

**CHIEF INVESTMENT OFFICER
EMPLOYMENT AGREEMENT
BETWEEN
THE BOARDS OF ADMINISTRATION OF
THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM
AND THE SAN JOSÉ POLICE AND FIRE DEPT. RETIREMENT PLAN
AND
JAY KWON**

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This Agreement is entered into as of April 13, 2026 (the "Effective Date") by and between the Boards of Administration of the Federated City Employees' Retirement System ("Federated") and the San José Police and Fire Department Retirement Plan ("Police & Fire") (together, "Boards"), and Jay Kwon, an individual ("Kwon"). The Boards and Kwon are sometimes individually referred to as a "Party" and collectively as "Parties."

RECITALS

WHEREAS, on or about November 4, 2014, the voters of the City of San José ("City") passed ballot Measure G. Measure G provided that the Boards would have the authority to appoint and prescribe the duties of a Chief Investment Officer ("CIO"), to be employed by the City of San José in its Office of Retirement Services, subject to the direction and supervision of the Boards; and

WHEREAS, Kwon has the necessary education, experience, skills and expertise to serve as the CIO of the Office of Retirement Services; and

WHEREAS, the Boards wish to enter into a contractual arrangement with Kwon, as CIO, pertaining to salary, benefits, working conditions and termination of employment, effective as of the Effective Date; and

WHEREAS, Kwon desires to be employed as CIO under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of these Recitals and the mutual agreements, covenants and conditions contained herein, the Boards and Kwon hereby agree as follows:

AGREEMENT

1. EMPLOYMENT AT WILL

Pursuant to City Charter Section 810.1(a), the Boards hereby appoint Kwon to the position of CIO of the Office of Retirement Services, effective as of the Effective Date, subject, however, to termination as hereinafter provided in this Agreement and under applicable law. Kwon shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of the Boards and shall report to the Boards and to the Chief Executive Officer of the Office of Retirement Services pursuant to the terms of this Agreement and the Boards' governance policies. Kwon understands and agrees that specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal by the Boards, it being

understood that the employment relationship is “at-will” and may be terminated by the Boards at any time, with or without cause, or for any reason or no reason at all, with or without notice, except as expressly provided for in this Agreement. Kwon expressly waives and disclaims any right to any pre-termination or post-termination notice and hearing, unless specifically provided for in this Agreement. The term of Kwon’s employment shall be from the Effective Date until the effective date of termination by either Party in accordance with the terms of this Agreement (“Term”). Kwon may have the right to return to a position in the classified service with the City if he is terminated from this position.

2. COMMITMENTS AND UNDERSTANDINGS

A. Chief Investment Officer’s Commitments

(1) Duties & Authority

- (a) The CIO shall serve as the Chief Investment Officer of the Office of Retirement Services and be responsible to the Boards for the proper administration of all investment affairs of the Office of Retirement Services in accordance with: (1) California Constitution, (2) the City Charter, (3) City Municipal Code, and (4) and the charters, policies, rules and regulations of the Boards in effect from time to time, including, without limitation, the Boards’ respective Investment Policy Statement and the Boards’ respective Investment Committee Charters adopted by the Boards, which are incorporated herein by reference.
- (b) The CIO shall perform such duties and responsibilities as may from time to time be assigned to him by the Boards, commensurate with his title and position. Such duties shall include, but shall not be limited to:
 - (i) Act as an advisor on all matters involving investment of fund assets, and providing advice and recommendations on all investment policy matters;
 - (ii) Establishing or approving all investment procedures necessary for the effective implementation of the Boards’ investment policies;
 - (iii) Planning, budgeting, and administering the investment operations of the office, including but not limited to: (1) the investment operations budget funded by investment returns, and (2) investment personnel and administrative budget items, which shall be done in consultation with the CEO;
 - (iv) Day-to-day administration of the investment program, including portfolio rebalancing in accordance with the investment policy;

- (v) In conjunction with the Chief Executive Officer, hiring, retaining, promoting, evaluating, and terminating the investment personnel of the office;
 - (vi) Developing and implementing risk management processes for the investment program;
 - (vii) Ensuring that asset allocation studies and asset/liability studies are conducted and completed in accordance with the Boards' investment policies;
 - (viii) Participating in the selection and related due diligence of professional managers, advisors and consultants in areas such as investments, custodial services, legal services and actuarial services;
 - (ix) Managing the work of outside consultants and investment managers, including due diligence;
 - (x) Attending all regular and special meetings of the Boards and their respective investment committees and appear before City Council upon request, unless excused by the Boards or prevented by illness or physical incapacity, and taking part in the discussion of all matters before the Boards and their respective investment committees; and
 - (xi) Monitoring the performance of the portfolio and reporting monthly, quarterly and annually on the performance of the portfolio.
 - (xii) Planning, organizing, coordinating, reviewing, evaluating and supervising the work the investment staff of the Office of Retirement Services;
 - (xiii) Assess the accuracy and quality of custodian, manager and consultant reports;
- (c) Kwon shall perform all duties hereunder in a manner consistent with the level of competency and standard of care normally observed by a person employed as a Chief Investment Officer of a public employees' retirement system, taking into account the environment and requested resources of the Office of Retirement Services.

(2) Hours of Work

- (a) The CIO is an employee of the City and is an "exempt" employee. The CIO is expected to engage in those hours of work that are necessary to fulfill the obligations of the CIO's position. The

position does not have set hours of work as the CIO is expected to be available at all times. No overtime shall be recognized or paid beyond the compensation provided for in this Agreement.

- (b) It is recognized that the CIO must devote a great deal of time to the business of the Boards outside of the City's customary office hours, and to that end the CIO's schedule of work each day and week shall vary in accordance with the work required to be performed. The CIO shall spend sufficient hours on site to perform the work of the Office of Retirement Services, as directed by the Boards. However, the CIO has discretion over his work schedule and work location, subject to the City's Flexible Workplace Policy incorporated by reference and attached hereto as Exhibit A, which can be changed at any time, as approved by the City Council.
 - (c) Except as provided in Par. 2.A.(4) below, the CIO shall not engage in teaching, consulting, speaking, or other non-Boards business without the express prior consent of the Boards.
- (3) Disability or inability to perform
- (a) If, in the judgment of a licensed physician selected by the Boards, he is physically or mentally unable to fully discharge his duties hereunder for a period of 90 consecutive days or for 90 days in any 180 calendar day period, he will be deemed mentally or physically incapable of performing the CIO's functions for the purposes of this Agreement. In the event Kwon becomes mentally or physically incapable of performing the CIO's functions and duties with reasonable accommodation, the Boards may terminate Kwon. If the Boards elect to terminate Kwon due to incapacity, Kwon shall receive all severance benefits provided in Section 4, SEPARATION.
- (4) Full-time Commitment. The Boards acknowledge that prior to accepting the CIO position, Kwon had been serving on the Board of Retirement for the Contra Costa County Employees' Retirement System, which he disclosed to the Boards. Kwon acknowledges and agrees that the Boards are engaging him as CIO on a full time and attention basis. The Boards agree that during his tenure as CIO, Kwon may continue to serve on the Board of Retirement for the Contra Costa County Employees' Retirement System until the end of his term on June 30, 2026, provided that (a) Kwon does not expand such activities beyond their pre-employment levels; (b) such activities and responsibilities do not detract from Kwon's performance as CIO; and (c) Kwon timely complies with all applicable conflict of interest and disclosure laws, policies, rules and regulations.

B. Boards' Commitments

- (1) The Boards shall provide Kwon with the starting compensation, incentives and benefits, specified elsewhere in this Agreement and in the City's "Executive Management and Professional Employees (Unit 99) Benefit and Compensation Summary July 1, 2023 – June 30, 2026," which is attached hereto as Exhibit B, and can be changed at any time, as approved by the City Council.
- (2) The Boards shall provide Kwon with a private office, administrative support, office equipment, supplies, and all other facilities and services adequate for the performance of the CIO's duties.
- (3) The Boards shall pay for or provide Kwon reimbursement for all actual out-of-pocket business expenses incurred on behalf of Federated and/or Police & Fire.
- (4) The Boards agree to pay the professional dues and subscriptions on behalf of Kwon which are necessary for the CIO's continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for the good of the Boards, and for his continued professional participation and advancement, to the extent not otherwise paid in accordance with the Professional Development Program provided to Executive Management and Professional Employees of the City (Unit 99). The Boards agree to pay the reasonable and actual travel and subsistence expenses of the CIO to pursue official and other functions for the Boards, and meetings and occasions to continue the professional development of the CIO, including, but not limited to national, regional, state, and local conferences, and governmental groups and committees upon which the CIO serves as a member in accordance with the applicable Travel Policy adopted by the Board, and provided by budget and/or Boards' approval.
- (5) The Boards set policy for the governance and administration of Federated and Police & Fire, through the personnel of the Office of Retirement Services, and implement their respective policies through the CIO in accordance with the California Constitution, City Charter, Municipal Code and the Boards' policies, charters and rules in effect from time to time.
- (6) Except for the purpose of inquiry, and as otherwise provided under Section 810.1 of the City Charter, the Boards and their respective members shall deal with all subordinate investment officer employees of the Office of Retirement Services solely through the CEO and/or the CIO or the CEO and/or CIO's designee and neither the Boards nor any member thereof shall give orders to any subordinate of the CIO, either publicly or privately.
- (7) Neither the Boards nor any of their members will order the appointment or removal of any person to any office or employment under the supervision and control of the CEO.

- (8) Neither the Boards nor any of their members shall interfere with the execution of the powers and duties of the CIO in accordance with the City Charter or this Agreement. However, the Boards and/or their duly authorized committees or designees can issue orders to the CIO.

C. Mutual Commitments

(1) Performance Evaluation

- (a) Annual performance evaluations are an important way for the Boards and the CIO to ensure effective communications about expectations and performance.
- (b) The Boards recognize that for Kwon to respond to their needs and to grow in the performance of the CIO's job, Kwon needs to know how the Boards evaluate his performance.
- (c) To assure that Kwon gets this feedback, the Boards shall conduct an evaluation of the CIO's performance at least once each year. The Parties may use an outside facilitator paid by Boards to assist them in conducting this evaluation, at the option of the Boards.
- (d) The CIO and the Boards will create mutual goals or other outcome measures on an annual basis that will provide the basis for determining the next year's performance results.
- (e) The annual review and evaluation shall be in accordance with specific criteria and goals developed jointly by the Boards and Kwon. Such criteria may be added to or deleted as the Boards may from time to time determine in consultation with Kwon.
- (f) The Boards and Kwon shall define such goals and performance objectives as they mutually determine are necessary for the proper operation of the Office of Retirement Services or the attainment of the Boards' policy objectives, and the Boards and Kwon shall further establish a relative priority among those goals and performance objectives.

3. **COMPENSATION**

The Boards agree to provide the following compensation to the CIO during the term of this Agreement:

A. Compensation & Required Employer Costs

- (1) Kwon's starting base salary shall be an annual salary of \$337,500. This annual salary amount includes the 5% ongoing non-pensionable compensation component. The Boards may recommend future adjustments to salary and benefits in their discretion and any such adjustments shall be subject to the terms of City Charter Sections 810.1(e) and 902, and subject to the City Council's approval. Absent any different process for adjustments to salary and benefits implemented by the Boards, the Boards will follow the City's annual general wage and merit increase process in effect for the Executive Management class of City employees (Unit 99). Kwon shall be paid at the same intervals and in the same manner as regular City employees.
- (2) All sums payable to Kwon hereunder shall be reduced by all federal, state, local and other withholding and similar taxes and customary payroll deductions required by applicable law.
- (3) In accordance with City Charter § 1101(a)(12), Kwon shall continue to participate in the Federated City Employees' Retirement System for his services rendered under this Agreement.

B. Benefits

- (1) For sick leave, the Parties incorporate by reference Exhibit B attached hereto, which specifies the sick leave accrual and benefits as provided to the Executive Management class of City employees (Unit 99), and can be changed at any time, as approved by the City Council.
- (2) For vacation benefits provided to Kwon under this Agreement, the Parties incorporate by reference Exhibit B attached hereto, which specifies the vacation accrual and benefits as provided to the Executive Management class of City employees (Unit 99), and can be changed at any time, as approved by the City Council.
- (3) The Boards may grant Kwon up to 40 hours of additional Executive Leave per annum based on his performance evaluation, subject to the Boards' discretion. For other terms regarding Executive Leave provided to Kwon under this Agreement, the Parties incorporate by reference Exhibit B attached hereto, which specifies the Executive Leave accrual and benefits as provided to the Executive Management class of City employees (Unit 99), and can be changed at any time, as approved by the City Council.
- (4) Kwon will receive a monthly Technology Stipend provided to full time Unit 99 employees, as outlined in Exhibit B, and may be changed from time-to-time by City Council.

4. **SEPARATION**

A. Administrative Leave

The Boards may place Kwon on administrative leave when Kwon's temporary suspension from office would be in the best interests of the Boards, as determined by the Boards in their sole discretion. The administrative leave shall be effective as of the date set forth in a written notice delivered to Kwon. Upon the delivery of the notice to Kwon, Kwon's duties under this Agreement shall be suspended as of the effective date stated in the notice but all other provisions of this Agreement shall remain in full force and effect. Thereafter, Kwon's duties under this Agreement shall be performed by another individual or individuals designated by the Boards. Kwon agrees that he shall not perform or attempt to perform any of the duties of CIO, or in any other way interfere with the administration or operation of the Office of Retirement Services during the period of administrative leave. The administrative leave and the suspension of the duties provided for herein shall terminate on the Boards' delivery to Kwon of a written notice terminating the leave.

B. Resignation

Kwon may resign at any time and agrees to give the Boards at least 30 days advance written notice of the effective date of his resignation, unless the Parties otherwise agree in writing.

C. Termination & Removal

- (1) Kwon is an at-will employee serving at the pleasure of the Boards as provided in the City Charter.
- (2) The Boards may remove Kwon at any time, with or without cause, by a majority vote of the members of each Board. Notice of termination shall be provided to Kwon in writing.
- (3) Given the at-will nature of the CIO position, an important element of the employment agreement pertains to termination. It is in both the Boards' and City's interest and that of Kwon's that any separation of Kwon is done in a businesslike manner.
- (4) Kwon acknowledges that he is subject to removal by the Boards pursuant to City Charter Section 810.1.

D. Severance Pay

Boards shall pay severance pay equal to six (6) months' base salary for involuntary termination by the Boards of Kwon's employment, without cause (as "cause" is defined in Section 4.E, below.) Severance pay shall not be paid for removal for cause, or for termination by Kwon.

E. Separation for Cause

- (1) Kwon may be terminated for cause. As used in this Section, "cause" shall mean only one or more the following:

- (a) A plea to or a trial court conviction of a criminal act, whether misdemeanor or felony, which in the opinion of the Boards in their sole discretion renders Kwon unfit to continue employment, notwithstanding any subsequent appeals, exoneration, expungement, reduction or vacating of the plea or conviction;
 - (b) Continued abuse of prescription or non-prescription drugs or alcohol that materially affects the performance of the CIO's duties;
 - (c) Repeated and protracted unexcused absences from the Office of Retirement Services and the performance of the CIO's duties without the Boards' consent;
 - (d) Refusal or failure to perform the CIO's duties in accordance with this Agreement in the determination of the Boards, after Kwon is given notice of the failure or refusal to perform and a reasonable period of time and opportunity to cure, if cure is possible. Results of any performance review under Section 2.C of this Agreement may serve as the basis for the Board of Retirement's determination that Kwon has failed or refused to perform his duties;
 - (e) Any unprofessional, unethical or fraudulent act or omission, or conduct that discredits the Boards or is detrimental to the business, reputation, character or standing of the Boards or the Office of Retirement Services, without the requirement of moral turpitude; or
 - (f) Kwon's breach of this Agreement, including without limitation committing an act of dishonesty or deceit in the performance of CIO's duties.
- (2) In the event the Boards terminate Kwon for cause, then the Boards may terminate this Agreement immediately, and Kwon shall be entitled to only the compensation accrued up to the date of termination, and such other termination benefits and payments as may be required by law or under this Agreement. Kwon shall not be entitled to any severance benefits provided by Section 4.D if terminated for cause.

5. MISCELLANEOUS PROVISIONS

A. Amendments

This Agreement may be amended at any time by mutual written agreement of the Boards and Kwon.

B. Conflict of Interest

- (1) Kwon shall not engage in any business or transaction nor shall have a financial or other personal interest or association, direct or indirect, which

is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business, personal, or political associations. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active City employment, providing such acts do not constitute a conflict of interest as defined herein.

- (2) Kwon shall also be subject to the conflict of interest provisions of the California Government Code and any City or other conflict of interest code, and any of the Boards' applicable conflict of interest charters, regulations, rules or policies.
- (3) Kwon is responsible for submitting to the Boards designated person the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the CIO position.
- (4) The individual serving as CIO is a designated Form 700 filer for the Boards.

C. Indemnification

To the full extent of the law as provided by the California Torts Claims Act (Government Code Section 810 *et seq.*), the Boards jointly and severally, shall defend and indemnify Kwon against and for all losses sustained by Kwon in direct consequences of the discharge of his duties on the Boards' behalf for the period of Kwon's employment.

D. Severability

If any provision of this Agreement shall be found by any court of competent jurisdiction to be invalid or unenforceable, then the parties hereby waive such provision to the extent that it is found to be invalid or unenforceable and to the extent that to do so would not deprive one of the parties of the substantial benefit of its bargain. Such provision shall, to the extent allowable by law and the preceding sentence, be reformed by such court to comport as nearly as possible with the intent of the parties to this Agreement so that it becomes enforceable and, as reformed, shall be enforced as any other provision hereof, all the other provisions continuing in full force and effect.

E. Waiver

Waiver by any Party of any provision of this Agreement may only be done in writing, and shall not constitute or be deemed to be a waiver of any other provision of this Agreement.

F. Assignment

This Agreement and all rights hereunder are personal to Kwon and may not be transferred or assigned by Kwon at any time.

G. Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California, and the Parties agree that venue shall be in Santa Clara County, California.

H. Advice of Counsel; Interpretation of Agreement

Kwon acknowledges that he has been advised to seek the advice of independent counsel who is not counsel to the Boards in connection with the negotiation of this Agreement. Kwon and Boards acknowledge that regardless of whether they each have consulted with counsel, they have each read this Agreement and each and every part thereof and fully understand the implications of the same, Kwon and Boards further agree that this Agreement is the product of negotiation and preparation by and among each party hereto. Therefore, Kwon and Boards acknowledge and agree that this Agreement shall not be deemed to have been prepared or drafted by one party or another, and that it shall be construed accordingly.

I. Entire Agreement

This Agreement represents the entire agreement of the Parties, and no representations have been made or relied upon except as set forth herein. This Agreement may be amended or modified only by a written, fully executed agreement of the Parties.

J. Notice

Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which Kwon or the Boards shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first class mail or hand-delivered to the respective Parties as follows:

If to the Boards:

Chairs for the Boards of Administration of the Federated City Employees'
Retirement System and the San José Police and Fire Department Retirement Plan
c/o Secretary to the Boards
Office of Retirement Services
1737 North First Street, Suite 600
San José, CA 95112-4505

If to Kwon:

Jay Kwon



K. Attorneys' Fees

In the event of any claim, demand, proceeding or suit arising out of or with respect to this Agreement, the prevailing party in any such action shall be entitled to reasonable costs and attorneys' fees, including any such costs and fees on appeal.

L. Arbitration Agreement

- (1) Kwon and Boards agree that any and all controversies, claims, or disputes with anyone (including Boards and any of its officers, board members, employees, advisors, consultants and agents) arising out of, relating to, or resulting from Kwon's employment with Boards, including but not limited to any breach of this Employment Agreement, or any action in contract, tort or equity, shall be subject to exclusive binding arbitration under the JAMS Arbitration Rules for employment disputes in effect at the time that either Boards or Kwon make demand for arbitration under this Agreement. Disputes that Boards and Kwon agree to submit to arbitration, and thereby **agree to waive any right to a trial by jury and any other court actions except provided for in subpar. 4, below**, include any claims under state or federal law (including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the California Fair Employment and Housing Act, and the California Labor Code), claims of harassment, discrimination or wrongful termination and any other statutory claims. This Arbitration Agreement shall not, however, apply to any claims that Kwon may have to a retirement allowance from Boards under applicable law. Kwon further understands that this Agreement also applies to any disputes that Boards may have with Kwon.
- (2) Arbitration shall be at and through the auspices of the JAMS office in San José, California, before a single neutral arbitrator selected by agreement of Boards and Kwon. In the event Boards and Kwon have not reached agreement on the selection of the arbitrator within thirty (30) days following demand for arbitration being served by one party on the other, selection of the arbitrator shall be made in accordance with the JAMS Arbitration Rules. The costs charged by JAMS to conduct the arbitration shall be the responsibility of Boards alone.
- (3) Both Boards and Kwon will be entitled to discovery sufficient to adequately arbitrate any claims, including access to essential documents, and, at a

minimum, one deposition per party, as determined by the neutral arbitrator and subject to limited judicial review pursuant to California Code of Civil Procedure section 1286.2.

- (4) Except as provided for in the JAMS Arbitration Rules, arbitration shall be the sole, exclusive and final remedy for any dispute between Boards and Kwon. Accordingly, except as provided for by the JAMS Arbitration Rules, California Code of Civil Procedure section 1285, *et seq.*, and below, neither Boards nor Kwon will be entitled to pursue court action regarding any claims that are subject to arbitration. The neutral arbitrator shall have the authority to issue relief as provided by applicable law, and this Agreement shall not limit any statutory remedies either party has under applicable law. Notwithstanding the above, Boards and Kwon each reserve the right to petition a court for provisional or injunctive relief against the other.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

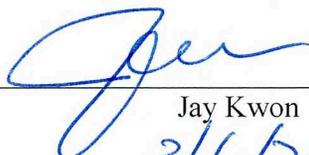
**BOARD OF ADMINISTRATION
FEDERATED CITY EMPLOYEES'
RETIREMENT SYSTEM**

By: _____
Spencer Horowitz

Its: _____ Chair _____

Dated: _____

CHIEF INVESTMENT OFFICER



Jay Kwon
Dated: 3/6/20

**BOARD OF ADMINISTRATION
SAN JOSÉ POLICE AND FIRE
DEPARTMENT RETIREMENT PLAN**

By: _____
Andrew Gardanier

Its: _____ Chair _____

Dated: _____

Approved as to Form:



Maytak Chin

The Boards' Outside General and Fiduciary Counsel