AGREEMENT FOR GOVERNANCE-RELATED CONSULTING SERVICES BY AND BETWEEN THE BOARD OF ADMINISTRATION OF THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM AND CORTEX APPLIED RESEARCH, INC.

This Agreement ("Agreement") is made and entered into as of the 1st day of July 1, 2020, by and between the BOARD OF ADMINISTRATION ("BOARD") OF THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM ("FEDERATED"), and CORTEX APPLIED RESEARCH, INC. ("CORTEX").

RECITALS

WHEREAS, the BOARD has determined it is appropriate and necessary to obtain expert consultation services on governance-related issues on behalf of FEDERATED, in order to discharge its fiduciary responsibilities to the retirement system; and

WHEREAS, CORTEX has the necessary expertise and professional skill to provide such consultation services to the BOARD; and

WHEREAS, the BOARD wishes to retain CORTEX to perform such governance-related consultation services on and after July 1, 2020, as more specifically described in Section 1 and Exhibit A of this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES

The foregoing Recitals are incorporated by this reference as though fully set forth herein. CORTEX shall perform those services specified in EXHIBIT A attached hereto and incorporated herein by this reference, entitled "SCOPE OF SERVICES," as the Scope may be amended from time to time.

BOARD agrees to supply CORTEX (either directly or through its agents and representatives) on a timely basis all of the data, all documentation and information reasonably needed by CORTEX to perform its services under the terms of this Agreement ("Client Information").

SECTION 2. TERM OF AGREEMENT

The term of this Agreement shall be for a period of one (1) fiscal year, commencing on July 1, 2020, unless earlier terminated pursuant to the provisions of SECTION 10 of this Agreement.

SECTION 3. COMPENSATION

In consideration of the services CORTEX is providing BOARD under this Agreement, BOARD agrees to pay CORTEX the compensation specified from time to time in EXHIBIT A, entitled "COMPENSATION."

SECTION 4. METHOD OF PAYMENT

Each month, CORTEX shall furnish to the BOARD, a detailed invoice for the services performed during the preceding month. Such invoice shall also include a detailed record of the month's actual reimbursable expenses. Invoices are due upon receipt.

SECTION 5. INDEPENDENT CONTRACTOR

It is understood and agreed that CORTEX, in the performance of the work and services agreed to be performed by CORTEX, shall act as and be an independent contractor and not an agent or employee of BOARD; and as an independent contractor, neither CORTEX nor any of its officers, employees, agents or representatives shall obtain any rights to retirement benefits or other benefits which accrue to City of San José employees, and CORTEX hereby expressly waives any claim it may have to any such rights.

SECTION 6. ASSIGNABILITY; KEY PERSONS

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

Further, CORTEX' President, Tom Inanucci, and its Senior Consultant, Valter Viola, are key persons in the performance of this Agreement, and their personal services shall be a material part of the consideration for this Agreement. Messrs. Ianucci and/or Viola shall personally conduct all interactions with the BOARD.

SECTION 7. INDEMNIFICATION

CORTEX agrees to defend, indemnify and hold harmless BOARD, Plan, its trustees, officers, employees and agents against any claim, loss or liability to the extent resulting from the negligence or intentional wrongful acts or omissions by CORTEX in providing services under this Agreement. The acceptance of said services and duties by BOARD shall not operate as a waiver of such right of indemnification.

Nothing herein is intended to or shall constitute a limitation of liability.

SECTION 8. INSURANCE REQUIREMENTS

CORTEX agrees to have and maintain the policies set forth in EXHIBIT B, entitled "INSURANCE", which is attached hereto and incorporated herein by this reference. All policies, endorsements, certificates and/or binders shall be subject to approval by the Chief Executive Officer of FEDERATED or authorized designee ("Risk Manager") as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CORTEX agrees to provide BOARD with a copy of said policies, certificates and/or endorsements before work commences under this Agreement.

SECTION 9. NONDISCRIMINATION

CORTEX 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.

SECTION 10. TERMINATION

A. This Agreement shall terminate on June 30, 2021, unless sooner terminated under the terms of this SECTION 10.

B. BOARD shall have the right to terminate this Agreement, with or without cause, by giving CORTEX not less than seven (7) days written notice of termination.

C. In the event of termination, CORTEX shall deliver to BOARD copies of all reports, documents, and other work performed by CORTEX under this Agreement, and upon receipt thereof, BOARD shall pay CORTEX for services performed and reimbursable expenses incurred to the date of termination. If CORTEX's assistance is reasonably required past termination, such assistance shall be provided at the hourly rates specified in Exhibit A of this Agreement.

SECTION 11. GOVERNING LAW; ENFORCEABILITY

BOARD and CORTEX agree that the law governing this Agreement shall be that of the State of California, without regard to its conflict of laws provisions. In the event any provision of this Agreement is unenforceable as a matter of law, that provision will be deemed to be reformed to reflect as nearly as possible the original intent of the parties as expressed in this Agreement and in accordance with applicable law, and the remaining provisions will stay in full force and effect, so long as the primary intent of the parties still may be accomplished.

SECTION 12. COMPLIANCE WITH LAWS

CORTEX shall comply with all applicable U. S. federal, state, and local laws, ordinances, codes and regulations.

SECTION 13. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

CORTEX agrees that, in the performance of this Agreement, CORTEX shall perform its obligations under the Agreement in conformance with San José City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the City of San José website at the following link: http://www.sanjoseca.gov/DocumentCenter/View/3862.

SECTION 14. CONFIDENTIAL INFORMATION

All data, documents, discussions or other information developed or received by or for CORTEX in performance of this Agreement, are confidential and not to be disclosed to any person except as authorized by BOARD, or as required by law. CORTEX acknowledges that information in the books and records of the Plan includes personal information relating to individual members of the Plan and their beneficiaries. CORTEX will treat all information received from BOARD as "Confidential Information." Information received from BOARD will not be considered Confidential Information if (a) the information is or comes to be generally available to the public during the course of CORTEX's work; (b) was independently developed by CORTEX without resort to information from BOARD; or (c) CORTEX receives the information from another source who is not under an obligation of confidentiality to BOARD. CORTEX agrees that Confidential Information shall not be disclosed to any third party, except as otherwise permitted herein.

SECTION 15. OWNERSHIP OF MATERIALS

Except to the extent that they incorporate CORTEX's proprietary software, know-how, techniques, methodologies and report formats (collectively, "CORTEX's Proprietary Information"), all documents, data, and other tangible materials authored or prepared and delivered by CORTEX to the BOARD under the terms of this Agreement (collectively, the "Deliverables"), are the sole and exclusive property of the BOARD, once paid for by BOARD, unless payment is excused. To the extent CORTEX's Proprietary Information is incorporated into such Deliverables, BOARD shall have a perpetual, nonexclusive, worldwide, royalty-free license to use, copy, and modify CORTEX's Proprietary Information as part of the Deliverables.

SECTION 16. WAIVER

CORTEX agrees that waiver by BOARD 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 BOARD of the performance of any work or services by CORTEX shall not be deemed to be a waiver of any term or condition of this Agreement.

SECTION 17. CORTEX'S BOOKS AND RECORDS

A. CORTEX 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 BOARD for a minimum period of

three (3) years, or for any longer period required by law, from the date of final payment to CORTEX pursuant to this Agreement.

B. CORTEX 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 BOARD, upon reasonable notice at any time during regular business hours at a mutually agreed to location, upon written request by the BOARD's Attorney, BOARD's Auditor, BOARD's CEO, or a designated representative of any of these individuals.

D. Where BOARD has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CORTEX's business, BOARD may, by written request by any of the above-named officers, require that custody of the records be given to BOARD and that the records and documents be maintained in BOARD Offices. Access to such records and documents shall be granted to any party authorized by CORTEX, CORTEX's representatives, or CORTEX's successor-in-interest.

SECTION 18. CONFLICT OF INTEREST

CORTEX shall avoid all conflict of interest or appearance of conflict of interest in performance of this Agreement. CORTEX represents and warrants that it is not now employed by or under contract with any of the employee organizations which currently represent City employees in the meet and confer process pursuant to the Meyers-Milias-Brown Act, California Government Code Section 3500 *et seq.* CORTEX shall disclose to the BOARD any employment or Agreement to perform services for any such employee organization or to perform services for the City of San José. CORTEX further represents and warrants that no employee of CORTEX who is performing service pursuant to the this Agreement, shall have any source of income, including but not limited to, any community property interest in the income of a spouse or domestic partner, from the City of San José or any pension plan of the City of San José.

SECTION 19. GIFTS

A. CORTEX is familiar with the City of San José's prohibition against the acceptance of any gift by a BOARD officer or City designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code.

B. CORTEX agrees not to offer any BOARD trustee, officer or City designated 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 CORTEX. In addition to any other remedies BOARD may have in law or equity, BOARD may terminate this Agreement for such breach as provided in SECTION 10 of this Agreement.

SECTION 20. 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 BOARD:
Chief Executive Officer, Retirement Services
Office of Federated City Employees' Retirement System
City of San José
1737 North First Street, Suite 600
San José, CA 95112
roberto.pena@sanjoseca.gov

To CORTEX:
Tom Ianucci, President
Cortex Applied Research, Inc.
2489 Bloor Street West, Suite 304
Toronto, Ontario
M6S 1R6
tiannucci@cortexconsulting.com

Notice shall be deemed effective on the date actually received by email or delivery, or, if mailed, three (3) days after deposit in the mail.

SECTION 21. VENUE

In the event that suit shall be brought by either party to this Agreement, 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 José, California.

SECTION 22. PRIOR AGREEMENTS AND AMENDMENTS

This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. Except as expressly provided 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.

SECTION 27. MISCELLANEOUS

This Agreement and each Exhibit may be executed in counterparts, each of which shall be deemed an original. Neither party shall be liable to the other for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its reasonable control including, without limitation, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type, acts of God, wars, riots or national or local emergencies. The terms of Sections 5, 7, 8, 9, 10.C., 11, 12, and 14-23 shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties hereby agree to all of the above terms and have executed this Agreement as of the day and year first hereinabove written.

"BOARD"

BOARD OF ADMINISTRATION OF THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM

By: _____

Name: ROBERTO L. PEÑA

Its: Chief Executive Officer and authorized signatory for the Board of Administration Federated City Employees' Retirement System

"CORTEX"

CORTEX APPLIED RESEARCH, INC.

By: _____

Name: Tom Iannucci

Its: President
And authorized signatory for Cortex Applied Research, Inc.

Federal Tax ID # 98-0200685

EXHIBIT A

A. SCOPE OF SERVICES

Upon BOARD's request, CORTEX will provide the BOARD with governance-related consulting services that may include, but are not limited to, policy review, support for various performance evaluations, organizational planning and education.

Upon the BOARD's request, CORTEX shall, timely appear before the BOARD to present oral reports on the services performed pursuant to this Scope of Services.

B. COMPENSATION

Professional fees for services under this Agreement shall not exceed U. S. Forty-Five Thousand Dollars and No Cents ($45,000.00) for services rendered during the period July 1, 2020 to June 30, 2021. Additional compensation for services performed during the term of this Agreement shall be subject to further agreement of the parties.

The hourly rates for services to be rendered by CORTEX under this Agreement shall be as follows:

Tom Ianucci	$485
Valter Viola	$450
Jenny Tam	$190

In addition to professional fees, the BOARD agrees to reimburse CORTEX for reasonable and necessary out-of-pocket travel-related costs, courier charges and external printing costs actually incurred in connection with rendering services under this Agreement, upon timely receipt of evidence of payment for such expenses.

EXHIBIT B

INSURANCE

CORTEX, at CORTEX's sole cost and expense, shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CORTEX, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001 or equivalent; and

2. The coverage provided by Insurance Services Office Form Number CA 0001 or equivalent covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles.

3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and

4. Professional Liability Errors and Omissions insurance for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the Chief Executive Officer of FEDERATED or authorized designee ("Risk Manager").

B. Minimum Limits of Insurance

CORTEX shall maintain limits no less than:

1. Commercial General Liability: $2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and

2. Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage; and

3. Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of $1,000,000 per accident; coverage shall be endorsed to state that carrier waives its right of subrogation against the City of San José, its officers, employees, agents

and contractors; this limit may be met through a combination of employers liability and excess liability insurance; and

4. Professional Liability Errors and Omissions $1,000,000 Aggregate Limit.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

a. The City of San José, BOARD and FEDERATED, together with their trustees, officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of CORTEX; products and completed operations of CORTEX; premises owned, leased or used by CORTEX; and automobiles owned, leased, hired or borrowed by CORTEX. The coverage shall contain no special limitations on the scope of protection afforded to CITY, BOARD and FEDERATED, together with their trustees, its officers, employees, agents and contractors.

b. CORTEX's insurance coverage shall be primary insurance as respects CITY, BOARD and Plan, and their trustees, officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, BOARD, FEDERATED, or their trustees, officers, employees, agents or contractors shall be excess of CORTEX's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies by CORTEX shall not affect coverage provided CITY, BOARD and FEDERATED, and their trustees, officers, employees, agents, or contractors.

d. Coverage shall state that CORTEX's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Coverage shall contain waiver of subrogation in favor of CITY, BOARD and FEDERATED, and their trustees, officers, employees, agents and contractors.

2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the CITY, BOARD and FEDERATED, and their trustees, officers, employees, agents and contractors.

3. All Coverages

Coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days prior written notice has been given to BOARD, except that ten (10) days prior written notice shall apply in the event of cancellation for non-payment of premium by the CORTEX.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to Risk Manager.

F. Verification of Coverage

CORTEX shall furnish BOARD with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address (or any subsequent email or postal address as may be directed in writing by the Risk Manager):

City of San José - Human Resources
Risk Management
200 East Santa Clara St., 4th Floor Tower Bldg.
San José, CA 95113-1905

G. Subcontractors

CORTEX shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.