no responsibility or liability whatsoever to Client under this Agreement.

6.2 Except as set forth in Section 6.3, below, Client is solely responsible for using the Services, for itself or in providing services to its own clients, and for ensuring the accuracy and adequacy of the results of such use and services. Client assumes the entire risk of any use made of the Services and shall have full responsibility for any decisions and/or analyses in which any element of the Services may be used or relied upon. Any reliance by Client or others upon the Services will not diminish that responsibility. Accordingly, and except as set forth in Section 6.3, below, neither Barra nor any Vendor (nor any of their respective affiliates, directors, officers, employees or agents) shall be liable for, and Client, at its expense, shall indemnify to the maximum extent permissible by law, defend and hold Barra and the Vendors (and their respective affiliates, directors, officers, employees and agents) harmless from and against any and all claims, liabilities, losses and expenses (including legal, accounting and other professional fees and expenses) in connection with any claim or action by any third party arising out of or relating to the use of the Services, any portion thereof, or relating to any decisions or analyses arising out of such use. Client's responsibilities under this Section 6.2 do not supersede Barra's responsibilities under Section 6.3 below.

6.3 (a) Barra, at its expense, shall indemnify to the maximum extent permissible by law, defend and hold Client and its affiliates, directors, officers, employees and agents (collectively, the "Client Indemnified Parties") harmless from and against any claim or action threatened or brought against any Client Indemnified Party based on or arising out of any and all claims, liabilities, losses and expenses (including legal, accounting and other professional fees and expenses) in connection with any claim or action by any third party that the Services constitute an infringement, violation, contravention or breach of any U.S. patent, copyright or trademark or constitutes the misappropriation of a U.S. trade secret.

(b) Without limiting the foregoing, and notwithstanding anything to the contrary in this Agreement, if any Service becomes, or in Barra's reasonable opinion is likely to become, the subject of a claim or action of infringement, contravention or breach of any patent, copyright or trademark or of misappropriation of a trade secret, then Barra shall have the right, in its sole discretion, to either: (i) procure for Client the right to continue using such Service as contemplated hereunder; (ii) modify such Service to render same non-infringing; (iii) replace such Service with an equally suitable, functionally equivalent non-infringing Service; or (iv) immediately terminate, in Barra's discretion, this Agreement or the relevant Order Form or portion thereof and refund to Client any prepaid Fees paid for the affected Services, prorated from the date they became unusable; provided, however, if Client reasonably believes the modified or replaced Service(s) under clause (ii) or (iii) above are materially , Client shall have the right to terminate this Agreement or the relevant Order Form or portion thereof and Barra shall refund to Client any prepaid Fees paid for the affected Services, prorated from the date they became unusable.

(c) Notwithstanding anything to the contrary in this Agreement, Barra shall have no liability or obligation to Client under this Section 6.3 to the extent any such claim or action arises from or in connection with: (i) Client's modification of the Services (provided that Barra has not agreed or consented to such modifications); (ii) any Client Data; (iii) compliance by Barra with Client's designs, specifications or instructions; or (iv) Client's use of the Services other than as set forth in this Agreement.

7. Confidential Information

7.1 "Confidential Information" collectively means (i) with respect to Client, whether disclosed in writing, orally or otherwise, all information concerning Client and Client Data; (ii) with

respect to Barra, whether disclosed in writing, orally or otherwise, the Services, information concerning current and future Barra products, services, and pricing, the terms of this Agreement, any account login and other related information required to access and use the Services or any website, and the data of any Vendor; and (iii) with respect to either party, any other written information or material that is clearly marked as confidential at the time of its disclosure. Excluded from the foregoing definition of "Confidential Information" shall be information and materials that (a) are or become a part of the public domain through no fault of the receiving party; (b) can be affirmatively demonstrated in documentary form to have been in the receiving party's lawful possession prior to the disclosure and had not been obtained by the receiving party, directly or indirectly, from the disclosing party or any other party who is bound, directly or indirectly, by an obligation or duty of confidentiality to the disclosing party; (c) can be affirmatively demonstrated in documentary form to have been lawfully disclosed to the receiving party by a third party who is not and/or does not represent or act for a person or entity who is bound, directly or indirectly, by an obligation or duty of confidentiality to the disclosing party; (d) can be affirmatively demonstrated in documentary form to have been independently developed by the receiving party without use of any of the disclosing party's Confidential Information; or (e) are required to be disclosed pursuant to a duly served legal process or a requirement of a governmental agency, regulation or law, in which case the receiving party shall, prior to any disclosure pursuant to such legal process or requirement and to the extent permitted in connection with such legal process or requirement of governmental agency, regulation or law, give prompt written notice to the disclosing party and the disclosing party may, in its sole discretion and with the reasonable cooperation of the receiving party (provided that such cooperation does not require any expense by the receiving party) attempt to quash or abate such legal process or compliance or to seek a protective order, but at the expense of the disclosing party. Notwithstanding anything herein to the contrary, basic information regarding number of users and locations of any Vendor data or services used by Client in connection with the Services may be disclosed to Vendors as part of Barra's required reporting to such Vendors.

7.2 Each party shall hold in strict confidence all Confidential Information disclosed to it, and (i) neither party shall alone or by directing, cooperating with, or acting in concert with others, use, disclose, publish, disseminate, or otherwise make available any aspect of the Confidential Information of the other except as permitted by the Agreement; and (ii) each party shall use the same degree of care and security as such party takes with its own comparable confidential information and materials, that in no event shall be less than the care that would be exercised by a reasonably prudent business under similar circumstances, and that, at a minimum, shall require such party to obligate all users and other persons having access to the Confidential Information of the other to enter into standard confidentiality agreements with protections substantially similar to those set forth in this Article 7.

7.3 Each party agrees that remedies at law are inadequate to protect the other or the Vendors in the event of a violation of a party's or Vendor's intellectual property or confidentiality rights, and that in addition to any other remedies which may be available to the non-breaching party or Vendor, the non-breaching party or the Vendors may seek injunctive and other equitable relief for breach of the terms of the Agreement.

8. Proprietary Rights

Subject to Client's ownership of the Client Data, Client acknowledges that Barra and/or the Vendors are the exclusive owners of all Intellectual Property and other proprietary rights throughout the world in and to the Services (including, without limitation, all concepts, methodologies, processes, software, systems, analytics, models, layouts, data, approaches, templates and formats contained in, used, developed or discovered by Barra to prepare or deliver the Services) and all modifications or derivatives thereof and no ownership interest thereto is conveyed to Client. Client will take reasonable measures to protect the proprietary rights of Barra and the Vendors in the Services. The Services may include the trademarks and other proprietary notices of Barra and/or the Vendors. Client shall not remove any trademark, copyright,

trade secret, or other proprietary notice from any of the Services or other Confidential Information, whether belonging to Barra or a Vendor.

9. Miscellaneous

9.1 Neither party may assign any of its rights or obligations under the Agreement, by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign the Agreement, in whole or in part, without the other party's consent, to (a) any entity which controls, or is controlled by, or is under common control with the assigning party, (b) any entity resulting from any merger or consolidation with the assigning party, or (c) any person or entity which acquires substantially all of the assets of the assigning party as a going concern; provided that (x) if either party hereto desires to make any assignment pursuant to this Section 9.1, it shall first so notify the other in writing and in the event of an assignment by Client, Barra shall have the right to reasonably refuse such assignment for competitive reasons in its absolute discretion, and (y) Barra may change the Fees for any Services based on changes in the types and locations of use, and in the number of users, assets under management or any other factors upon which Barra bases its fees for the Services, subject to Client's right to terminate this Agreement in accordance with Section 4.2, above. For purposes of clarification, the parties hereto acknowledge and agree that a change in the Fees pursuant to this Section 9.1 shall not constitute a Permitted Increase.

9.2 All notices required or permitted to be given by one party to the other under the terms of the Agreement will be sufficient if given via hand delivery or if sent via first class mail, certified mail or recognized overnight delivery service to the address of the party appearing in the applicable Order Form, or if not so set forth, to the address for the party on the last page of the Agreement, or by facsimile or electronic mail if followed by first class mail. For purposes of this Agreement, written notice shall be deemed to be given (i) three (3) days after deposit in first class mail or certified mail; (ii) one (1) day after sent via recognized overnight delivery service; and (iii) upon receipt if hand delivered or sent via facsimile or electronic mail. All notices required or permitted to be given by Barra under the Agreement will be sent to Client's Business Contact specified in the applicable Order Form. All invoices shall be sent to Client's Billing Contact specified in the applicable Order Form. All notices required or permitted to be given by Client under the Agreement shall be sent to Barra's Business Contact specified in the applicable Order Form with a copy to Barra's Legal Contact. Client shall immediately notify Barra in writing if there is any change in the identity of the Business Contact or Billing Contact. If Client fails to provide such notice to Barra, all notices sent to the attention of the Business Contact named in the applicable Order Form shall be deemed sufficient under the terms of the Agreement, whether or not such notice is actually received by Client.

9.3 Barra and Client are independent contractors and nothing herein shall be construed to create a partnership, joint venture, agency or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment-related taxes, and neither party is granted any express or implied authority by the other to assume or create any obligation or responsibility on behalf of or in the name of the other party, or to bind the other party in any manner or thing whatsoever.

9.4 Each party has read the Agreement and agrees to be bound by its terms. The Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous communications or representations relating hereto whether written or oral. No modification or waiver of the Agreement shall be binding unless it is written and signed by both parties.

9.5 The waiver by either party of any breach by the other party of any of its obligations hereunder or the failure of either party to exercise any of its rights in respect of such a breach shall not be deemed a waiver of any previous or subsequent breach.

9.6 The section headings appearing in the Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any such section nor in any way affect the Agreement.

9.7 This Agreement shall be governed by, and construed in accordance with, the laws of the State of California without regard to its conflict or choice of laws principles. The parties hereby consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in the State of California, City of San Jose for the purposes of adjudicating any matter arising from or in connection with this Agreement.

9.8 Should any litigation or arbitration be commenced (including any proceedings in a bankruptcy court) between the Parties hereto or their representatives concerning any provision of the Agreement or the rights and duties of any person or entity hereunder, the prevailing Party in such proceeding shall be entitled, in addition to such other relief as may be granted, its reasonable attorneys' and court costs resulting from or related to such litigation or arbitration.

9.9 If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision will be deemed modified so as to have the most nearly similar permissible economic or other effect in order to be valid and enforceable, or, if no such modification is possible, then the Agreement shall be enforced only to the extent that it is not invalid or is not otherwise unenforceable and all other provisions of the Agreement shall remain in full force and effect.

9.10 Each Vendor is a third party beneficiary hereunder to the extent required to enable such Vendor to enforce its proprietary rights in the Services, the applicable use restrictions, and the disclaimers, liability limitations and other provisions that benefit the Vendors herein. Except for the provisions of the prior sentence and as set forth in the indemnification provisions, nothing in the Agreement shall create any legal right or benefit for a third party.

9.11 Barra shall maintain insurance covering its activities under this Agreement as specified on the attached Exhibit A.

9.12 The Agreement may be executed in one or more counterparts, each of which will be deemed an original, but collectively will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

BARRA, LLC

**CITY OF SAN JOSE OFFICE OF
RETIREMENT SERVICES**

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Alex Gill
Executive Director

Roberto Peña

Chief Executive Officer

Principal Place of Business

1737 North First Street
6th Floor
San Jose, 95112 California United States of America

Exhibit A**INSURANCE**

1. **Coverage.** During the Term, Barra's parent, MSCI Inc., shall, at the minimum, obtain and maintain, and shall ensure that its subcontractors maintain, without interruption, the insurance coverages stipulated hereunder.
 - a. **Commercial Automobile Liability Insurance** covering liability arising out of the ownership, maintenance or use of all hired autos with limits of no less than USD\$1,000,000, or the applicable limit in local currency, per accident for bodily injury and property damage liability to third parties.
 - b. **Commercial General Liability Insurance** (third party liability or public liability) providing coverage for liability for bodily injury or property damage to third parties arising out of Barra's activities hereunder, including coverage for Premises and Operations, Personal/Advertising Injury, Contractual Liability, and Products/Completed Operations, with limits of no less than USD\$1,000,000 per occurrence or the equivalent thereof in local currency.
 - c. **Worker's Compensation/Employer's Liability insurance** as mandated under the worker's compensation laws of the State, Federal body or country having jurisdiction over the location of the project or operation. Employers Liability insurance shall have limits of not less than USD\$1,000,000 per accident, USD\$1,000,000 per employee by disease and USD\$1,000,000 aggregate by disease or the equivalent thereof in local currency.
 - d. **Umbrella Liability** providing coverage in excess of the insurance required above with limits of no less than USD\$2,000,000 per occurrence and USD\$2,000,000 in the aggregate or the equivalent thereof in local currency.
 - e. **Technology E&O Insurance** providing coverage for third party claims arising out of or alleging negligence, errors or omissions in the performance of technical services and/or failure of your technical services or products to perform as promised in this agreement, including without limitation, coverage for unauthorized computer access or use, failure to protect privacy, virus transmission, denial of service and infringement of intellectual property (exclusive of patent or trademark) or copyright with respect to any licenses being provided with limits of no less than \$1,000,000 each claim and \$1,000,000 in the aggregate or the equivalent in local currency.
 - f. **Cyber Risk Insurance** (Network Security and Privacy Liability Insurance) providing coverage for third party claims due to unauthorized computer access or use, including coverage for, but not limited to third party claims arising out of cyber-attack, privacy breach, virus transmission, denial of service, regulatory investigation and copyright infringement, plus first party coverage for privacy breach expenses (for forensic investigation, notification of affected parties and credit/identity monitoring), with limits of no less than \$1,000,000 each claim and \$1,000,000 in the aggregate or the equivalent in local currency. *(To the extent Cyber Risk coverage is included in the Professional Liability/E&O Insurance, and separate Cyber Risk Insurance is not maintained, confirmation of coverage for all risks of loss listed in this section is required.)*
 - g. **Employee Dishonesty/Commercial Crime Insurance** providing coverage for employee dishonesty, loss of money and securities, computer fraud and depositor's forgery with limits of not less than USD\$1,000,000 per loss naming Client as loss payee and endorsed to cover losses to Client resulting from dishonesty on the part of Barra and its personnel. Computer Fraud shall include coverage for computer systems fraud, data processing service operations, voice-initiated transfer fraud, telefacsimile fraud, and destruction of data or programs, for loss or damage arising out of or in connection with any fraudulent or dishonest acts committed by the employees of Barra, acting alone or in collusion with others, including the property and funds of others in their possession, care, custody, or control.
2. **Insurance Companies.** All insurance required above shall be carried with responsible insurance companies of recognized standing, and licensed or authorized to do business in the subject state or jurisdiction where

the Services are performed, and having a rating of at least A VIII in Best's Key Rating Guide or Standard & Poors A rating (or the equivalent in the jurisdiction where Services are performed).

3. **Waiver of Subrogation.** All Commercial General Liability, Umbrella Liability and Workers Compensation policies described above shall, be endorsed to contain a waiver of subrogation benefiting Client, its officers, directors, employees, agents and representatives unless such waiver is prohibited by law. For the avoidance of doubt, the endorsement containing the waiver of subrogation shall be included in the certificate(s) of insurance that Barra shall provide to Client upon Client's request.
4. **Evidence of Insurance; Certificate of Insurance; Other Requirements.** Barra shall deliver to Client at the inception of this Agreement and, upon Client's request, at each renewal thereafter certificates of insurance as evidence of the insurance and limits stipulated above. Client shall be named as an "Additional Insured" on all Commercial General Liability insurance policies required herein. Client shall be named as loss payee as its interest may appear on the property insurance policies of Barra when applicable.

Contract Reference Number: OF_00220183.0
Account Number: 129892

Order Form for Services

This Order Form for Services ("Order Form") is entered into as of 1-Jun-2017, by and between Barra, LLC (formerly known as Barra, Inc.) with principal offices at 2100 Milvia Street, Berkeley, California, U.S.A. 94704, and the Client identified below ("Client"). This Order Form shall be governed by the Services Agreement identified below, including any amendments, exhibits or addenda attached thereto. Terms defined in the Services Agreement shall have the same meanings when used herein. To the extent a provision in this Order Form conflicts with a provision contained in the Services Agreement, the provision contained in this Order Form shall control with respect to the Services provided hereunder.

For the purposes of this Order Form, references to Barra in the License Agreement and this Order Form shall mean Barra, LLC.

Notwithstanding anything to the contrary, it is acknowledged and agreed that Barra, LLC is entering into this Order Form solely with respect to, and responsible for, the Products received by Client hereunder within the United States ("US License").

1. **CLIENT.** For purposes of this Order Form, "Client" shall mean only the following specific department(s) or unit(s) of the following entity with the understanding that other departments or units located at the same Location shall not be entitled to receive or use the Services pursuant to this Order Form:

City of San Jose Office of Retirement Services, for the San Jose Police & Fire Department Retirement Plan and San Jose Federated Employees' Retirement System

2. **LOCATION(S) and USERS.** For purposes of this Order Form, "Locations" shall mean only the Client address(es) specified below where the Services will be provided and where the Services are authorized for use:

1737 North First Street
6th Floor
San Jose, California 95112
United States of America

3. **TERM.**

Start Date: 2-Jun-2017	Initial Term: 1-Jun-2018	Renewal Period: One (1) year
-------------------------------	---------------------------------	-------------------------------------

4. **GOVERNING LICENSE AGREEMENT.** Services Agreement between Barra and Client, dated 2-Jun-2017 (Barra internal reference: LA_00220182.0).

- 5.

Authorized Number of Users	Named User(s)
5	

6. **SERVICES.** Barra will provide the following Services to Client:

☒ Set-up
☒ Data Processing and Reporting Services (as more particularly described on Exhibit A hereto)

Contract Reference Number: OF_00220183.0
Account Number: 129892

7. **FEES.** "Fees" shall mean the amounts specified below and any other amounts required by additional agreements or addenda hereto which the parties agree to in writing. All Fees shall be paid annually in advance.

One-time Set-up Fee: Please refer to OF_00219193.0

Services Recurring Annual Subscription Fee, commencing on the Start Date specified above: Please refer to OF_00219193.0

8. **NOTES.**

Set-up Services


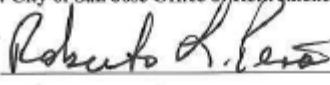
Barra shall perform set-up Services commencing on the Start Date specified above, and during the set-up period the parties shall cooperate in good faith to implement the Services, including performing the following set-up tasks as necessary:

- Specify Client portfolios
- Specify Client instruments
- Arrange for delivery of Client Data
- Define the Client Data workflow: collection, loading, processing and production of Client Data
- Establish reporting and/or processing specifications
- Evaluate and approve instrument coverage
- Evaluate and approve instrument analytics/identify third party data requirements
- Specify analytics parameters, including standard proxy criteria in absence of instrument terms and conditions data

9. **CONTACTS.** Personal information, such as business contact information, of Client's personnel will be used by MSCI Inc. and its subsidiaries and affiliates (together, "MSCI Group") to provide the products and services hereunder, to provide information about MSCI Group's future products and services, and to manage the business relationship between MSCI Group and Client. Such information will be stored and processed globally in MSCI Group's internal systems and/or third-party systems hosted on MSCI Group's behalf, including MSCI Group's contact databases and finance systems. MSCI Group will adhere to all confidentiality requirements set forth in the Services Agreement and maintain an information security program, which includes physical, technical and administrative / organizational measures, designed to protect data against unauthorized use or disclosure.

Client's Business Contact	Client's Billing Contact	Client's Legal/Contract Administrator
Name: Daryn Miller	Name:	Name:
Address (if different from first Location):	Address (if different from first Location):	Address (if different from first Location):
Phone: (408) 794-1042	Phone:	Phone:
Fax:	Fax:	Fax:

Barra's Business Contact	Barra's Billing Contact	Barra's Legal Contact
Name: Bryan Murphy	Attn: Revenue Operations Manager	Attn: General Counsel
Address: 101 California Street Suite 910 San Francisco, CA 94111 United States	2100 Milvia Street Berkeley, CA 94704-1113	2100 Milvia Street Berkeley, CA 94704-1113
Phone: +1 415 836-8834	Phone:	Phone:
Fax:	Fax:	Fax:

		Contract Reference Number: OF_00220183.0 Account Number: 129892	
Barra, LLC		CLIENT: City of San Jose Office of Retirement Services	
By: 	By: 		
Name: <u>Alex Gil</u> Executive Director	Name: <u>Roberto Peña</u>		
Title: _____	Title: <u>Chief Executive Officer</u>		

3

Contract Reference Number: OF_00220183.0
Account Number: 129892

Exhibit A: Data Processing and Reporting Services Description

General

- The Services will include data processing and reporting as described herein for up to two City of San Jose Retirement Services plans:

- San Jose Police and Fire Department Retirement Plan
- San Jose Federated City Employees' Retirement System

Changes to the number or scope of the plans, or the design of the reports, shall be treated as a Change Request as described below.

Client Responsibilities

- Client shall provide the following data (or its custodians, asset managers or other third parties to provide the data) summarized below:

Table 1: Data Collection / Process

#	Data Source	Type	Frequency	Delivery and Process Method
1	State Street Custodian (one consolidated feed)	Portfolio holdings and terms and conditions	Monthly	SFTP to MSCI Leveraging MSCI's existing State Street file format and data transfer process
2	Client (one consolidated feed)	Portfolio holdings and terms and conditions	Monthly	Standard B1 format file + MSCI SFTP workflow
3	Client's 3 rd party data providers (up to 3 sources each sending a single consolidated feed. Additional feeds can be contracted at \$5,000.00 USD per annum, subject to the execution of an appropriate order form related thereto.)	Portfolio holdings and terms and conditions	Monthly	Standard B1 format file + MSCI SFTP workflow

- Client Data must be delivered to Barra by the 13th business day of each month (the "Client Data Delivery Date"). Failure to provide Client Data to Barra by the Client Data Delivery Date may result in a delay in Barra's provision of the affected Services.
- Client acknowledges receipt and understanding of the Barra User Guides, Analytics Guides and similar documentation that sets forth the methodologies and techniques used to perform the Services.

Barra Responsibilities

- For each data defined in Table 1, Barra will collect, translate and import into BarraOne. Barra's primary holdings loading method is to load the holdings level data directly from the data provider (client, custodians, asset managers or other third parties). However, in some cases, depending on the type of portfolio, and assets held within that portfolio, the prescribed portfolio loading method is to use either the BarraOne hedge fund model, mutual fund model, or through the use of an index or etf proxies. When the hedge fund model or mutual fund

Contract Reference Number: OF_00220183.0
Account Number: 129892

model is the portfolio loading method, the Client would need to send Barra the returns and characteristics for the fund(s) whereby Barra will load the returns and characteristics to BarraOne.

2. On a monthly basis, Barra will provide data loading reconciliation and asset remediation covering the following:
 - a. Rejected asset and proxy rule review - Barra will proactively investigate rejected assets, and will work with internal Barra teams, the client, or third party, to remediate the rejected holdings. Barra will also review on an ongoing basis the definition and application of the client proxy rules for rejected holdings.
 - b. Market Value review at the portfolio level- Barra will proactively investigate market value differences at the portfolio level. Barra will review those individual portfolios whose market values (summed portfolio market values provided within the Client's holdings file) have a difference of >5% from the calculated Barra market value. For those differences >5% Barra will explain the cause of the difference (reviewing individual holdings if necessary), and will work with internal Barra teams, the client, or client's third party, to remediate these differences if necessary.
 - c. Rejected asset and market value tracking. In addition to reviewing the rejects and market value differences, Barra will monitor the changes in both rejects and market values over time in order to identify any trends in coverage. Barra will provide the Client with a report highlighting the rejected instruments, the applied proxies, and the portfolio level market value differences.
3. Barra will reasonably endeavour to deliver the reconciliation analysis within 10 business days business days after the Client Data Delivery Date of all required data, provided that Barra has timely received the necessary Client Data.
4. Barra will reasonably endeavour to deliver the Reports (defined in Table 2) within 10 business days after the Client Data Delivery Date of all required data, provided that Barra has timely received the necessary Client Data.

Table 2: Report Deliverable

#	Report Package	Frequency	Format
1	Standard Risk Report Package <ol style="list-style-type: none"> a. Total Plan template b. Equity Node template c. Equity Manager template d. Fixed Income Node template e. Fixed Income Manager template 	Monthly	pdf

5. Barra will provide telephone support on a 24x5 basis. Barra will confirm receipt of a support request within 24 hours and thereafter use reasonable efforts to resolve the issue.

Change Requests

1. If Client desires to modify the Services, such as including additional or different portfolios, funds, managers, data sources and existing data source formats, instrument types, or reports or making changes to the content or design or frequency or delivery of the Reports, Client shall notify Barra of the change request at least thirty (30) business days in advance, and Barra shall respond within ten (10) business days whether and when the change request can be accommodated.
2. Change requests that Barra reasonably determines are not immaterial shall be treated as consulting projects and charged on a time-and-materials basis pursuant to a separate Order Form signed by the parties.

INSTRUCTIONS FOR INSURANCE APPROVAL:

Forward the following to:

RISK MANAGEMENT

200 E. Santa Clara St.

San Jose, CA 95113-1905

1. This form (149-7) completed;
2. Copy of face page of Contract;
3. Copy of insurance requirements included in contract.

NOTIFICATION OF CONTRACT BEING PROCESSEDDATE: 5/10/17

Service Provider: Barra Inc. subsidiary of MSCI Inc. Phone No. (415) 836 8834

Project: Risk System for the Federated Retirement System and the Police and Fire Retirement Plan.

Project Amount: \$120,000 year 1, \$150,000 years 2 & 3

Estimated
Start Date: May 15, 2017Estimated
Completion Date: May 15, 2020

Scope of Work: Risk Analytics System

Department: Office of Retirement Services

Division: Investment Group

Department

Extension 408.794.1042

Contact: Daryn Miller

COMPLIANCE WITH INSURANCE REQUIREMENTS

Comments:


Signature:


 Risk Management
Date: 6-2-17
 FOR RISK MANAGEMENT USE ONLY
 Date Forwarded to City Clerk:
COMPLIANCE WITH BOND REQUIREMENTS

Signature:

City Clerk

Date:

CONTRACT/AGREEMENT COVER SHEET			
TO: <input type="checkbox"/> CITY MANAGER (CM signature required)		<input checked="" type="checkbox"/> New Contract	
<input checked="" type="checkbox"/> CITY CLERK (City Manager signature not required)		<input type="checkbox"/> Amendment/Change Order (List #) 662520-0	
VIS Code (if known) 		Original Contract CHAD # if known 	
Basic Information	Name of Contractor: Barra LLC subsidiary of MSCl		
	Business Tax License # <small><-click</small> 	Phone number (415) 836-8834	Business Contact Email Address bryan.p.murphy@msci.com
	Term of THIS agreement:		Amount of contract now: Different than the original? Yes <input type="checkbox"/>
	Start date: 5/15/2017	End date: 5/15/20	\$ 120,000.00
	Term of ORIGINAL agreement:		Amount of Original Contract:
Dept. Info	RETROACTIVE Agreement?		
	<input type="checkbox"/> Yes <input type="checkbox"/> No Please Explain: 		
	Department: Retirement <small><-Dropdown Box</small>		
	Dept. Contact Name: Sue Griffiths		
	Department Contact Phone: (408) 794-1048		
Detailed Information	Council Date: 		
	Council Item #: 		
	Resolution #: 		
	Form 700 Required? Yes <input type="checkbox"/> No <input type="checkbox"/> <small>Check box if YES</small>		
	Description of contract: (What work will the contractor accomplish? Be Specific.)		
<div style="border: 1px solid black; padding: 5px;"> <small>300 Character Max</small> Risk Analytics System - Federated Retirement System and the Police and Fire Retirement Plan - \$120,000 yr \$150,000 yrs 2 & 3 </div>			
<input type="checkbox"/> RFP <input type="checkbox"/> RFQ <input type="checkbox"/> Sole Source? <input type="checkbox"/> RFB Date: 			
Description of selection process below: 			
Vendor Address & Notes			
<div style="border: 1px solid black; padding: 5px;"> <small>MSCI Inc and each of its Subsidiaries 7 World Trade Center 250 Greenwich Street New York NY 10007 USA</small> </div>			
CONTRACT & INSURANCE VERIFICATION (MANDATORY) Please initial and provide description of insurance for ALL contracts valued \$269,999 and less. Risk Management will verify insurance for contracts valued at \$270,000 and above.			
<div style="border: 1px solid black; padding: 5px;"> sign here </div>			
<small>I attest that the insurance verification of this contract have been met and all information is correct including policy limits, policy terms and City of San Jose named as "Additional Insured." If this contract should be exempt from insurance requirements, please note why in the box below. Contract will not be processed if needed insurance requirements or insurance proof is missing.</small>			
Description of Insurance exemption 			
Approvals	Coordination:		
	<input type="checkbox"/> City Attorney's Office (Required)		
	<input type="checkbox"/> Human Resources <input type="checkbox"/> Risk Management <input type="checkbox"/> Other: 		
Department Head Signature: 			Date: 7/3/17
Office of the City Manager Signature: 			
DATE: 			



Memorandum

TO: Federated City Employees' Retirement System
Boards of Administration

FROM: Ron Kumar

SUBJECT: Investment Related Contract Renewal

DATE: May 11, 2020

Approved

Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sanjoseca.gov, c=US
Date: 2020.05.12 11:15:54 -0700

Date May 12, 2020

Recommendation

Discussion and approval for the Secretary to negotiate and execute an extension of the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020.

Analysis

Vendor	Service	Term Extension	Fee	Not-to-Exceed
Verus Advisory, Inc.	Risk Advisory Services	Feb. 1, 2020 - Sept. 30, 2020	\$12,292/month	\$100,000

Verus Advisory, Inc. was hired in February 2017 to provide risk advisory services for the Federated City Employees' Retirement System. The current contract with Verus expired on January 31, 2020. Staff is currently in the process of conducting a request for proposals for investment consulting services which includes risk advisory services and anticipates concluding the process by September 2020. The annual retainer fee paid in quarterly installments to Verus is \$147,500.

Conclusion

Staff recommends renewing the contract on a month-to-month basis for up to eight months at the current rate of \$12,292/month. The contract includes a thirty-day termination clause which provides the Boards an option to terminate the agreement prior to expiration.

Digitally signed by Ron Kumar
DN: cn=Ron Kumar, o=CSJ ORS
Investments, ou,
email=ron.kumar@sanjoseca.gov, c=US
Date: 2020.05.12 11:16:30 -0700

Ron Kumar
Investment Operations Supervisor



Memorandum

TO: Police and Fire Department Retirement Plan
Boards of Administration

FROM: Ron Kumar

SUBJECT: Investment Related Contract Renewal

DATE: April 28, 2020

Approved

Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sanjoseca.gov, c=US
Date: 2020.04.28 14:31:27 -0700

Date 04/28/2020

Recommendation

Discussion and approval for the Secretary to negotiate and execute an extension of the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020.

Background

Vendor	Service	Term Extension	Fee	Not-to-Exceed
Verus Advisory, Inc.	Risk Advisory Services	Feb. 1, 2020 - Sept. 30, 2020	\$12,292/month	\$100,000

Analysis

Verus Advisory, Inc. was hired in February 2017 to provide risk advisory services for the Police and Fire plan. The current contract with Verus expired on January 31, 2020. Staff is currently in the process of conducting a request for proposals for investment consulting services which includes risk advisory services and anticipates concluding the process by September 2020. The annual retainer fee paid in quarterly installments to Verus is \$147,500.

Conclusion

Staff recommends renewing the contract on a month-to-month basis for up to eight months at the current rate of \$12,292/month. The contract includes a thirty-day termination clause which provides the Boards an option to terminate the agreement prior to expiration.

Digitally signed by Ron Kumar
DN: cn=Ron Kumar, o=CSJ ORS
Investments, ou,
email=ron.kumar@sanjoseca.gov,
c=US
Date: 2020.04.28 14:32:07 -0700

Ron Kumar

Investment Operations Supervisor



BOARD OF ADMINISTRATION

Meeting Minutes - Final Federated City Employees' Retirement System and Federated City Employees' Health Care Trust

Thursday, May 21, 2020

8:30 AM

CALL TO ORDER & ROLL CALL

The Board of Administration of the Federated City Employees Retirement System met on Thursday, May 21, 2020 at 8:30 a.m. via Zoom meeting. Chair Castellano called the Pension Plan and Health Care Trust meeting to order at 8:31 a.m. followed by roll call.

Present: 7 - Anurag Chandra, Jay Castellano, Qianyu Sun, Elaine Orr, Spencer Horowitz, Mark Keleher and Julie Jennings

Trustee Keleher arrived at 8:40 a.m.

Council Liaison Dev Davis departed at 12:00 p.m.

Retirement Staff Present: Roberto L. Peña (via Teleconference), Prabhu Palani (via Teleconference), Barbara Hayman (via Teleconference), Benjie Chua-Foy (via Teleconference), Eran Amir (via Teleconference), May Cheung, (via Teleconference), Brian Starr (via Teleconference), Christina Wang (via Teleconference), Jay Kwon (via Teleconference), David Aung (via Teleconference), Ron Kumar (via Teleconference), Ellen Lee (via Teleconference), Marti Zarate (via Teleconference), Michelle San Miguel (via Teleconference), and Linda Alexander (via Teleconference).

Also Present: Harvey Leideman, General and Fiduciary Counsel (via Teleconference); Danny Sullivan, Verus Investments (via Teleconference), Marty Boyer, Communication Advantage (via Teleconference); Tom Iannucci, Cortex (via Teleconference).

AGENDA

OPEN SESSION

ORDERS OF THE DAY

The chair read the Ground Rules into the record:

1. As required by the Brown Act, all votes will be by roll call.
2. If you are not speaking, kindly place your microphone on mute to cut down on all background noise.
3. On matters for discussion, I will call the Board members in order and each of you will have a chance to speak, and more than once if you wish.
4. The Chair will give the public an opportunity to speak on each agenda item and again at the end of the meeting, to speak on any other item not on the agenda that is within the subject jurisdiction of the Board. If members of the public will wait to speak until I invite public comment, that will help keep the process orderly for all.

The following changes were made to the Orders of the Day.

1. Item 1.5f, Waive Sunshine on 5-year Budget Projections for Federated Under Prepayment

Federated City Employees'
Retirement System and Federated
City Employees' Health Care Trust

Meeting Minutes - Final

May 21, 2020

Survivorship benefits to Veronica Iraheta, Spouse.

- c. Notification of the death of Carrie Jessup, Librarian II, retired November 7, 1992, died February 4, 2020. No survivorship benefits.
- d. Notification of the death of Fred Marcella, Associate Engineer Technician, retired October 10, 1992 died April 7, 2020. No survivorship benefits.
- e. Notification of the death of Wilma L. Strickland, Senior Buyer, retired March 17, 2001, died March 10, 2020. Survivorship benefits to Jimmy P. Strickland, Spouse.
- f. Notification of the death of Gene Tague, Supervising Building Inspector, retired October 13, 2017, died March 16, 2020. Survivorship benefits to Jie Tague, Spouse.
- g. Notification of the death of Raymond Watrous, Maintenance Supervisor, retired January 4, 1992, died December 29, 2019. No survivorship benefits.

3. **INVESTMENTS**

- a. Oral update from the CIO of Retirement Services, Prabhu Palani.

CIO Palani updated the Board on the following:

-As of March 31st the plan was down Fiscal Year-to-Date -6.73% compared to a policy benchmark of -6.3% and Year-to-Date for 2020 it was down -10.87% compared to policy a benchmark of -10.76%. Through yesterday the Federated Plan was down -4.1 %. We gained 140 bp due to timely action of the Boards. Meketa will give a detailed analysis of performance.

-He encouraged the Board to read Item 1.5d, an article from Financial Planning Magazine showing performance differences.

-He recommended the book "Reminiscences of a Stock Operator: The Investment Strategies of Jesse Livermore" that he is currently reading.

Trustee Keleher arrived during this item.

- b. Discussion and approval for the Secretary to negotiate and execute an extension of the agreement with Meketa Investment Group on a month-to-month basis for \$28,334/month until September 30, 2020.

CIO Palani introduced the item and Ron Kumar spoke to the attached memo and answered questions from the Board. CIO Palani briefly explained that the request is for an interim period and staff is reviewing responses to the RFP issued for general Investment consultants; there is a scheduled meeting with the Chairs of the Investment Committee next week in regard to the RFP and there will be a recommendation to the Investment Committee this month. Staff requested to extend the contract with Meketa Investment Group on a month to month basis for \$28,334/month until September 30, 2020.

A motion was made for approval of the Secretary to negotiate and execute an extension of the agreement with Meketa Investment Group on a month-to-month basis for \$28,334/month

Federated City Employees' Retirement System and Federated City Employees' Health Care Trust	Meeting Minutes - Final	May 21, 2020
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until September 30, 2020.

Approved. (M.S.C. Orr/Horowitz 7-0-0). The motion passed unanimously by roll call vote.

- c. Discussion and approval for the Secretary to negotiate and execute an extension of the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020.

Ron Kumar led the discussion regarding the request of an extension to the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020. Mr. Kumar stated that the request is for an interim period while the RFP process continues as previously stated.

A motion was made for approval of the Secretary to negotiate and execute an extension of the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020.

Approved. (M.S.C. Keleher/Chandra 7-0-0) The motion passed unanimously by roll call vote.

4. OLD BUSINESS-DEFERRED/CONTINUED ITEMS - NONE

5. NEW BUSINESS

- a. Oral update from the CEO of Retirement Services, Roberto L. Peña.

CEO Peña updated the Board on the following:

- The proposed Administrative Budget for FY 20-21 is scheduled to be approved at the June 16th City Council meeting. A more detailed report will come back to the Board for approval.
- ORS is conducting business as usual via online services. Limited staff check mail at the office. Applications/payroll have been processed on time. Staff is considering Zoom for group counseling sessions.
- The City has said that it expects a \$72 million drop in revenues for FY20.
- We are waiting for an update on the Shelter-in-Place. We will keep the Board apprised of any changes.
- CEO Peña thanked ORS staff for their work and engagement working from home during this time.
- Harvey Leiderman, Fiduciary and General Counsel updated the Board on the May 5, 2020 oral argument before the California Supreme Court in the "vested rights" cases involving Alameda, Contra Costa and Merced county retirement systems.

- b. Oral update from the City Council Liaison to the Board.

Dev Davis City Council Liaison updated the Board on the following:

- City Council will know more in August/September on potential options and actions to take regarding the budget.
- COVID-19 impacts continue to affect the City with a \$7.1 mil deficit for the current Fiscal Year and a 9% anticipated revenue decline.
- Over 100 staff members from PRNS and the Library have been redirected to the food distribution program providing almost three million meals per week to the community.
- Ms. Davis acknowledged ORS for submitting a decreased department budget
- Ms. Davis acknowledged the Board for allowing the pre-funding of retirement contributions rates which saves \$7.4 mil for the General Fund.



BOARD OF ADMINISTRATION

Meeting Minutes - Final Police & Fire Department Retirement Plan and Health Care Trust

Thursday, May 7, 2020

8:30 AM

MEETING TO BE HELD BY ZOOM CONFERENCE IN LIEU OF PHYSICAL LOCATION

Dial-In: 1-669-900-9128

Meeting ID: 921 2207 9576

Password: 018521

CALL TO ORDER AND ROLL CALL

The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met telephonically on Thursday, May 7, 2020 at 8:30 a.m. Chair Gardanier called the Pension Plan and Health Care Trust meeting to order at 8:33 a.m. followed by roll call.

Present: 8 - Nick Muyo, Eswar Menon, Andrew Gardanier, Franco Vado, Howard Lee, Andrew Lanza, Vincent Sunzeri and Richard Santos

Vacant, one Trustee.

Trustee Nick Muyo joined at 8:37 a.m. He experienced technical difficulty during the call which prevented him from participating during the meeting.

Retirement Staff Present: Roberto L. Peña (via Teleconference), Prabhu Palani (via Teleconference), Barbara Hayman (via Teleconference), Benjie Chua-Foy (via Teleconference), Jay Kwon, (via Teleconference), Brian Starr (via Teleconference), Dhinesh Ganapathian (via Teleconference), Christina Wang (via Teleconference), David Aung (via Teleconference) Julie He (via Teleconference), Ron Kumar (via Teleconference), Ellen Lee (via Teleconference), Marti Zarate (in the office), Michelle San Miguel (in the office), Linda Alexander (in the office).

Also Present: Harvey Leiderman, General and Fiduciary Counsel (via Teleconference); Marty Boyer, Communications Strategies (via Teleconference); Laura Wirick, Meketa Investment Group (via Teleconference); Chris Theodor, Meketa Investment Group (via teleconference); Tom Iannucci, Cortex Consulting (via Teleconference); Cheryl Parkman, OER (via Teleconference).

AGENDA

OPEN SESSION

• **ORDERS OF THE DAY**

Chair Gardanier read the following ground rules into the record for Orders of the Day.

- All votes will be roll call votes.
- If you are not speaking, please be on mute to cut background noise.
- For matters where we must have debate, I will call the roll and you will each have a turn.
- The public will have an opportunity to speak on any item and make general comment on any matter within our subject matter jurisdiction.

Police & Fire Department
Retirement Plan and Health Care
Trust

Meeting Minutes - Final

May 7, 2020

Item 2a was heard after 2b.

CIO Palani introduced the item for discussion and gave a brief recap of recent financial market activity. Mr. Palani introduced Investment Officer Jay Kwon who presented the Fixed Income Structuring and answered questions from the Board. Mr. Kwon stated that the Plan's assets should be at Policy target with Fixed Income by the end of the month. Trustee Lee asked Mr. Kwon for more information on emerging markets and core bonds; Mr. Kwon responded. CIO Palani also responded to questions from the Board.

- b. Discussion and action on updates to Investment Policy Statement by Meketa Investment Group.

Item 2b was heard first.

CIO Palani introduced the item for discussion. Laura Wirick from Meketa Investment Group led the Board through the changes that have been made to the Investment Policy Statement (IPS). The changes reflect recent decisions made by the Investment Committee and Board.

A motion was made to approve the changes to the Investment Policy Statement.

Approved. (M.S.C. Santos/Lanza 7-0) The motion passed unanimously by roll call vote.

- c. Discussion and approval for the Secretary to negotiate and execute an extension of the agreement with Meketa Investment Group on a month-to-month basis for \$28,334/month until September 30, 2020.

2c was heard after 2a.

CIO Palani introduced the item and Ron Kumar spoke to the attached memo and answered questions from the Board. CIO Palani briefly explained that the request is for an interim basis and staff is reviewing responses to the RFP issued for general Investment and risk consultants; there is a scheduled meeting with the Chairs of the Investment Committee next week in regard to the RFP and there will be a recommendation to the Investment Committee this month. Staff requested to extend the contract with Meketa Investment Group on a month to month basis for \$28,334/month until September 30, 2020.

A motion was made for approval of the Secretary to negotiate and execute an extension of the agreement with Meketa Investment Group on a month-to-month basis for \$28,334/month until September 30, 2020.

Approved. (M.S.C. Menon/Vado 7-0-0). The motion passed unanimously by roll call vote.

- d. Discussion and approval for the Secretary to negotiate and execute an extension of the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020.

Ron Kumar led the discussion regarding the request of an extension to the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020. Mr. Kumar stated that the request is for interim use while the RFP process continues as previously stated.

Police & Fire Department
Retirement Plan and Health Care
Trust

Meeting Minutes - Final

May 7, 2020

A motion was made for approval of the Secretary to negotiate and execute an extension of the agreement with Verus Advisory, Inc. on a month-to-month basis for \$12,292/month basis until September 30, 2020.

Approved. (M.S.C. Santos/Menon 7-0-0). The motion passed unanimously by roll call vote.

3. OLD BUSINESS CONTINUED-DEFERRED ITEMS - None

4. NEW BUSINESS

a. Oral update from the CEO of Retirement Services. Roberto L. Peña.

CEO Peña presented the attached slides regarding the amendment to the Budget. He stated that the City has asked Appointee Offices such as ORS to reduce their budget by 15-18% as they are expecting a budget shortfall. The Office of Retirement Services was not asked to reduce their budget, however they did ask that there be no changes to the total Budget from the prior fiscal year, which is reflected in the attached slides. Mr. Peña indicated this was not an action item at this meeting; the City Council will act first and then the Board will be asked to adopt the final budget at a subsequent meeting.

CEO Peña updated the Board on the following:

- Staff is checking for mail and retirement paperwork. We are running business as usual, remotely.
- Retirement applications and payroll are being processed on time.
- Retirement Planning and Group Counseling has been postponed during this time. Staff is working on possibly conducting Zoom Group Counseling meetings in May.
- Budget Audit is up to date
- The public member recruitment application process closed on 5/5/20. Two applications have been received. The applications are in the City Attorney's Office for 14 days for a conflict of interest check. CEO Peña is looking to have new Trustee on board at the August or September P&F Board meeting.
- City Council approved the CalPERS defined benefit plan for Investment professionals at ORS.

The Chair asked about the results of the California Supreme Court case on pension reform that was heard on May 5, 2020. Harvey Leiderman, General and Fiduciary Counsel provided an update on the case and spoke to the implications it has on pension reform efforts.

b. Oral update from the City Council Liaison to the Board.

City Council Liaison Pam Foley updated the Board on the following:

- COVID-19 related – The City established a partnership with the Santa Clara County to distribute 2.5 million meals per week. They are also partnered with public and private agencies around the Bay area for this cause.
- The budget shortfall is estimated to be about \$110 million for the remainder of this fiscal year and the next.
- Budget study sessions will be held next week.
- There will be a hiring freeze for open full-time positions within the City. Temporary and Part-Time workers will be furloughed. There are no planned budget cuts to Public Safety.
- CARES 2.0, the City has received roughly \$176 million; there will be budget meetings to document and allocate the money to use for COVID related expenses and to be sure the funds



Memorandum

TO: Police and Fire Department Retirement Plan

FROM: Prabhu Palani

SUBJECT: Consultant RFP Recommendation

DATE: June 1, 2020

Recommendation

- a) Staff recommends awarding Meketa Investment Group a two-year contract with an additional one-year option for general investment consulting services and authorizing the Secretary to negotiate and execute a contract not-to-exceed \$680,000/year (split 50/50 with Federated Plan).
- b) Staff recommends awarding Verus Advisory, Inc. a two-year contract with additional one-year option for risk consulting services and authorizing the Secretary to negotiate and execute a contract not-to-exceed \$250,000/year (split 50/50 with Federated Plan).

Background

Both boards and staff have engaged with Meketa Investment Group as the Plans' general investment consultant and Verus as the Plans' risk consultant. Contracts for both firms expired in February 2020 and have now been extended on a month-to-month basis till September 2020. Staff issued an RFP for combined general and risk consulting services in January 2020. It was felt that combining both services may result in potential cost savings to the Plans'. Three firms responded to our RFP requests – both incumbents as well as RV Kuhns.

Analysis

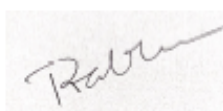
Investment staff scored the consultants based on criteria identified in the RFP. Both incumbent firms ranked highly for both general investment consulting and risk consulting services, and staff was particularly impressed with the lead consultant for both firms. RV Kuhns, while impressive, finished third in our ranking process. In particular, staff felt that a combination of the experience and skill set of both incumbent consulting firms was complementary and added

value beyond what either of the firms could bring to the assignment if they served in dual capacities. The results of staff's analysis was shared with IC Chairs of both Plans' who were generally in agreement with staff recommendations.

However, it needs to be pointed out that the combined consulting services cost of engaging both firms in separate roles at their current fees is \$975,000. Hiring either Meketa or Verus, on a standalone basis to serve as both the general consultant as well as risk consultant could yield savings of about \$175,000.

The Joint IC at its meeting on May 26th, 2020 gave staff the latitude to negotiate with both firms to potentially realize cost savings while also giving staff the option of utilizing one or both consultants going forward. Trustees also pointed out the fact that staff had achieved considerable cost savings in their custodian recommendation as well as the revised contract with Albourn.

Since the IC meeting, staff has had the chance to negotiate with both consulting firms. Following those negotiations staff recommends to the full board that we hire Meketa Investment Group as a general investment consultant at the current rate of \$680,000/year (for both plans) and Verus as the risk consultant at a fee of \$250,000/year (for both plans), with additional services negotiated by staff from both consulting firms.



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Prabhu Palani
Date: 2020.06.01
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Prabhu Palani
Chief Investment Officer



Memorandum

TO: Federated City Employees' Retirement System Board of Administration FROM: Prabhu Palani

SUBJECT: Consultant RFP Recommendation DATE: June 8, 2020

Recommendation

a) Staff recommends awarding Meketa Investment Group a two-year contract with an additional one-year option for general investment consulting services and authorizing the Secretary to negotiate and execute a contract not-to-exceed \$680,000/year (split 50/50 with Police and Fire Plan).

b) Staff recommends awarding Verus Advisory, Inc. a two-year contract with additional one-year option for risk consulting services and authorizing the Secretary to negotiate and execute a contract not-to-exceed \$250,000/year (split 50/50 with Police and Fire Plan).

Background

Both boards and staff have engaged with Meketa Investment Group as the Plans' general investment consultant and Verus as the Plans' risk consultant. Contracts for both firms expired in February 2020 and have now been extended on a month-to-month basis till September 2020. Staff issued an RFP for combined general and risk consulting services in January 2020. It was felt that combining both services may result in potential cost savings to the Plans'. Three firms responded to our RFP requests – both incumbents as well as RV Kuhns.

Analysis

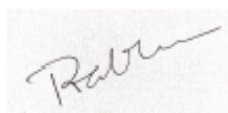
Investment staff scored the consultants based on criteria identified in the RFP. Both incumbent firms ranked highly for both general investment consulting and risk consulting services, and staff was particularly impressed with the lead consultant for both firms. RV Kuhns, while impressive, finished third in our ranking process. In particular, staff felt that a combination of the experience and skill set of both incumbent consulting firms was complementary and added

value beyond what either of the firms could bring to the assignment if they served in dual capacities. The results of staff's analysis was shared with IC Chairs of both Plans' who were generally in agreement with staff recommendations.

However, it needs to be pointed out that the combined consulting services cost of engaging both firms in separate roles at their current fees is \$975,000. Hiring either Meketa or Verus, on a standalone basis to serve as both the general consultant as well as risk consultant could yield savings of about \$175,000.

The Joint IC at its meeting on May 26th, 2020 gave staff the latitude to negotiate with both firms to potentially realize cost savings while also giving staff the option of utilizing one or both consultants going forward. Trustees also pointed out the fact that staff had achieved considerable cost savings in their custodian recommendation as well as the revised contract with Alboume.

Since the IC meeting, staff has had the chance to negotiate with both consulting firms. Following those negotiations staff recommends to the full board that we hire Meketa Investment Group as a general investment consultant at the current rate of \$680,000/year (for both plans) and Verus as the risk consultant at a fee of \$250,000/year (for both plans), with additional services negotiated by staff from both consulting firms.



Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ
ORS, ou,
email=prabhu.palani@sanjoseca.
gov, c=US
Date: 2020.06.08 09:32:18 -07'00'

Prabhu Palani
Chief Investment Officer



BOARD OF ADMINISTRATION

Meeting Minutes - Final Federated City Employees' Retirement System and Federated City Employees' Health Care Trust

Thursday, June 18, 2020

8:30 AM

CALL TO ORDER AND ROLL CALL

The Board of Administration of the Federated City Employees Retirement System and Health Care Trust met on Thursday, June 18, 2020 at 8:30 a.m. via Zoom meeting. Chair Castellano called the Pension and Health Care Trust meeting to order at 8:34 a.m.

Present: 7 - Anurag Chandra, Jay Castellano, Qianyu Sun, Elaine Orr, Spencer Horowitz, Mark Keleher and Julie Jennings

Trustee Orr joined the meeting at 8:38 a.m.

Trustee Chandra departed at 10:02 a.m.

Council Liaison Dev Davis joined the meeting at 9:06 a.m. and departed at 12:30 p.m.

Retirement Staff Present via Teleconference: Roberto L. Peña, Prabhu Palani, Barbara Hayman, Eran Amir, Brian Starr, Christina Wang, Jay Kwon, David Aung, Arun Nallasivan, Ron Kumar, Dhinesh Ganapathiappan, Ellen Lee, Marti Zarate, Michelle San Miguel, and Linda Alexander.

Also Present via Teleconference: Harvey Leiderman, General and Fiduciary Counsel; Laura Wirick, Meketa Investment Group; Stephen McCourt, Meketa Investment Group; Kaci Boyer, Neuberger Berman; Tom Iannucci, Cortex Consulting; Cheryl Parkman, Office of Employee Relations and Luther Yost, Public Member.

CLOSED SESSION

The Board entered Closed Session at 8:38 a.m. Trustee Orr arrived during this item.

CLOSED SESSION AGENDA ITEMS WILL BE HEARD AT 8:30 A.M.

I. CLOSED SESSION INVESTMENTS

- A. CLOSED SESSION: PURSUANT TO GOVERNMENT CODE SECTION 54956.81, TO CONSIDER PURCHASE OR SALE OF PARTICULAR, SPECIFIC PENSION FUND INVESTMENTS (ONE INVESTMENT).

The Board came out of Closed Session at 8:51 a.m.

OPEN SESSION - will reconvene following Closed Session, estimated to be 9:00 a.m.

The Board reconvened into Open Session at 8:52 a.m. There was no reportable action out of

Federated City Employees'
Retirement System and Federated
City Employees' Health Care Trust

Meeting Minutes - Final

June 18, 2020

- d. Presentation of Calendar 1st Quarter 2020 Performance Report for Health Care Trust by Meketa Investment Group.

Ms. Wirick presented and briefly discussed the Calendar 1st Quarter 2020 Performance Report for the Health Care Trust. There were no questions from the Board.

- e. Discussion and action on 2020-2021 Private Markets Pacing Plan by Staff.

Item 3e was heard before Item 3a as noted in the Orders of the Day.

Brian Starr, Senior Investment Officer and Dhinesh Ganapathiappan, Investment Officer presented and led the discussion on the 2020-21 Private Markets Pacing Plan and answered questions from the Board. Mr. Starr provided an overview of last year's Private Markets Pacing Plan. Mr. Ganapathiappan spoke to the proposed pacing plan and referred the Board to slide 13 for staff's recommendation for the upcoming fiscal year highlighted in yellow. He also spoke to the deployment of commitments as shown on slide 14 of the attached presentation.

A motion was made to approve the 2020-2021 Private Markets Pacing Plan by Staff. Approved. (M.S.C. Chandra/Orr 6-0-1) The motion passed by roll call vote. Trustee Horowitz abstained.

- f. Discussion and action to authorize the Secretary to negotiate and enter into an agreement with Albourne America, LLC, commencing July 1, 2020.

Jay Kwon, Investment Officer led the discussion and reviewed the attached memo regarding authorizing the Secretary to negotiate and enter into an agreement with Albourne America, LLC, commencing July 1, 2020. Albourne is currently operating on a month-to-month basis under their existing contract as an Absolute Return Consultant. The Plans' usage of hedge fund strategies has declined over the past several years, and is not forecasted to increase. Staff recommends that Albourne's contract be restructured so that Albourne serves simply as information provider, not as a consultant making investment recommendations, and no longer serving as a fiduciary. The cost savings to the Plans would be significant and the new contract would still provide Staff with the necessary resources to continue managing the re-sized Absolute Return allocation. The contract allows the Plan to terminate the agreement with seven calendar days' notice. Staff recommends that the Boards authorize the CIO to negotiate and enter into an agreement with Albourne America, LLC, commencing July 1, 2020.

A motion was made for approval of the CIO to negotiate and enter into an agreement with Albourne America, LLC, commencing July 1, 2020. Approved. (M.S.C. Orr/Keleher 7-0-0) The motion passed unanimously by roll call vote.

- g. Discussion and action to authorize the Secretary to negotiate and enter into agreement(s) for consulting services.

Prabhu Palani, CIO led the discussion regarding authorizing the Secretary to negotiate and enter into agreement(s) for consulting services. CIO Palani provided a brief background history and answered questions from the Board. Staff issued an RFP for combined general and risk consulting services in January 2020. Combining both services may result in potential cost savings to the Plans. The IC Chairs of both Boards agree with staff recommendations to award new contracts for Meketa Investment Group as a general investment consultant at the

Federated City Employees'
Retirement System and Federated
City Employees' Health Care Trust

Meeting Minutes - Final

June 18, 2020

current rate of \$680,000/year (for both plans) with a 3% raise at the end of 3 years with Laura Wirick as the lead consultant and Verus Advisory as the risk consultant at a fee of \$250,000/year (for both plans) with Eileen Neill as the lead consultant, and with additional services negotiated by staff from both consulting firms. The Board discussed the cost split for services. Counsel Leiderman proposed further discussion at the Joint Governance Committee level and bringing a recommendation back to the Board.

A motion was made for approval of the Secretary to negotiate and enter into agreement(s) for consulting services as presented in the attached memo with a modification to add a 3% raise for Meketa Investment after 3 years.

Approved. (M.S.C. Horowitz/Jennings 6-0-0) The motion passed unanimously by roll call vote. Trustee Chandra departed during this item, before the vote.

- h. Discussion and action to authorize the Secretary to negotiate and enter into an agreement for custodian banking services, commencing October 1, 2020.

Laura Wirick, Meketa presented and led the discussion regarding authorizing the Secretary to negotiate and enter into an agreement for custodian banking services, commencing October 1, 2020. Ms. Wirick and Ron Kumar, Investment Operations Supervisor answered questions from the Board. Meketa agrees with Staff's recommendation to hire BNY Mellon as the new custody provider.

A motion was made to authorize the Secretary to negotiate and enter into an agreement for custodian banking services with BNY Mellon, commencing October 1, 2020.

Approved. (M.S.C. Orr/ Horowitz 5-0-1) The motion passed by roll call vote. Trustee Keleher abstained. Trustee Chandra was absent.

4. OLD BUSINESS-DEFERRED/CONTINUED ITEMS - None

5. NEW BUSINESS

- a. Oral update from the CEO of Retirement Services, Roberto L. Peña.

CEO Peña updated the Board on the following:

-ORS remains closed to the public due to Shelter-In-Place. Staff continues to conduct business via online services.

-The annual external financial audit by Grant Thornton has started and is being done remotely.

-CMO and the Office of Emergency Services have had discussions regarding planning for employees to return to work in phases. There is no time table as of yet for when employees will return to the workplace. CEO Peña is in support of staff to continue working remotely.

- Letters went out regarding new retirement contribution rates for members for next fiscal year. The new rates will take effect July 17, 2020.

- Senior Internal Auditor, Allain Mallari has taken another job with the Office of Economic Development. His last day will be June 19, 2020. CEO Peña gave kudos to Mr. Mallari for his work on the 5-year audit plan and framework.

- The City Council approved the budget in concept on June 16, 2020. It will be finalized at the next Council meeting.

-Cheryl Parkman, OER gave an update on the CALAPRS Defined Benefit Plan for Investment Staff. On Tuesday, June 16, 2020 the 2nd reading was approved by the City Council. The effective date of the ordinance is July 26, 2020.



BOARD OF ADMINISTRATION

Meeting Minutes - Final Police & Fire Department Retirement Plan and Health Care Trust

Thursday, June 4, 2020

8:30 AM

MEETING TO BE HELD BY ZOOM CONFERENCE IN LIEU OF PHYSICAL LOCATION

zoom.us

Dial In: 1-669-900-9128

Meeting ID: 978 1537 9444

Password: 436723

CALL TO ORDER AND ROLL CALL

The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met telephonically on Thursday, June 4, 2020 at 8:30 a.m. Chair Gardanier called the Pension Plan and Health Care Trust meeting to order at 8:33 a.m. followed by roll call.

Present: 8 - Nick Muyo, Eswar Menon, Andrew Gardanier, Franco Vado, Howard Lee, Andrew Lanza, Vincent Sunzeri and Richard Santos

Vacant, one Trustee.

Trustee Howard Lee joined at 8:40 a.m.

Council Member Pam Foley joined the meeting at 9:34 a.m. at the start of open session and departed the meeting at 12:30 p.m.

Retirement Staff Present via Teleconference: Roberto L. Peña, Prabhu Palani, Barbara Hayman, Benjie Chua-Foy, Katheryn Schaefer, Jay Kwon, Brian Starr, Dhinesh Ganapathiappan, Christina Wang, David Aung, Arun Nallasivan, Ron Kumar, Linda Alexander, Marti Zarate, and Michelle San Miguel.

Also Present via Teleconference: Harvey Leiderman, General and Fiduciary Counsel; Jenni Krengel, General and Fiduciary Counsel; Laura Wirick, Meketa Investment Group; Chris Theodor, Meketa Investment Group; Stephen McCourt, Meketa Investment Group; Kaci Boyer, Neuberger Berman; Eileen Neill, Verus Investments; Tom Iannucci, Cortex Consulting; Cheryl Parkman, OER; Jennifer Schembri, OER; Bill Hallmark, Cheiron; Anne Harper, Cheiron; Nancy Hilu, Hanson Bridgett; B. Beekman, Public attendee.

AGENDA

CLOSED SESSION

The Board entered Closed Session at 8:38 a.m.

CLOSED SESSION AGENDA ITEMS WILL BE HEARD AT 8:30 A.M.

I. CLOSED SESSION INVESTMENTS

Police & Fire Department
Retirement Plan and Health Care
Trust

Meeting Minutes - Final

June 4, 2020

- g. Discussion and action to authorize the Secretary to negotiate and enter into agreement(s) for consulting services.

CIO Palani spoke to the item and answered questions from the Board. He stated that staff issued a Request for Proposal (RFP) for General consulting services and Risk consulting services. Meketa Investment Group, Verus Advisory and RV Kuhns responded to the RFP and were interviewed and ranked based on criteria identified in the RFP. CIO Palani explained that while RV Kuhns scored highly, the incumbent firms were ranked higher. Staff shared the results of the RFP with the Investment Committee and were granted latitude to negotiate with both firms for potential cost-savings. Staff's recommendation is to engage both firms, as outlined in the attached memo. CIO Palani pointed out that Recommendation A in the attached memo to the Board, regarding staff's recommendation to engage Meketa Investment Group, should include a 3% raise if the Board continues the agreement after 3 years. He also went over cost-savings for adopting the recommended approach for engaging the firms for General and Risk Investment consulting.

A motion was made to approve staff's recommendation to engage Meketa Investment Group and Verus Advisory as outlined in the attached memo, including the addition of the 3% increase for Meketa Investment Group after 3 years.

Approved. (M.S.C. Lanza/Sunzeri 8-0-0) The motion passed unanimously by roll call vote.

- h. Discussion and action to authorize the Secretary to negotiate and enter into an agreement for custodian banking services, commencing October 1, 2020.

CIO Palani introduced Chris Theodor, Meketa Investment Group, and Ron Kumar who spoke to the item and answered questions from the Board. Mr. Theodor presented Meketa's analysis of the top three respondents to the Request for Proposal (RFP) for Custodian bank services. Mr. Kumar provided a brief background on the Plan's current vendor and spoke to the staff's recommendation to engage BNY Mellon for custodian bank services for the Plan and Health Care Trust. Mr. Kumar noted that staff's current vendor, State Street, responded to the RFP with a revised proposal that lowered their rates, putting their fees under those of the recommended vendor BNY Mellon. He said that even with the lower rates, staff is firm with their recommendation to engage BNY Mellon as they expect to receive a level of quality service that the current vendor will likely not be able to provide. Counsel Leiderman stated for the record that he had no part in any communications, discussions, or negotiations with BNY Mellon, he had recused himself completely from the RFP process as BNY Mellon is a significant client of his firm.

A motion was made to authorize the Secretary to negotiate and enter in an agreement for custodian banking services with BNY Mellon, commencing October 1, 2020.

Approved. (M.S.C. Santos/Lee 8-0-0) The motion passed unanimously by roll call vote.

3. OLD BUSINESS CONTINUED-DEFERRED ITEMS - None

4. NEW BUSINESS

- a. Oral update from the CEO of Retirement Services. Roberto L. Peña.

**Addendum No. One to
Consulting Agreement
Risk Advisory Services**

This Addendum No. One is made effective the 1st day of February 2020, by and between Verus Advisory, Inc., a Washington corporation, having its principal offices at 800 Fifth Avenue, Suite 3900, Seattle, WA 98104 ("Verus") and San Jose Federated City Employees' Retirement System and San Jose Police & Fire Department Retirement Plan (the "Client(s)"), collectively the "Parties," with respect to the Consulting Agreement and Risk Advisory Services by and between the parties dated effective as of February 1, 2017 ("Agreement").

WHEREAS:

(a) By Agreement commencing February 1, 2017, Client(s) engaged Verus to provide investment consulting and risk advisory services. The Agreement with Verus expired on January 31, 2020.

(b) Client(s) are currently in the process of conducting a request for proposals for investment consulting services, which includes risk advisory services and anticipates concluding the process by September 30, 2020.

(c) The purpose of this addendum is to reinstate and extend the Agreement dated effective February 1, 2017 on a month to month basis for up to eight calendar months beginning February 1, 2020, with automatic expiration on September 30, 2020 if no exercise of earlier termination as provided in the Agreement occurs.

(d) By mutual agreement, the Parties desire to amend the fee schedule in Schedule C of the Agreement to provide for the monthly retainer fee payable by each of the named clients provided above.

NOW, THEREFORE, IT IS AGREED between the Parties that:

1. The attached Schedule C represents the monthly fee schedule for the services delineated in Schedule A of the Agreement.

Except as expressly amended herein, all terms and conditions of the Agreement effective February 1, 2017, shall remain in full force and effect.

AGREED to this 7th day of July 2020

San Jose FCERS and PFDRP

By 
Prabhu Palani
Title: Chief Investment Officer

Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sarjoseca.gov,
c=US
Date: 2020.07.11 16:13:46 -0700

Verus Advisory, Inc.

By 
Warren Spencer
Title: Chief Compliance Officer

San Jose FERS and PFDRP Verus Agreement Addendum No. One

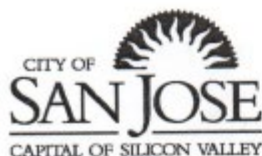
SCHEDULE C
FEES

For the services agreed to be provided in this Agreement, each client agrees to pay Consultant a monthly fee, payable monthly in arrears as follows:

San Jose Federated City Employees' Retirement System: \$12,292/month

San Jose Police & Fire Department Retirement Plan: \$12,292/month

Total Monthly fee: \$24,584/month



- ☐ FOR YOUR ELECTRONIC SIGNATURE
☐ FULLY EXECUTED COPY TO FOLLOW

CITY STAFF: _____
STAFF EMAIL: _____

SCANNED SIGNATURE AUTHORIZATION

DATE: July 7, 2020 TOTAL PAGES: _____
(INCLUDING THIS PAGE) 3

CONSULTANT NAME: Verus Advisory, Inc.
EMAIL: wspencer@verusinvestments.com
PHONE: (206) 622-3700

☒ I agree to use electronic signatures

SIGNATURE OF CONSULTANT: 

DIRECTIONS:

REVIEW THE ENCLOSED DOCUMENT, IF IT IS ACCEPTABLE:

1. SIGN THE DOCUMENT
2. CHECK THE BOX BELOW YOUR NAME AND SIGN AGREEING TO THE USE OF ELECTRONIC SIGNATURES
3. SCAN YOUR EXECUTED DOCUMENT TOGETHER WITH THIS COVER PAGE IN **BLUE** INK
4. EMAIL THE ENTIRE DOCUMENT TO (CITY STAFF EMAIL ADDRESS):

TO BE COMPLETED BY CITY STAFF:

ALTERNATIVE METHODS OF VERIFICATION:

- ☐ USE OF A PASSWORD PROTECTED WEBSITE
☐ CONFIRMED BY A KNOWN TELEPHONE NUMBER
☐ PERSONALLY KNOWN TO CITY STAFF

City of San José Contract/Agreement Transmittal Form

Route Order**Attached / Completed****Electronically Signed**TO: ☐ City Attorney☐ City Manager☒ **City Clerk** OR Return to
Dept. (circle one)☐ Insurance Certificates / Waivers☐ Business Tax Certificate☐ Contacted Clerk re: Form 700☐ Supplemental Memorandums (if applicable): Select One☒ Electronically Signed: Yes☐ Audit Trail Attached (if applicable)☐ Scanned Signature Authorization

Type of Document: Amendment

■ Type of Contract: Other

REQUIRED INFORMATION FOR ALL CONTRACTS:Existing GILES # 662378-001Contractor: Verus Advisory IncAddress: 2321 Rosecrans Avenue, Suite 2250, El Segundo, CA 90245Phone: 310-297-1777Email: eneill@verusinvestments.comContract Description: Addendum 1 - Investment risk consulting services for Federated City Employees' Retirement System and Police and Fire Department Retirement PlanTerm Start Date: 02/01/2020Term End Date: 9/30/2020Extension: YesMethod of Procurement: N/A

RFB, RFP or RFQ No.: _____

Date Conducted: _____

Agenda Date (if applicable): _____

Agenda Item No.: _____

Resolution No.: _____

Ordinance No.: _____

Original Contract Amount: \$885,000.00Amount of Increase/Decrease: \$200,000.00Option #: of

Option Amount: _____

NTE/Updated Contract Amount: \$1,085,000.00

Fund/Appropriation: _____

Form 700 Required (Selection mandatory for processing): Select one Revenue Agreement: Select one

Tax Certificate No.: _____

Expiration Date: _____

Department: Retirement (77)Department Contact: Ron Kumar

Customer (Finance Only): _____

Notes:

Department Director Signature: _____

11/16/2020

Date

Office of the City Manager Signature: _____

Date

CONSULTING & RISK ADVISORY SERVICES

This Agreement is made and entered into effective as of July 1, 2020 (the "Agreement") by and between Verus Advisory, Inc., a Washington corporation, having its principal offices at 999 Third Avenue, Suite 4200, Seattle, WA 98104 ("Consultant"), and San Jose Federated City Employees' Retirement System and San Jose Police & Fire Department Retirement Plan (the "Client"). Client hereby retains Consultant to provide a comprehensive Investment Risk Solution with respect to Client's assets, inclusive of Risk Advisory Services and a Risk Analytics System, as well as diligence reporting and other services as more fully provided in Schedule A.

1. SCOPE OF SERVICES.

Consultant shall perform those services specified in detail in SCHEDULE A entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein. Additional services, which are not committed for by Client at this time but may be requested by Client in writing in the future, are detailed in SCHEDULE B. The addition of any additional services outlined on SCHEDULE B, and the terms on which such additional services are to be performed, will be documented in a separate written addendum to this Agreement which shall be fully executed by Client and Consultant before effective.

2. STANDARD OF CARE FOR SCOPE OF SERVICE

Consultant shall perform the Scope of Services that it has agreed to hereunder with the care, skill, diligence, and responsibility of a professional familiar with such matters and acting in a like capacity in the conduct of an enterprise of like character with like aims at all times. Consultant is a fiduciary with respect to its duties pursuant to this agreement. Notwithstanding any other provision in this agreement, consultant's Standard of Care is incorporated in and applies to each and every provision of this agreement setting forth the services to be performed by Consultant and each and every such provision is subject to the Standard of Care.

3. PRIMARY REPRESENTATIVE FOR CONSULTANT

CONSULTANT shall appoint Ms. Eileen Neill as its key personnel responsible for the account. If for any reason Ms. Eileen Neill is unable or ceases to maintain primary responsibility for the account, CONSULTANT shall provide notice to BOARD within 5 business days and propose a replacement representative no later than 5 business days after such notice, which replacement shall be subject to BOARD approval. If CONSULTANT and BOARD are unable to agree upon a replacement within 10 business days of CONSULTANT's notice in accordance with the preceding sentence, then BOARD may terminate this Agreement immediately on written notice to Consultant.

San Jose FCERS and PFDRP Verus Agreement

4. TERM OF AGREEMENT.

The term of this Agreement shall be from July 1, 2020 to June 30, 2022, inclusive, subject to the provisions of SECTION 15 of this Agreement.

5. FEES.

In consideration of the services to be rendered by Consultant, Client shall pay Consultant in accordance with the Fee Schedule stipulated in SCHEDULE C.

6. METHOD OF PAYMENT.

Fees for professional services will be billed monthly in arrears. Each month, Consultant shall furnish to the Office of Retirement Services ("ORS") a statement of the services for fees during the preceding month. All invoices for fees shall be payable within thirty (30) days of receipt.

7. CLIENT INFORMATION.

Client agrees to provide, or cause its custodian bank, administrator, attorney, trustee, present or former investment consultant, actuary, consultants, other third parties, or investment managers (hereinafter referred to as "Representatives") to provide Consultant with any and all the necessary and appropriate information for Consultant to begin to perform its obligations under this Agreement. This information includes liquidity needs, historical performance information, investment guidelines, and other pertinent information as requested by Consultant from time to time, including, without limitation, a written summary of any investment limitations or restrictions. If Client represents a Plan, Client agrees to provide, or cause its Representatives to provide, Consultant (in addition to the information described in the preceding sentence) with a copy of any applicable Plan documents, a list of any investment restrictions set forth therein and a list of parties-in-interest with respect to the Plan. The Client, directly or through its Representatives, also agrees to inform the Consultant immediately of any change in circumstances affecting the needs or goals of the Client, as the case may be. Client understands that in providing its services hereunder, Consultant will rely on the information from time to time provided to it by Client and Client's Representatives. Consultant shall not be required to verify any information obtained from Client or Client's Representatives. Consultant shall not be liable for the accuracy and completeness of information furnished or representation made by such Representatives.

8. LIMITS OF RESPONSIBILITY.

Consultant's advice to Client pursuant to this Agreement is limited to the Risk Advisory Services and the management of the Risk Analytics System as provided in SCHEDULE A. Client shall retain absolute discretion over and responsibility for the implementation of Consultant's recommendations. Nothing herein shall require Client to follow any recommendation provided by Consultant. Consultant makes its recommendations based upon information obtained and analyzed by a wide variety of public and private

San Jose FCERS and PFDRP Verus Agreement

sources, including those provided by the Risk Analytics System. Although the information collected by Consultant is believed to be reliable and is compiled in accordance with accepted industry standards, Consultant cannot guarantee the accuracy or validity of such information.

Consultant will not manage Client's Assets or exercise any investment discretion or perform any discretionary trading with respect to the Assets. Consultant shall have no responsibility for voting any proxies solicited by or with respect to issuers of securities in which the assets of Client may be invested from time to time. Consultant and its employees will not render, or be responsible for rendering, any legal, accounting or actuarial advice to Client or prepare for Client any legal, accounting or actuarial document.

Although not currently included in the services to be provided by this Agreement except as provided in diligence reporting as provided in Schedule A, if Client has requested Consultant to assist it in the selection of an investment manager, Consultant will recommend investment managers (or mutual funds), which appear to be suitable for Client, based upon Client's stated investment objectives, risk/return expectations and financial needs. Consultant does not assume any responsibility, nor shall it be liable for the conduct or the investment performance, either historical or prospective, of any investment manager recommended by Consultant and selected by Client. Consultant shall have no authority to enter into any agreement with any investment manager on behalf of, or otherwise bind Client.

9. NONEXCLUSIVE RELATIONSHIP.

Client recognizes and acknowledges Consultant performs risk advisory services for various clients. Client agrees Consultant is permitted to give advice and make recommendations to its other clients that may differ from advice given or action taken with respect to Client even though the investment objectives may be the same or similar. Nothing in this Agreement shall be deemed to in any way restrict the right of Consultant to perform risk advisory services or other services for any other person or entity, and the performance of such services for others shall not be deemed to violate or give rise to any duty or obligation to the Client or Plan.

10. INDEPENDENT CONTRACTOR.

It is understood and agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of City of San Jose ("City") or Client; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

11. ASSIGNABILITY.

The parties agree that the expertise and experience of Consultant are material considerations for this Agreement. Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant's obligations hereunder, without the prior written consent of ORS, and any attempt by

San Jose FCERS and PFDRP Verus Agreement

Consultant to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

12. INDEMNIFICATION.

Consultant shall defend, indemnify and hold harmless ORS, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this Agreement due to the fraud, bad faith, willful or negligent acts (active or passive) or omissions by Consultant's officers, employees or agents. The acceptance of said services and duties by ORS shall not operate as a waiver of such right of indemnification.

13. INSURANCE REQUIREMENTS.

Consultant warrants that it now has in full force and effect and agrees to provide and maintain in effect a policy of liability insuring Consultant against claims based upon alleged errors and omissions by Consultant in the performance of its responsibilities, such policy being and to be maintained in an amount of not less than \$10,000,000. In addition and if losses are not included in Consultant's errors and omissions policy, Consultant shall have and maintain in full force and effect cyber liability insurance with data protection liability insurance covering financial loss resulting or arising from acts, errors, or omissions in building, customizing, operating or maintaining the Risk Advisory and Risk Analytics System in an amount of no less than \$1,000,000 including damages it is obligated to Client or any third party, which are associated with any Security Breach (as hereafter defined) or loss of Personal Data, regardless of cause (including, without limitation, Consultant's negligence or gross negligence and unlawful third party acts). For the purposes of this Agreement, "Security Breach" means (1) the failure by the Consultant to properly handle, manage, store, destroy or otherwise control, or the unauthorized disclosure by the CONSULTANT of: (Personal Data or Financial Data in any format or (b) third party corporate information in any format specifically identified as confidential and protected under a confidentiality agreement or similar contract; and (2) an unintentional violation of the Consultant's privacy policy or misappropriation that results in the violation of any applicable data privacy laws or regulations; or (3) any other act, error, or omission by Consultant in its capacity as such which is reasonably likely to result in the unauthorized disclosure of sensitive data. Consultant further warrants that it now has in full force and effect and agrees to maintain in effect a crime theft policy or fidelity bond covered in the amount of \$1,000,000 to protect client from loss due to any fraud or other dishonesty for which Consultant is responsible. Insurance shall be placed with insurance carriers maintaining a rating of A-, VII or higher by A M Best or Standard and Poor's.

Consultant shall furnish Client with current certificates of insurance described in this Agreement, including details of any deductible or retention amounts. Each Sub-Manager appointed by Verus pursuant to this Agreement shall maintain an insurance policy protecting the Sub-Manager (and its officers, directors, shareholders, partners and/or employees) against liability or loss for a breach of fiduciary responsibility.

Verus shall not receive any remuneration, directly or indirectly, from any Sub-Manager

San Jose FCERS and PFDRP Verus Agreement

14. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

15. TERMINATION.

- A. The Agreement may be terminated by Client or Consultant, without cause and at will, upon written notice by either party to the other. Termination will become effective 30 days after receipt of such written notice. By mutual written agreement, the parties may establish a different effective date for termination. Upon termination of this Agreement, to the extent there are amounts owed by Client to Consultant (fees for professional services as provided in Section 3 above) upon the effective date of termination of this Agreement, Client agrees to pay such amounts to Consultant in the normal billing cycle under this Agreement without further notice or demand. Anything herein to the contrary notwithstanding, Client shall have the right to terminate this Agreement, without penalty, within five business days of the date of the initial execution of this Agreement by Client and to receive a full refund of all amounts paid to Consultant.
- B. If Consultant fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, Client may terminate this Agreement immediately upon written notice.
- C. The CEO of Retirement Services is empowered to terminate this Agreement on behalf of Client.
- D. In the event of termination, Consultant shall deliver to Client copies of all reports, documents, and other work performed by Consultant under this Agreement, and upon receipt thereof, Client shall pay Consultant for services performed incurred to the date of termination.

16. GOVERNING LAW.

Client and Consultant agree that the law governing this Agreement shall be that of the State of California, without regard to the provisions, policies or principals thereof relating to choice or conflict of laws.

17. COMPLIANCE WITH LAWS.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments including having any bonds or insurance as may be applicable by any regulating federal, state or local governments.

San Jose FCERS and PFDRP Verus Agreement

18. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized in writing in advance by Client, or as required by applicable law.

19. OWNERSHIP OF MATERIALS.

All reports, documents or other materials developed or discovered by Consultant or any other person engaged directly or indirectly by Consultant to perform the services required hereunder shall be and remain the property of Client without restriction or limitation upon their use.

20. WAIVER.

Consultant agrees that waiver by Client of any breach or violation of any term or condition of this Agreement shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by Client of the performance of any work or services by Consultant shall not be deemed to be a waiver of any term or condition of this Agreement.

21. CONSULTANT'S BOOKS AND RECORDS.

- A. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to Client for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement.
- B. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to Client, at any time during regular business hours, upon written request by the CEO, or a designated representative. Copies of such documents shall be provided to Client for inspection at their offices when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
- D. Where Client has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, Client may, by written request by any of the above-named officers, require that custody of the records be given to Client

San Jose FCERS and PFDRP Verus Agreement

and that the records and documents be maintained in their offices. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

22. CONFLICT OF INTEREST.

Consultant shall avoid all federal, state or applicable city prohibited conflicts of interest and use it best efforts to avoid an appearance of conflict of interest and to remedy an appearance of a conflict in interest when it becomes known in performance of this Agreement.

Consultant shall file an Assuming Office Disclosure Statement of Economic Interests (Form 700) entitled "DISCLOSURE STATEMENT." Such statement shall be filed within thirty (30) days of the date of this Agreement and annually thereafter by the first of April. Upon termination of this Agreement, Consultant shall file a Leaving Office Disclosure Statement of Economic Interest (Form 700).

23. GIFTS.

- A. Consultant is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.
- B. Consultant agrees not to offer any City or ORS officer, board member or employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this Agreement by Consultant. In addition to any other remedies City or Client may have in law or equity, Client may terminate this Agreement for such breach as provided in SECTION 15 of this Agreement.

24. DISQUALIFICATION OF FORMER EMPLOYEES.

Consultant is familiar with the provisions relating to the disqualification of former officers and employees of City in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance"). Consultant shall not utilize either directly or indirectly any officer, employee, or agent of Consultant to perform services under this Agreement, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

25. NOTICES.

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed

San Jose FCERS and PFDRP Verus Agreement

to the respective parties as follows:

To Client:

Investment Program
Office of Retirement Services, City of San José
1737 North First Street, Suite 600
San José, CA 95112

To Consultant:

Verus Advisory, Inc.
999 Third Avenue,
Suite 4200
Seattle, Washington 98104
Attn: Shelly Heier, President

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

26. VENUE.

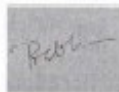
Consultant hereby agrees that Client may be subjected to suit only in the courts of San José, California. In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

27. PRIOR AGREEMENTS AND AMENDMENTS.

This Agreement, including all Schedules attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may be modified only by a written amendment duly executed by the parties to this Agreement.

AGREED to this 7th day of July, 2020.

By



Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sanjoseca.gov, c=US
Date: 2020.07.11 16:17:41 -07'00'

Prabhu Palani

Chief Investment Officer

Title

San Jose FCERS and PFDRP Verus Agreement

AGREED AND ACCEPTED:

Verus Advisory, Inc.

By


Principal, CO, CEO

San Jose FCERS and PFDRP Verus Agreement

SCHEDULE A SCOPE OF SERVICES

1. RISK ADVISORY SERVICES

Consultant agrees to provide Client with Risk Advisory and Risk Analytics stipulated in this Schedule A. Consultant will offer advice to ORS and the Boards solely in the interest of the plan participants and beneficiaries of San Jose Federated City Employees' Retirement System ("FCERS") and the San Jose Police & Fire Department Retirement Plan ("PFDRP"). The risk advisory services provided shall be for the Investment Program's four assets pools, which include Pension assets and Health Care Trusts assets for both FCERS and PFDRP.

2. RISK ANALYTICS SYSTEM SERVICES

Consultant agrees to manage a Risk Analytics System that is capable of comprehensively modelling a risk of complex, highly diversified asset pools at multiple levels, including the investment manager, sub-asset class, asset class, and total plan levels across asset classes. The Risk Analytics System, while managed by Consultant, will be made available to Client through a web-based interface. It is the intent of Consultant to utilize MSCI, Inc. to provide BarraOne risk analytics and BarraOne risk management services.

3. RISK MANAGEMENT PROCESS

- A. Consultant shall manage the development of a risk policy to be incorporated into the Client's investment policy statement through interaction with Client and by aligning of the Client's investment enterprise objectives with the ongoing decision about portfolio implementation and development.
- B. Consultant shall provide Risk Analytics reporting through the Verus propriety Risk Dashboard, a system used for calculating and communicating the level and nature of risk in the client's portfolio. It is intended that the Risk Dashboard and risk analytics provided are an Integration of the Client's Risk Policy Statement with Client's existing portfolio of investments and Investment Policy Statements.
- C. It is understood that in addition to a number of technologies utilized to produce the Risk Dashboard, Verus will utilize MSCI's BarraOne analytical toolset.
- D. Consultant shall provide training, support and guidance on report usage and interpretation.

San Jose FCERS and PFDRP Verus Agreement

- E. Consultant shall support Client in incorporating risk measurements in the investment process. Such communication shall include working with Client to determine the appropriate allocation to risk and return drivers.

4. RISK POLICY

After assessment of the organization's Enterprise Risk Tolerance, Consultant shall make recommendations to the Client and assist in the creation of a risk management policy to be integrated into the Investment Policy Statement.

5. DATA MANAGEMENT

- A. Consultant shall be accountable to Client and responsible for the data management process. Client's involvement and responsibility shall be limited to those aspects of the process to provide a deeper understanding of the most material aspects of the system and its implementation.
- B. Consultant shall engage with MSCI BarraOne in its role and responsibilities as Consultant to Client to provide the services under this Agreement.
- C. Client shall be supported by dedicated data management individuals at both Consultant and MSCI and MSCI will assign a dedicated Managed Services contact to interface with Consultant regarding the design and execution of the data management processes.

6. RISK REPORTING

- A. Consultant shall provide monthly risk dashboard reports.

Consultant shall also provide training and education to Client as is reasonable to empower Client to design and prepare additional reports from the risk dashboards. Specific training on the Barra platform is to be provided by Barra; provided, however, Consultant is willing to assist in this process in connection with the training and education provided to Client on the design and preparation of risk dashboard reports.

- B. Consultant will actively engage with Client on the design and implementation of risk reports and provide Client with education and training on using BarraOne as is appropriate to utilize our combined abilities to create a "culture of risk" across the organization.

7. TRAINING, EXTRA RESOURCES AND VIEWS

Consultant shall be responsible for ongoing risk management training, education, and presentations, as reasonably needed. The training and education may be provided via conference calls, webinars and in-person meetings. The costs of attending such meetings shall be borne solely by Consultant.

San Jose FCERS and PFDRP Verus Agreement

8. RISK ANALYTICS SYSTEM.

Client shall enter into agreement with Barra, LLC ("Barra"), whose ultimate parent company is MSCI Inc. ("MSCI"), to provide the analytic tool set described in this Agreement. Consultant shall obtain such permission or enter into such agreement with Barra, LLC to gain unfettered access to the tools provided pursuant to the Barra contract entered into by Client to facilitate providing the services contemplated in this agreement. It is understood that a contract directly between Barra, LLC and Client, enables Barra, LLC to provide training on the Barra systems directly to the Client. Verus will make its best efforts to minimize fees associated with its risk system and any associated index licensing fees.

9. DILIGENCE PREPORTING

Upon request from Client, Consultant shall promptly provide available investment due diligence, operational due diligence reports, and investment monitoring reports.

Additionally, Consultant shall provide a report on a quarterly basis of the managers (or mutual funds), which appear to be suitable for Client and that have met Consultants' required quality thresholds for investment and operational due diligence through approval by the Consultant's Investment Committee, Alternatives Investment Committee or Peer Review sub-committees and thereby approved for disclosure to Consultant's clients. It is understood that this universe of managers (or mutual funds) to be disclosed is broader than the traditional "Focus List." Consultant will highlight those investments that traditionally would have passed the standards to be placed on a "Focus List."

San Jose FCERS and PFDRP Verus Agreement

**SCHEDULE B
ADDITIONAL SERVICES NOT UNDER THIS AGREEMENT**

The following is a list of services and related fees not stipulated under this agreement. Client agrees to pay Consultant provided that Client engages Consultant on such projects prior to the commencement of work and that Client approves in advance the additional expenditure. Fees will be based on scope of the services provided and agreed.

- (a) Provide "Direct" hedge fund and private equity portfolio development and manager selection.
- (b) Conduct an Asset-Liability study.
- (c) Assume responsibility for executing investment decisions as a discretionary consultant or OCIO, within the parameters set forth by Client the including manager selection and portfolio construction (standard fee structure begins at 30bps on the first \$100 million.
- (d) Provide manager fee negotiation and implementation assistance.
- (e) Provide litigation support and other administrative services when authorized by Client for the following hourly rates:

Senior Consultant	\$450/hour
Consultant	\$400/hour
Associate	\$200/hour
Analyst	\$150/hour

Consultant shall furnish Client with appropriate hourly detail to justify bills submitted.

San Jose FCERS and PFDRP Verus Agreement

**SCHEDULE C
FEES**

For the services agreed to be provided in this Agreement, client agrees to pay Consultant an annual fee of Two-Hundred-Fifty-Thousand Dollars (\$250,000) per annum.



- ☐ FOR YOUR ELECTRONIC SIGNATURE
☐ FULLY EXECUTED COPY TO FOLLOW

CITY STAFF: _____

STAFF EMAIL: _____

SCANNED SIGNATURE AUTHORIZATION

DATE: July 7, 2020

TOTAL PAGES:

(INCLUDING THIS PAGE) 3

CONSULTANT NAME: Verus Advisory, Inc.

EMAIL: wspencer@verusinvestments.com

PHONE: (206) 622-3700

☒ I agree to use electronic signatures

SIGNATURE OF CONSULTANT: _____

DIRECTIONS:

REVIEW THE ENCLOSED DOCUMENT, IF IT IS ACCEPTABLE:

1. SIGN THE DOCUMENT
2. CHECK THE BOX BELOW YOUR NAME AND SIGN AGREEING TO THE USE OF ELECTRONIC SIGNATURES
3. SCAN YOUR EXECUTED DOCUMENT TOGETHER WITH THIS COVER PAGE IN **BLUE** INK
4. EMAIL THE ENTIRE DOCUMENT TO (CITY STAFF EMAIL ADDRESS):

To Be Completed by City Staff:

ALTERNATIVE METHODS OF VERIFICATION:

- ☐ USE OF A PASSWORD PROTECTED WEBSITE
☐ CONFIRMED BY A KNOWN TELEPHONE NUMBER
☐ PERSONALLY KNOWN TO CITY STAFF

City of San José Contract/Agreement Transmittal Form

Route Order**Attached / Completed****Electronically Signed**TO: ☐ City Attorney☐ City Manager☒ **City Clerk** OR Return to
Dept. (circle one)☐ Insurance Certificates / Waivers☐ Business Tax Certificate☐ Contacted Clerk re: Form 700☐ Supplemental Memorandums (if applicable): Select One☒ Electronically Signed: Yes☐ Audit Trail Attached (if applicable)☐ Scanned Signature Authorization

Type of Document: New Contract

☐ Type of Contract: Other**REQUIRED INFORMATION FOR ALL CONTRACTS:**Existing GILES # 666407-000Contractor: Verus Advisory IncAddress: 2321 Rosecrans Avenue, Suite 2250, El Segundo, CA 90245Phone: 310-297-1777Email: eneill@verusinvestments.comContract Description: Investment risk consulting services for Federated City Employees' Retirement System and Police and Fire Department Retirement PlanTerm Start Date: 07/01/2020Term End Date: 6/30/2022Extension: NoMethod of Procurement: N/A

RFB, RFP or RFQ No.: _____

Date Conducted: _____

Agenda Date (if applicable): _____

Agenda Item No.: _____

Resolution No.: _____

Ordinance No.: _____

Original Contract Amount: \$500,000

Amount of Increase/Decrease: _____

Option #: of Option Amount: _____NTE/Updated Contract Amount: \$500,000

Fund/Appropriation: _____

Form 700 Required (Selection mandatory for processing): Select one Revenue Agreement: Select one

Tax Certificate No.: _____

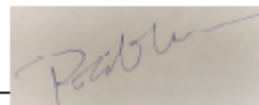
Expiration Date: _____

Department: Retirement (77)Department Contact: Ron Kumar

Customer (Finance Only): _____

Notes:

Department Director Signature: _____


11/16/2020

Date

Office of the City Manager Signature: _____

Date



Memorandum

TO: Federated City Employees' Retirement System
Police and Fire Department Retirement Plan
Boards of Administration

FROM: Ron Kumar

SUBJECT: Investment Related Contract Renewals

DATE: July 23, 2020

Approved

Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sanjoseca.gov, c=US
Date: 2020.07.23 10:14:32 -0700

Date July 23, 2020

Recommendation

- a) Discussion and approval for the Secretary to negotiate and execute a three-year extension of the agreement with JP Morgan for \$10,000 per year.
- b) Discussion and approval for the Secretary to negotiate and execute a two-year extension of the agreement with Barra, LLC for \$157,500 per year.

Background

Vendor	Service	Expiration	Term Extension	Annual Fee	Not-to-Exceed
JP Morgan	Data Services	August 21, 2020	3 years	\$ 10,000	\$ 33,000
Barra, LLC	Data Services	June 1, 2020	2 years	\$ 157,500	\$ 330,000

San Jose Federated City Employees' Retirement and Police and Fire Department Retirement Plan are contracted with above firms for investment related data services. JP Morgan provides access to the indices used for benchmarking the Emerging Market Debt strategies. The current agreement with JP Morgan expires on August 20, 2020.

Barra, LLC provides data services related to the risk analytics of the plans' portfolios. The data is used in conjunction with Verus's risk analytics. Following an RFP process, the Boards elected to rehire Verus as the plans' risk consultants in June 2020. The renewal of Barra's agreement will coincide with the term of Verus's agreement. The annual fee for the above contracts is shared between the two plans.

Conclusion

Staff recommends approval of the above recommendations.

Date:
2020.07.23
10:15:02 -07'00'

Ron Kumar
Investment Ops Supervisor



BOARD OF ADMINISTRATION

Meeting Minutes - Final Federated City Employees' Retirement System and Federated City Employees' Health Care Trust

Thursday, August 20, 2020

8:30 AM

The Board of Administration of the Federated City Employees Retirement System and Health Care Trust met on Thursday, August 20, 2020 at 8:30 a.m. via Zoom meeting. Chair Castellano called the Pension and Health Care Trust meeting to order at 8:32 a.m.

Present: 7 - Anurag Chandra, Jay Castellano, Qianyu Sun, Elaine Orr, Spencer Horowitz, Mark Keleher and Julie Jennings

Retirement Staff Present via Zoom: Roberto L. Peña, Prabhu Palani, Barbara Hayman, Eran Amir, Brian Starr, Christina Wang, Jay Kwon, Arun Nallasivan, Ron Kumar, Dhinesh Ganapathiappan, Ellen Lee, Marti Zarate, Michelle San Miguel, and Linda Alexander.

Also Present via Zoom: Jenni Krengel, General and Fiduciary Counsel; Laura Wirick, Meketa Investment Group; Stephen McCourt, Meketa Investment Group; Jared Pratt, Meketa Investment Group; Chris Theodor, Meketa Investment Group; Tom Iannucci, Cortex Consulting; Lisa Perez, SJPD; Randy Schriefer, SJPD; Dr. Susan Tierman, Board Medical Advisor; Russ Richeda, Disability Counsel; Vito Maletta, Disability Applicant; Elsa Cordova, Return to Work Coordinator.

Trustee Orr joined the meeting at 8:37 a.m.

Council Liaison Dev Davis joined the meeting at 9:32 a.m. and departed at 1:00 p.m.

General and Fiduciary Counsel Jenni Krengel departed at 9:26 a.m.

CLOSED SESSION

The Board entered into Closed Session at 8:33 a.m.

CLOSED SESSION AGENDA ITEMS WILL BE HEARD AT 8:30 A.M.

I. CLOSED SESSION NEW BUSINESS-DEFERRED/CONTINUED ITEMS

A. CLOSED SESSION: PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957(b)(1). Position: Chief Executive Officer

B. CLOSED SESSION: PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957(b)(1). Position: Chief Investment Officer

The Board came out of Closed Session at 9:36 a.m.

OPEN SESSION - will reconvene following Closed Session, estimated to be 9:30 a.m.

- d. Discussion and approval for the Secretary to negotiate and execute a two-year extension of the agreement with Barra, LLC for risk system data for \$157,500 per year shared 50/50 with Police and Fire Department Plan.

Item 4c & Item 4d were heard together.

Mr. Kumar spoke to the item and answered questions from the Board. Barra, LLC provides data services related to the risk analytics of the plans' portfolios. The data is used in conjunction with Verus's risk analytics. The rates have not increased from the last renewal.

A motion was made to approve the Secretary to negotiate and execute a two-year extension of the agreement with Barra, LLC for risk system data for \$157,500 per year shared 50/50 with Police and Fire Department Plan.

Approved. (M.S.C. Keleher/Sun 7-0-0) The motion passed unanimously by roll call vote.

5. OLD BUSINESS-DEFERRED/CONTINUED ITEMS

- a. Discussion of potential topics for the Federated Strategic Planning meeting in September.

CEO Peña introduced the item and Tom Iannucci, Cortex Consulting. Mr. Iannucci shared the background of past Board Retreats. He reviewed the draft agenda and asked for the Board's input on the topics presented. The Board gave their feedback and directed Mr. Iannucci on topics for the Strategic Planning meeting agenda.

6. NEW BUSINESS

- a. Oral update from the CEO of Retirement Services, Roberto L. Pena.

CEO Peña updated the Board on the following:

- ORS Staff continues to conduct business remotely and can expect to do so through the end of the calendar year.
- Staff is able to checkout equipment from the office while working from home.
- New laptops will be purchased for staff which was included as part of the budget process.
- The Board and Committee agendas will now include COVID -19 language.
- The "No Known Conflict of Interest" forms are due in September. Staff will send a reminder email.
- CEO Peña publicly thanked both Board Chairs and Cheryl Parkman for their work during the process for the CALPERS Defined Benefit Plan for Investment Staff.
- Senior Internal Auditor recruitment is open until September 2, 2020.
- This year the ORS Health Fair will be held virtually. In person flu shots have been cancelled.
- Harvey Leiderman, General Counsel will send an email to Trustees regarding the California Supreme Court decision on retiree vested benefits.

- b. Oral update from the City Council Liaison to the Board.

Council Liaison Dev Davis updated the Board on the following:

- No budget news. Next update will be in September.
- City Employees will continue working from home through the end of the year.



BOARD OF ADMINISTRATION

Meeting Minutes - Final Police & Fire Department Retirement Plan and Health Care Trust

Thursday, August 6, 2020

8:30 AM

MEETING TO BE HELD BY ZOOM CONFERENCE IN LIEU OF PHYSICAL LOCATION

zoom.us

Dial In: +1 669 900 9128 US (San Jose)

Meeting ID: 990 5714 1594

Password: 244463

Andrew Gardanier, Chair, Fire Active Rep (Term Expires 11/30/23)
Drew Lanza, Vice-Chair, Public Member (Term Expires 4/30/23)
Sunita Ganapati, Trustee, Public Member (Term Expires 11/30/22)
Howard Lee, Trustee, Public Member (Term Expires 11/30/22)
Eswar Menon, Trustee, Public Member (Term Expires 11/30/22)
Nick Muyo, Trustee, Police Retiree Rep (Term Expires 11/30/20)
Richard Santos, Trustee, Fire Retiree Rep (Term Expires 11/30/22)
Vincent Sunzeri, Trustee, Public Member (Term Expires 11/30/20)
Franco Vado, Trustee, Police Active Rep (Term Expires 11/30/21)

Pam Foley, City Council Liaison to the Board

Harvey Leiderman, General and Fiduciary Counsel

Roberto L. Peña, CEO, Office of Retirement Services

AGENDA

CALL TO ORDER AND ROLL CALL

The Board of Administration of the Police and Fire Department Retirement Plan and Health Care Trust met telephonically on Thursday, August 6, 2020 at 8:30 a.m. Chair Gardanier called the Pension Plan and Health Care Trust meeting to order at 8:33 a.m. followed by roll call. Chair Gardanier welcomed new Trustee Sunita Ganapati to the Board.

Present: 9 - Nick Muyo, Eswar Menon, Andrew Gardanier, Franco Vado, Howard Lee, Andrew Lanza, Vincent Sunzeri, Richard Santos and Sunita Ganapati

Police & Fire Department
Retirement Plan and Health Care
Trust

Meeting Minutes - Final

August 6, 2020

CIO Palani introduced Chris Theodor, Meketa Investment Group, who presented the 4th Quarter 2019 Private Markets report and answered questions from the Board. Mr. Theodor also briefly spoke to early 2020 figures.

- c. Discussion and approval for the Secretary to negotiate and execute a three-year extension of the agreement with JP Morgan for Emerging Market Debt benchmarking data for \$10,000 per year shared 50/50 with Federated System.

Item 3c and 3d were heard together.

CIO Palani introduced Ron Kumar who spoke to the proposed contract renewals and answered questions from the Board. Mr. Kumar explained that the Plan is contracted with JP Morgan and Barra, LLC for investment related data services. JP Morgan provides access to the indices used for benchmarking the Emerging Market Debt strategies while Barra, LLC provides data services related to the risk analytics of the plans' portfolios. The data is used in conjunction with Verus's risk analytics. The annual fee for the proposed contract renewals will be shared between the two plans.

A motion was made to authorize the Secretary to negotiate and execute a three-year extension of the agreement with JP Morgan for Emerging Market Debt benchmarking data for \$10,000 per year shared 50/50 with Federated System.

Approved. (M.S.C. Santos/Lee 8-0-0) The motion passed unanimously by roll call vote. Trustee Lanza was absent.

- d. Discussion and approval for the Secretary to negotiate and execute a two-year extension of the agreement with Barra, LLC for risk system data for \$157,500 per year shared 50/50 with Federated System.

A motion was made to authorize the Secretary to negotiate and execute a two-year extension of the agreement with Barra, LLC for risk system data for \$157,500 per year shared 50/50 with Federated System.

Approved. (M.S.C. Santos/Muyo 8-0-0) The motion passed unanimously by roll call vote. Trustee Lanza was absent.

4. OLD BUSINESS CONTINUED-DEFERRED ITEMS - None

5. NEW BUSINESS

- a. Oral update from the CEO of Retirement Services. Roberto L. Peña.

CEO Peña updated the Board on the following:

- We have added language to all agendas going forward due to COVID-19. The City has also included the language into their agenda's as well.
- Staff continues to work remotely. We are completing our core duties. Mr. Peña stated there is a good chance staff may not be back at the office until 2021. Staff is now able to check-out equipment to help with working from home.
- 'No-Known Conflict of Interest' form will be due soon. Staff will reach out to Trustees with

NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT

AGREEMENT TITLE and DATE:	Barra, LLC August 31, 2020
CONSULTANT Name and Address:	7 World Trade Center, 49 th Floor New York, NY 10007
DATE OF OPTION:	June 2, 2020

(date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section 2.2 of the Agreement referenced above, the City of San Jose hereby exercises its option to extend the term under the following provisions:

OPTION NO.	1
-------------------	---

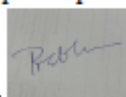
NEW OPTION TERM

Begin date:	June 2, 2020
End date:	June 1, 2022

MAXIMUM COMPENSATION for New Option Term:	\$330,000 NTE \$750,000
--	-------------------------

For the option term exercised by this Notice, City shall pay Consultant an amount not to exceed the amount set forth above for Consultant's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of San Jose hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

CITY OF SAN JOSE
a municipal corporation

By  Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sanjoseca.gov,
c=US
Date: 2020.09.01 09:50:44 -0700
Name: Prabhu Palani
Title: Chief Investment Officer



Barra LLC
250 Greenwich St
7 World Trade Center, 49th Floor
New York NY 10007
Tel: +1(212)804-3996
Fax: +1(212)804-5315
Email: billing@msci.com

Invoice

Sold To Licensee:
City of San Jose Office of Retirement
Services
1737 North First Street 6th Floor
San Jose CA 95112

Bill To:
City of San Jose Office of Retirement
Services
Attn: Prabhu Palani
1737 North First Street 6th Floor
San Jose CA 95112

Ship To:
City of San Jose Office of Retirement
Services
Attn: Prabhu Palani
1737 North First Street 6th Floor
San Jose CA 95112

Invoice Number	Customer Number	Payment Terms	Invoice Date
400112054	7000000909	Net due in 30 days	06/22/2020

Due Date	License Term	Billing Period
07/22/2020	06/02/2020 - 06/01/2021	06/02/2020 - 06/01/2021

Product Description	Price
BarraOne BIM303-XL Version via BarraOne	
BarraOne BIM303 with GEM3 Equity Factors via BarraOne	
BarraOne Report Tool via BarraOne	
BarraOne Time-Dimensional Trees via BarraOne	
BIM Hedge Fund Model	
Private Real Estate Model	
JP Morgan EMBI+ Third Party Index Data for BarraOne via BarraOne	
Bloomberg Barclays Global Third Party Index Data for BarraOne via BarraOne	
Bloomberg Barclays US Third Party Index Data for BarraOne via BarraOne	
JP Morgan GBI-EM Global Diversified Third Party Index Data for BarraOne via BarraOne	
MSCI Third Party Index Data for BarraOne via BarraOne	
Russell US Third Party Index Data for BarraOne via BarraOne	
S&P US Third Party Index Data for BarraOne via BarraOne	
Private Equity Model	
FTSE China A Third Party Index Data for BarraOne via BarraOne	
JP Morgan EMBI Global Diversified Third Party Index Data for BarraOne via BarraOne	
BarraOne Application Users via BarraOne	
BarraOne	
BarraOne Data Processing & Reporting via BarraOne	
BarraOne BIM with GEM2 Equity Factor Risk Package via BarraOne	
BarraOne BIM303-Long Version via BarraOne	
BarraOne BIM303-Short Version via BarraOne	
BarraOne Macro Factors Model via BarraOne	

TIN 94-2993326

Contract Reference #:OF_00219193.0

Subtotal USD 157,500.00

Sales Tax @0.000 USD 0.00

Invoice Total USD 157,500.00

All amounts are in USD



Barra LLC
250 Greenwich St
7 World Trade Center, 49th Floor
New York NY 10007
Tel: +1(212)804-3996
Fax: +1(212)804-5315
Email: billing@msci.com

Page 2 of 2

Invoice

Sold To Licensee:
City of San Jose Office of Retirement
Services
1737 North First Street 6th Floor
San Jose CA 95112

Bill To:
City of San Jose Office of Retirement
Services
Attn: Prabhu Palani
1737 North First Street 6th Floor
San Jose CA 95112

Ship To:
City of San Jose Office of Retirement
Services
Attn: Prabhu Palani
1737 North First Street 6th Floor
San Jose CA 95112

Invoice Number	Customer Number	Payment Terms	Invoice Date
400112054	7000000909	Net due in 30 days	06/22/2020

Due Date	License Term	Billing Period
07/22/2020	06/02/2020 - 06/01/2021	06/02/2020 - 06/01/2021

Note:

Instructions for Remittance	By mail remit to	By wire remit to
Please include invoice# Please note: we do not accept credit cards at this moment	Barra, LLC PO Box 742434 Los Angeles CA 90074-2434	Bank of America Concord, CA 94520 Account Name: Barra LLC WIRE ABA: 026009593 ACH ABA: 121000358 AC: 1472650149 Swift/BIC: BOFAUS3N

Please note that bank fees are the liability of the payor.

City of San José Contract/Agreement Transmittal Form

Route Order	Attached / Completed	Electronically Signed
TO: <input type="checkbox"/> City Attorney <input type="checkbox"/> City Manager <input checked="" type="checkbox"/> City Clerk OR Return to <input type="checkbox"/> Dept. (circle one)	Insurance Certificates / Waivers Business Tax Certificate <input type="checkbox"/> Contacted Clerk re: Form 700 <input type="checkbox"/> Supplemental Memorandums (if applicable): Select One	<input checked="" type="checkbox"/> Electronically Signed: Yes <input type="checkbox"/> Audit Trail Attached (if applicable) <input type="checkbox"/> Scanned Signature Authorization

Type of Document: Existing Contract ☒ Type of Contract: Other

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # 662520-001

Contractor: Barra, LLC

Address: 7 World Trade Center, 49th Floor, New York, NY 1007

Phone: (212) 804-3996

Email: billing@msci.com

Contract Description: Data subscription for risk analytics for Federated City Employees' Retirement System and Police and Fire Department Retirement Plan

Term Start Date: June 2, 2020 Term End Date: June 1, 2022 Extension: Yes

Method of Procurement: N/A RFB, RFP or RFQ No.: _____ Date Conducted: _____

Agenda Date (if applicable): _____ Agenda Item No.: _____

Resolution No.: _____ Ordinance No.: _____

Original Contract Amount: 420,000 Amount of Increase/Decrease: 330,000

Option #: _____ of _____ Option Amount: _____ NTE/Updated Contract Amount: 750,000

Fund/Appropriation: _____

Form 700 Required (Selection mandatory for processing): Select one Revenue Agreement: Select one

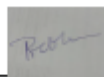
Tax Certificate No.: _____ Expiration Date: _____

Department: Retirement (77)

Department Contact: Ron Kumar Customer (Finance Only): _____

Notes:

Department Director Signature: _____



Digitally signed by Prabhu Palani
DN: cn=Prabhu Palani, o=CSJ ORS, ou,
email=prabhu.palani@sanjoseca.gov,
c=US
Date: 2020.08.26 09:12:30 -0700

Date

Office of the City Manager Signature: _____

Date



Addendum No. 1

to

Consulting & Risk Advisory Service Agreement

This Addendum No. 1 is made effective July 1, 2022, by and between Verus Advisory, Inc. ("Verus"), a Washington corporation, having its principal offices at 800 Fifth Avenue, Suite 3900, Seattle, WA 98104, ("Verus") and San Jose Federated City Employees' Retirement System and San Jose Police & Fire Department Retirement Plan (the "Client(s)"), collectively the "Parties," with respect to the **Consulting & Risk Advisory Services Agreement** by and between the parties dated effective July 1, 2020 ("Agreement").

WHEREAS:

The Parties desire to set forth in writing Client's exercise of an option to extend the Agreement for one year and Verus' acceptance of the extension from July 1, 2022, to June 30, 2023.

NOW, THEREFORE, it is agreed between the Parties that:

The Consulting & Risk Advisory Services Agreement between the Parties dated effective July 1, 2020, is extended for one year beginning July 1, 2022, and ending June 30, 2023. For ease of reference, Schedules A, B, and C of the Agreement are attached and incorporated herein.

Except as expressly amended herein, all terms and conditions of the Agreement dated effective July 1, 2020, shall remain in full force and effect.

AGREED to this 15 day of September 2022.

By 


Signature of Client

Chief Investment Officer

Title

AGREED AND ACCEPTED:

VERUS ADVISORY, INC.

By 

Warren R. Spender, CCO, CLO



San Jose FCERS and PFDRP Verus Agreement

SCHEDULE A SCOPE OF SERVICES

1. RISK ADVISORY SERVICES

Consultant agrees to provide Client with Risk Advisory and Risk Analytics stipulated in this Schedule A. Consultant will offer advice to ORS and the Boards solely in the interest of the plan participants and beneficiaries of San Jose Federated City Employees' Retirement System ("FCERS") and the San Jose Police & Fire Department Retirement Plan ("PFDRP"). The risk advisory services provided shall be for the Investment Program's four assets pools, which include Pension assets and Health Care Trusts assets for both FCERS and PFDRP.

2. RISK ANALYTICS SYSTEM SERVICES

Consultant agrees to manage a Risk Analytics System that is capable of comprehensively modelling a risk of complex, highly diversified asset pools at multiple levels, including the investment manager, sub-asset class, asset class, and total plan levels across asset classes. The Risk Analytics System, while managed by Consultant, will be made available to Client through a web-based interface. It is the intent of Consultant to utilize MSCI, Inc. to provide BarraOne risk analytics and BarraOne risk management services.

3. RISK MANAGEMENT PROCESS

- A. Consultant shall manage the development of a risk policy to be incorporated into the Client's investment policy statement through interaction with Client and by aligning of the Client's investment enterprise objectives with the ongoing decision about portfolio implementation and development.
- B. Consultant shall provide Risk Analytics reporting through the Verus propriety Risk Dashboard, a system used for calculating and communicating the level and nature of risk in the client's portfolio. It is intended that the Risk Dashboard and risk analytics provided are an integration of the Client's Risk Policy Statement with Clients existing portfolio of investments and Investment Policy Statements.
- C. It is understood that in addition to a number of technologies utilized to produce the Risk Dashboard, Verus will utilize MSCI's BarraOne analytical toolset.
- D. Consultant shall provide training, support and guidance on report usage and interpretation.

San Jose FCERS and PFDRP Verus Agreement

- E. Consultant shall support Client in incorporating risk measurements in the investment process. Such communication shall include working with Client to determine the appropriate allocation to risk and return drivers.

4. RISK POLICY

After assessment of the organization's Enterprise Risk Tolerance, Consultant shall make recommendations to the Client and assist in the creation of a risk management policy to be integrated into the Investment Policy Statement.

5. DATA MANAGEMENT

- A. Consultant shall be accountable to Client and responsible for the data management process. Client's involvement and responsibility shall be limited to those aspects of the process to provide a deeper understanding of the most material aspects of the system and its implementation.
- B. Consultant shall engage with MSCI BarraOne in its role and responsibilities as Consultant to Client to provide the services under this Agreement.
- C. Client shall be supported by dedicated data management individuals at both Consultant and MSCI and MSCI will assign a dedicated Managed Services contact to interface with Consultant regarding the design and execution of the data management processes.

6. RISK REPORTING

- A. Consultant shall provide monthly risk dashboard reports.

Consultant shall also provide training and education to Client as is reasonable to empower Client to design and prepare additional reports from the risk dashboards. Specific training on the Barra platform is to be provided by Barra; provided, however, Consultant is willing to assist in this process in connection with the training and education provided to Client on the design and preparation of risk dashboard reports.

- B. Consultant will actively engage with Client on the design and implementation of risk reports and provide Client with education and training on using BarraOne as is appropriate to utilize our combined abilities to create a "culture of risk" across the organization.

7. TRAINING, EXTRA RESOURCES AND VIEWS

Consultant shall be responsible for ongoing risk management training, education, and presentations, as reasonably needed. The training and education may be provided via conference calls, webinars and in-person meetings. The costs of attending such meetings shall be borne solely by Consultant.

San Jose FCERS and PFDRP Verus Agreement

8. RISK ANALYTICS SYSTEM.

Client shall enter into agreement with Barra, LLC ("Barra"), whose ultimate parent company is MSCI Inc. ("MSCI"), to provide the analytic tool set described in this Agreement. Consultant shall obtain such permission or enter into such agreement with Barra, LLC to gain unfettered access to the tools provided pursuant to the Barra contract entered into by Client to facilitate providing the services contemplated in this agreement. It is understood that a contract directly between Barra, LLC and Client, enables Barra, LLC to provide training on the Barra systems directly to the Client. Verus will make its best efforts to minimize fees associated with its risk system and any associated index licensing fees.

9. DILIGENCE PREPORTING

Upon request from Client, Consultant shall promptly provide available investment due diligence, operational due diligence reports, and investment monitoring reports.

Additionally, Consultant shall provide a report on a quarterly basis of the managers (or mutual funds), which appear to be suitable for Client and that have met Consultants' required quality thresholds for investment and operational due diligence through approval by the Consultant's Investment Committee, Alternatives Investment Committee or Peer Review sub-committees and thereby approved for disclosure to Consultant's clients. It is understood that this universe of managers (or mutual funds) to be disclosed is broader than the traditional "Focus List." Consultant will highlight those investments that traditionally would have passed the standards to be placed on a "Focus List."

San Jose FCERS and PFDRP Verus Agreement

**SCHEDULE B
ADDITIONAL SERVICES NOT UNDER THIS AGREEMENT**

The following is a list of services and related fees not stipulated under this agreement. Client agrees to pay Consultant provided that Client engages Consultant on such projects prior to the commencement of work and that Client approves in advance the additional expenditure. Fees will be based on scope of the services provided and agreed.

- (a) Provide "Direct" hedge fund and private equity portfolio development and manager selection.
- (b) Conduct an Asset-Liability study.
- (c) Assume responsibility for executing investment decisions as a discretionary consultant or OCIO, within the parameters set forth by Client the including manager selection and portfolio construction (standard fee structure begins at 30bps on the first \$100 million.
- (d) Provide manager fee negotiation and implementation assistance.
- (e) Provide litigation support and other administrative services when authorized by Client for the following hourly rates:

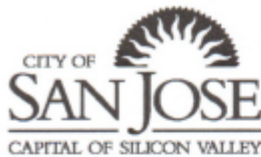
Senior Consultant	\$450/hour
Consultant	\$400/hour
Associate	\$200/hour
Analyst	\$150/hour

Consultant shall furnish Client with appropriate hourly detail to justify bills submitted.

San Jose FCERS and PFDRP Verus Agreement

**SCHEDULE C
FEES**

For the services agreed to be provided in this Agreement, client agrees to pay Consultant an annual fee of Two-Hundred-Fifty-Thousand Dollars (\$250,000) per annum.



- ☐ FOR YOUR ELECTRONIC SIGNATURE
☐ FULLY EXECUTED COPY TO FOLLOW

CITY STAFF: _____
STAFF EMAIL: _____

SCANNED SIGNATURE AUTHORIZATION

DATE: September 19, 2022 TOTAL PAGES: (INCLUDING THIS PAGE) 1
CONSULTANT NAME: Warren Spencer
EMAIL: wspencer@verusinvestments.com
PHONE: (206) 622-3700

X I agree to use electronic signatures

SIGNATURE OF CONSULTANT:  _____

DIRECTIONS:

REVIEW THE ENCLOSED DOCUMENT, IF IT IS ACCEPTABLE:

1. SIGN THE DOCUMENT
2. CHECK THE BOX BELOW YOUR NAME AND SIGN AGREEING TO THE USE OF ELECTRONIC SIGNATURES
3. SCAN YOUR EXECUTED DOCUMENT TOGETHER WITH THIS COVER PAGE **IN BLUE INK**
4. EMAIL THE ENTIRE DOCUMENT TO (CITY STAFF EMAIL ADDRESS):
RON.KUMAR@SANJOSECA.GOV

To BE COMPLETED BY CITY STAFF:

ALTERNATIVE METHODS OF VERIFICATION:

- ☐ USE OF A PASSWORD PROTECTED WEBSITE
☐ CONFIRMED BY A KNOWN TELEPHONE NUMBER
☐ PERSONALLY KNOWN TO CITY STAFF



Memorandum

TO: Police and Fire Department Retirement Plan

FROM: Ron Kumar

SUBJECT: Investment & Risk Consultant Contracts

DATE: March 28, 2023

Approved

Date

03/28/2023

Recommendation

- a) Discussion and action to renew the investment consulting agreement with Meketa Investment Group for one year for an amount not-to-exceed \$350,500.
- b) Discussion and action to renew the risk consulting agreement with Verus Advisory, Inc. for one year for an amount not-to-exceed \$125,000.
- c) Discussion and action to renew the risk data service agreement with Barra LLC for one year for an amount not-to-exceed \$96,000.

Background

Following a request for proposals ("RFP") process in 2017, the Police and Fire and Federated Boards hired Meketa Investment Group ("Meketa") as their general investment consultant and Verus Advisory, Inc ("Verus") as risk consultant. Staff conducted another RFP in January 2020 since both consultants' contracts were nearing expiration. Both incumbents ranked highly for both general investment consulting and risk consulting services. Staff felt that a combination of the experience and skill set of both incumbent consulting firms was complementary and added value beyond what either of the firms could bring to the assignment if they served in dual capacities.

Based on the RFP, in June 2020, the boards approved retaining both Meketa and Verus on two-year contracts with an additional one-year option to extend which were exercised as of July 1, 2022. The current agreements with Meketa and Verus are due to expire on June 30, 2023, and include an annual compensation of \$340,000 and \$125,000, respectively. Verus is paired with Barra LLC's risk analytics system for \$91,000 per year.

In June 2020, the Boards also approved new terms for Alboume America, LLC ("Albourne") from Absolute Return consultant to Absolute Return information provider. The cost savings of \$180,000 annually for each plan (from \$240,000 to \$60,000 per plan) was achieved due to the restructure of the agreement. Albourne's contract expired on December 31, 2022, and currently is on a month-to-month basis.

Analysis

At the February 28, 2023 meeting, the Investment Committee approved staff recommendation to renew the three contracts for one year ending June 30, 2024. The fee comparison is illustrated below:

	Current	Proposed
	FY 2022-23	FY 2023-24
Meketa	340,000	350,200
Verus	125,000	125,000
Barra	91,000	95,550

Meketa's current contract includes a 3% increase at the end of the third year which takes effect July 1, 2023, if renewed. Verus' fee will remain the same and Barra's fee will increase slightly. The Federated plan is also assessed the same amounts. During the next fiscal year, staff will conduct an RFP for investment and risk consultants and provide recommendation(s) to the Board in the second quarter of 2024.

Conclusion

Staff and Investment Committee recommend approval to renew the contracts as stated above.



Ron Kumar
Investment Operations Supervisor



Memorandum

TO: Federated City Employees' Retirement System FROM: Ron Kumar
Board of Administration

SUBJECT: Investment & Risk Consultant Contracts DATE: April 10, 2023

Approved

Date 04/10/2023

Recommendation

- a) Discussion and action to renew the investment consulting agreement with Meketa Investment Group for one year for an amount not-to-exceed \$350,500.
- b) Discussion and action to renew the risk consulting agreement with Verus Advisory, Inc. for one year for an amount not-to-exceed \$125,000.
- c) Discussion and action to renew the risk data service agreement with Barra LLC for one year for an amount not-to-exceed \$96,000.

Background

Following a request for proposals ("RFP") process in 2017, the Police and Fire and Federated Boards hired Meketa Investment Group ("Meketa") as their general investment consultant and Verus Advisory, Inc ("Verus") as risk consultant. Staff conducted another RFP in January 2020 since both consultants' contracts were nearing expiration. Both incumbents ranked highly for both general investment consulting and risk consulting services. Staff felt that a combination of the experience and skill set of both incumbent consulting firms was complementary and added value beyond what either of the firms could bring to the assignment if they served in dual capacities.

Based on the RFP, in June 2020, the boards approved retaining both Meketa and Verus on two-year contracts with an additional one-year option to extend which were exercised as of July 1, 2022. The current agreements with Meketa and Verus are due to expire on June 30, 2023, and include an annual compensation of \$340,000 and \$125,000, respectively. Verus is paired with Barra LLC's risk analytics system for \$91,000 per year.

In June 2020, the Boards also approved new terms for Alboune America, LLC ("Alboune") from Absolute Return consultant to Absolute Return information provider. The cost savings of \$180,000 annually for each plan (from \$240,000 to \$60,000 per plan) was achieved due to the restructure of the agreement. Alboune's contract expired on December 31, 2022, and currently is on a month-to-month basis.

Analysis

At the March 13, 2023 meeting, the Investment Committee approved staff recommendation to renew the three contracts for one year ending June 30, 2024. The fee comparison is illustrated below:

	Current	Proposed
	FY 2022-23	FY 2023-24
Meketa	340,000	350,200
Verus	125,000	125,000
Barra	91,000	95,550

Meketa's current contract includes a 3% increase at the end of the third year which takes effect July 1, 2023, if renewed. Verus' fee will remain the same and Barra's fee will increase slightly. The Police and Fire plan is also assessed the same amounts. During the next fiscal year, staff will conduct an RFP for investment and risk consultants and provide recommendation(s) to the Boards in the second quarter of 2024.

Conclusion

Staff and Investment Committee recommend approval to renew the contracts as stated above.



Ron Kumar
Investment Operations Supervisor



Summary

- Total risk remains elevated at 12.3%
- High utilization of passive strategies ($\approx 60\%$) in public markets keeps overall relative and active risk low
- The portfolio and policy benchmark perform similarly in both historic drawdown and stressed scenarios
- Capital allocations with respect to size and country allocation, two main public equity risk drivers, are close to San Jose's custom benchmark allocations.
- Style factors are typically a large driver of active risk. We do not observe any large active style factor exposures in the portfolio.

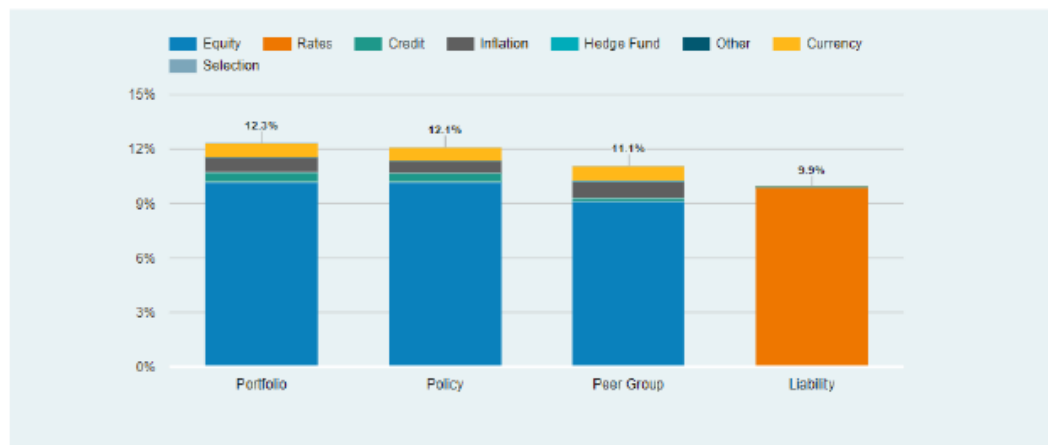
Portfolio volatility



Portfolio volatility is very slightly elevated versus policy.

Over 90% of portfolio volatility is coming from growth assets.

Risk factor decomposition



While equity factors are the dominant source of risk in the portfolio, currency, inflation, and credit factors contribute to overall risk

Historical scenarios



Portfolio performs like the policy in most historic scenarios

Stress tests

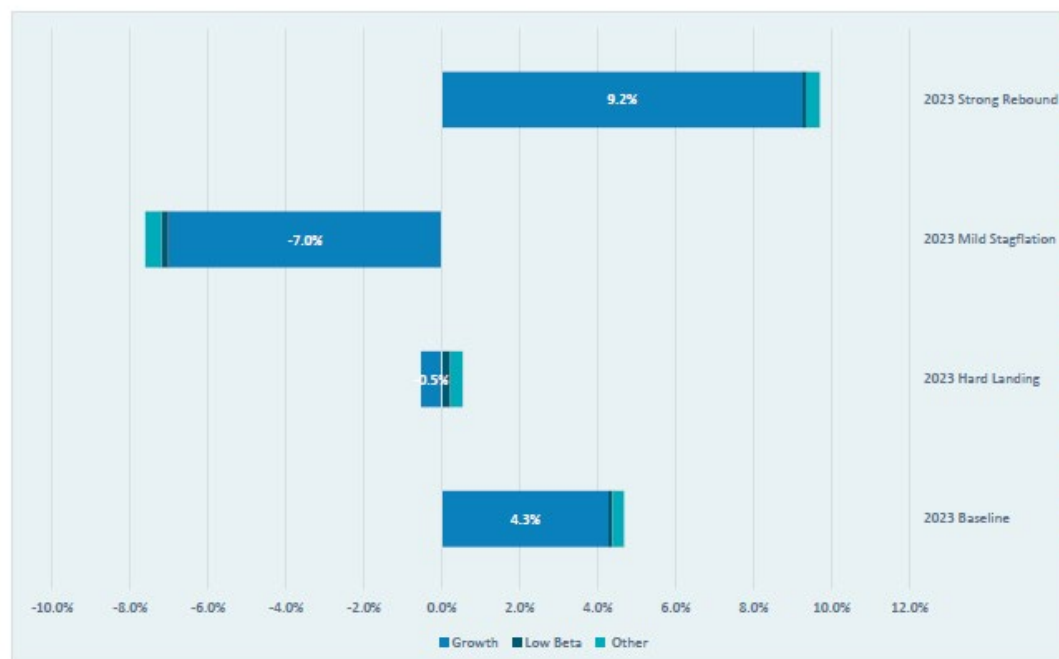


Portfolio is most sensitive to changes in equities and currency markets

Portfolio is less exposed to interest rate risk and credit spread risk

Stress tests are conducted using uncorrelated shocks.

2023 Market Uncertainty



Worst inflation scenario is Stagflation (high inflation, recession or very low growth)

Fed's success at balancing inflation reduction with minimizing growth impact will not be evident for likely year or more

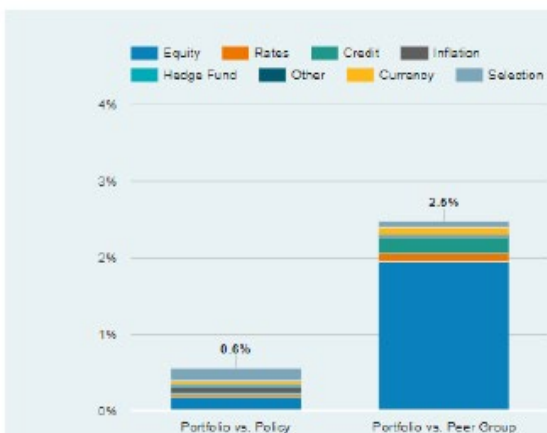
Source: BarraOne

Verus⁷⁷

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Active risk factor decomposition

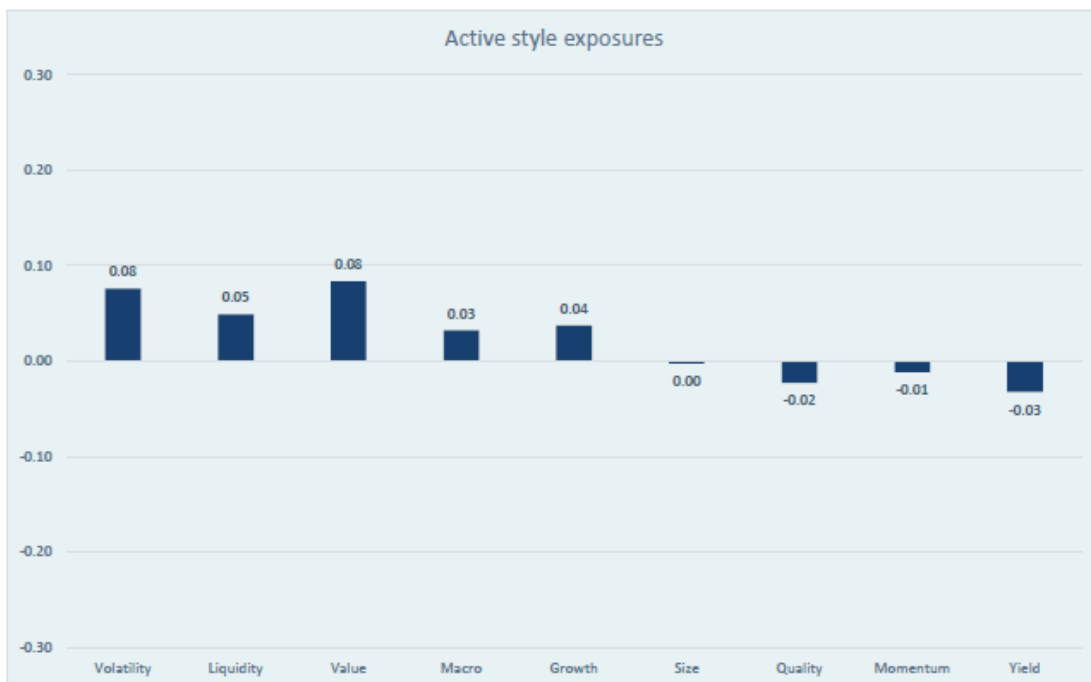


Active risk (or tracking error) provides insight into amount of excess performance we expect to see in portfolio.

Active risk profile has shifted to reflect more 'beta' versus idiosyncratic exposures



Equity factor exposures



The largest active style factor exposures are Volatility and Value.

Values greater than 0.2 are generally considered significant

Appendix

Style factor descriptions

Style Factor	Description	Intpretation
Size	Captures the return differences between large-cap stocks and small-cap stocks	A positive exposure indicates large capitalization. A negative exposure indicates small capitalization.
Value	Explains the return component attributable to a stock's book-to-price ratio, and earnings yield.	A positive exposure indicates an undervalued stock. A negative exposure indicates an overvalued stock.
Yield	Explains the return component attributable to a stock's dividend yield	A positive exposure indicates a higher dividend yield. A negative exposure indicates a lower dividend yield.
Momentum	Explains the return differences of stocks based on their relative performance over the trailing 6-12 months	A positive exposure indicates a high medium-term momentum (good recent performance). A negative exposure indicates a low medium-term momentum (poor recent performance)
Quality	Captures common variation in stock returns due to differences in the level of company leverage	A positive value indicates high leverage. A negative value indicates low leverage
Volatility	Explains returns associated with high volatility stock	A positive exposure indicates a high volatility. A negative exposure indicates a low volatility.
Liquidity	Describes return differences of stocks based on their relative trading activity	A positive exposure indicates a high liquidity. A negative exposure indicates a low liquidity.
Growth	Describes return differences of stocks based on their prospects for sales or earnings growth	A positive exposure indicates a high historical/predicted growth. A negative exposure indicates a low historical/predicted growth.
Macro	Describes return differences of stocks based on sensitivity to commodities (Oil/Gold) and foreign exchange rates	A positive exposure indicates high sensitivity to macro factors. A negative exposure indicates low sensitivity to these factors.

Navigating 2023 market uncertainty

The macroeconomic landscape for 2023 is shrouded in uncertainty following a tumultuous 2022. The path and influence of central banks' monetary tightening are unclear, and while energy prices have dropped, there are still questions about energy supply and geopolitical tensions. We have laid out four scenarios for investors to gauge the potential impact on their portfolios.

Baseline: Interest rates remain high as inflation stays elevated in 2023. Economic growth in the U.S. is weak but slightly positive, while there is a mild recession in Europe. No additional global downside risks materialize. The U.S. dollar slightly depreciates.

Hard landing: Monetary policy effectively curbs inflation, and the Federal Reserve maintains its credibility, at the cost of a U.S. recession in 2023. The Fed's pivot in response to the recession weakens the U.S. dollar significantly.

Mild stagflation: Central-bank policy does not efficiently tame inflation, eroding central banks' credibility, and inflation becomes entrenched. High prices and interest rates weigh on growth for an extended period. The U.S. dollar strengthens, putting pressure on emerging-market economies.

Strong rebound: Inflation is under control and falls more than economists' consensus expectation, while economic growth surprises on the upside. Current global headwinds get resolved and supply-chain issues ease.

Changes in market expectations have highlighted there is significant uncertainty surrounding portfolio outcomes in 2023

		Baseline	Hard landing	Mild stagflation	Strong rebound
Inflation	USD BEI 2Y	-15 bps	-50 bps	110 bps	0 bps
	EUR BEI 2Y	-20 bps	-55 bps	95 bps	-10 bps
Nominal yields	USD TSY 2Y	-25 bps	-90 bps	125 bps	0 bps
	USD TSY 10Y	-10 bps	-60 bps	80 bps	15 bps
	EUR TSY 2Y	-15 bps	-50 bps	100 bps	0 bps
	EUR TSY 10Y	-10 bps	-30 bps	60 bps	20 bps
Equity	US	6%	-2%	-10%	12%
	Europe	4%	-3%	-10%	8%
	China	10%	-5%	-10%	20%
	India	8%	-5%	-2.50%	20%
	US growth	6%	-5%	-25%	15%
Credit spreads	US IG	0 bps	20 bps	30 bps	-25 bps
Currency	EUR	2%	7%	-7%	5%
	JPY	5%	15%	-5%	10%

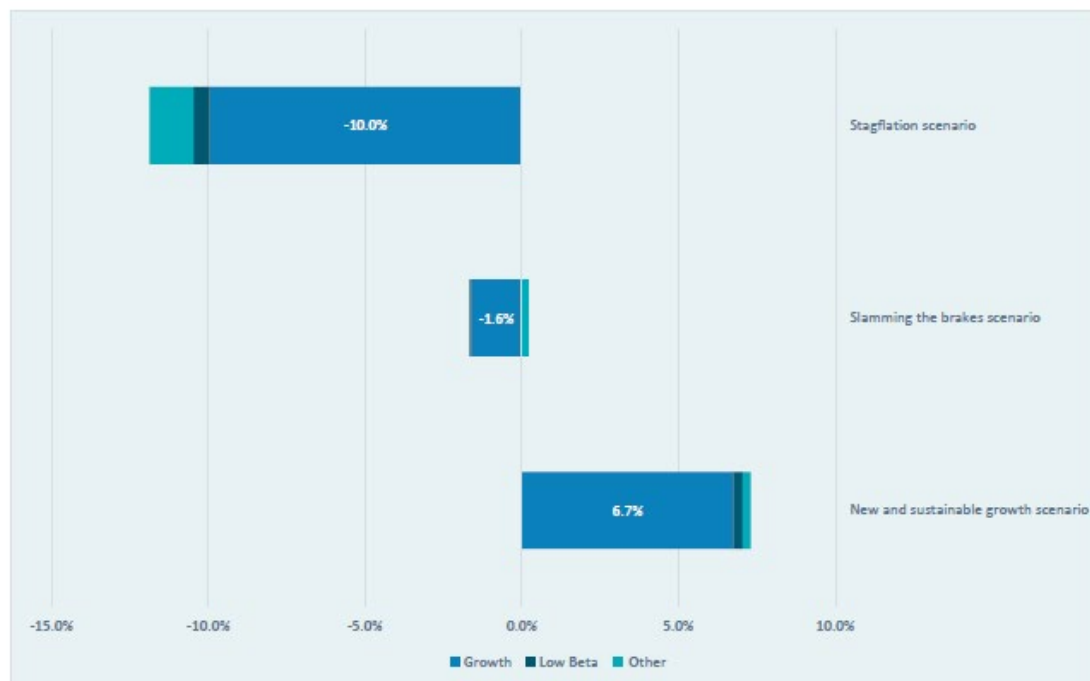
Source: MSCI

Verus⁷⁷

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Fed policy and the threat of stagflation



Worst inflation scenario is Stagflation (high inflation, recession or very low growth)

Fed's success at balancing inflation reduction with minimizing growth impact will not be evident for likely year or more

Source: BarraOne

Fed policy and the threat of stagflation

Soft Landing: Assumes that much of the ongoing inflation is caused by the booming economy of the past year — a positive demand shock — as a result of easing pandemic restrictions and government stimulation. If the Federal Reserve upholds its strong stance on stabilizing inflation by gradually hiking interest rates, and perhaps more important, consumers and corporations believe that this inflation stability is the path ahead, then inflation could ease without the need for aggressive monetary tightening, potentially enabling robust economic growth. If this scenario plays out, equity markets could regain some ground and Treasury yields may drop moderately.

Slamming the brakes: Depicts a scenario where a supply-side shock prevails due to high energy prices and continuing supply-chain issues, which further increase inflation and dampen economic activity. As inflation climbs further, policymakers decisively tighten monetary policy in a quest to extinguish inflation quickly, which could further slow economic growth in the short term but avoid long-term economic damage.

Stagflation: Considers a similar starting point as the “Slamming the brakes” scenario, with a supply shock leading to higher inflation and slower growth. However, in this scenario central banks’ actions are too little or too slow, allowing inflation to run hotter for longer than it had in the past two decades. This could lead to a loss of central banks’ credibility, whereby consumers and corporations adjust their long-term inflation expectations, which in turn disrupt long-term economic growth. In this most-feared scenario reminiscent of the early 1980s, the equity-bond correlation might turn positive, reversing the hedge they have offered for most of the last two decades.

Changes in market expectations have highlighted there is significant uncertainty in how inflation and monetary policy may evolve

Scenario	Soft landing	Slamming the brakes	Stagflation
BEI-Rate Shocks (basis points)	Two-year: -110 10-year: -20	Two-year: -130 10-year: -30	Two-year: +320 10-year: +180
Nominal yields(basis points)	Two-year: -80 10-year: -30	Two-year: +30 10-year: -80	Two-year: +30 10-year: +250
US Credit-Spread Shocks (basis points)	Investment Grade: -20 High Yield: -40	Investment Grade: +5 High Yield: +15	Investment Grade: +35 High Yield: +250
US Equity Return (nominal)	+14%	-3%	-16%
Oil prices	-10%	-25%	+40%

Source: MSCI

Notices & disclosures

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