CONTRA COSTA COUNTY CCCERA Employees' Retirement Association

AGENDA

RETIREMENT BOARD MEETING

SECOND MONTHLY MEETING
July 24, 2019
9:00 a.m.

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.

2. Accept comments from the public.

3. Approve minutes from the June 26, 2019 meeting.

CLOSED SESSION

4. The Board will go into closed session pursuant to Govt. Code Section 54956.9(d)(1) to confer with legal counsel regarding pending litigation:

   a. *Nowicki v. CCCERA, et al.*, Contra Costa County Superior Court, Case No. C17-01266
   b. *CCCERA v. Salgado*, Contra Costa County Superior Court, Case No. MSC19-00580

OPEN SESSION

5. Appoint audit committee members.

6. Education on pension obligation bonds.

7. Discussion of East Contra Costa Fire Protection District request.

8. Consider and take possible action to adopt Board of Retirement Resolution 2019-5, Funding of I.R.C. Section 115 Trust for Other Post Employment Benefits for CCCERA employees.

9. Presentation of the Contra Costa County Local Area Formation Commission employer audit report.

10. Presentation of the First 5 Contra Costa Children and Families Commission employer audit report.

11. Presentation of the Contra Costa In-Home Supportive Services Public Authority employer audit report.

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The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

12. Consider authorizing the attendance of Board:
    a. Investment Forum, Dimensional Fund Advisors, September 18, 2019, Santa Monica, CA.

13. Miscellaneous
    a. Staff Report
    b. Outside Professionals' Report
    c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

Meeting Date
07/24/19
Agenda Item
#3

CONTRA COSTA COUNTY CCCERA
Employees' Retirement Association

MINUTES

RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING
June 26, 2019
9:00 a.m.

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

Present: Candace Andersen, Scott Gordon, Jerry Holcombe, Jay Kwon, Louie Kroll, David MacDonald, John Phillips, Todd Smithey and Russell Watts

Absent: William Pigeon and Jerry Telles

Staff: Gail Strohl, Chief Executive Officer; Christina Dunn, Deputy Chief Executive Officer; Timothy Price, Chief Investment Officer; Karen Levy, General Counsel; Wrally Dutkiewicz, Compliance Officer; Anne Sommers, Administrative/HR Manager; and Henry Gudino, Accounting Manager

Outside Professional Support:	Representing:
Ed Hoffman	Verus Investments
Andrew Paulden	Brown Armstrong Accountancy Corporation
John Botsford	Milliman

1. Pledge of Allegiance

The Board, staff and audience joined in the *Pledge of Allegiance*.

2. Accept comments from the public

No member of the public offered comment.

3. Approval of Minutes

It was **M/S/C** to approve the minutes from the May 22, 2019 meeting. (Yes: Andersen, Gordon, Holcombe, Kroll, MacDonald, Phillips and Smithey)

4. Presentation from Brown Armstrong on the audit of the December 31, 2018 financial statements

Paulden presented the audit of the December 31, 2018 financial statements. He reviewed the audit process, significant audit areas, scope of the audit and opinions of the audit. He reported there were no internal control weaknesses and they have issued the highest opinion on the financial statements. He congratulated the Board and staff on receiving the highest opinion.

He reviewed the agreed upon conditions noting in their opinion, they had no impact.

5. Discussion regarding funding of I.R.C. Section 115 Trust for Other Post-Employment Benefits for CCCERA employees

Botsford reviewed projections for the CCCERA staff OPEB plan's funded status and Actuarially Determined Contribution (ADC) based on 5-year, 10-year, 15-year, 20-year and 30-year amortization periods.

It was the consensus of the Board that a 10-year amortization period would be appropriate. An amendment of the current funding policy will be presented to the Board for its consideration at a future Board meeting.

6. Presentation of Annual Investment Funding Plan

Price reported the current balance of the liquidity program is $1.66 bn and an additional $530 mm is needed to fund the program through June 2023. He stated staff believes the best source for funds for the 2019 Liquidity sub-portfolio refresh are the employer pre-payments, estimated at $290 mm, and partial redemptions from the Growth sub-portfolio, specifically domestic equity and high yield, totaling approximately $240 mm. The trades should happen by the end of July and he will report back to the Board in August.

7. Consider and take possible action to adopt Board of Retirement Resolution No. 2019-4, Investment Asset Allocation Targets and Ranges

It was **M/S/C** to adopt Board of Retirement Resolution No. 2019-4, Investment Asset Allocation Targets and Ranges. (Yes: Andersen, Gordon, Holcombe, Kroll, MacDonald, Phillips and Smithey)

8. Presentation of 2018 CCCERA budget vs. actual expenses report

Gudino presented the 2018 CCCERA budget vs. actual expenses report. He reviewed the administrative and non-administrative budgets and expenses.

Watts was present for subsequent discussion and voting.

He reported there was a decrease in disability hearings/medical reviews and audit services. He stated the Administrative expenses of $9.3 million are 0.10% of the Actuarial Accrued Liability and well under the limit of 0.21%.

9. Consider authorizing the attendance of Board:

a. It was **M/S/C** to authorize the attendance of 2 Board members at the Principles of Pension Governance, CALAPRS, August 26-29, 2019, Malibu, CA. (Yes: Andersen, Gordon, Holcombe, Kroll, MacDonald, Phillips, Smithey and Watts)
b. It was **M/S/C** to authorize the attendance of 3 Board members at the Invesco Global Client Conference, November 5-7, 2019, La Jolla, CA. (Yes: Andersen, Gordon, Holcombe, Kroll, MacDonald, Phillips, Smithey and Watts)

10. Miscellaneous

(a) Staff Report –

Strohl reported on the move to the new CCCERA office location noting that staff is also working on a new logo. A copy of a logo was distributed.

(b) Outside Professionals' Report -

Hoffman reported he will be leaving Verus at the end of July. He introduced and provided brief backgrounds on Eileen Neill and Mike Kamell who will be taking his place. Strohl acknowledged Hoffman stating he has done a great job for CCCERA and will be missed. The Board agreed.

Neil reviewed her background.

(c) Trustees' comments –

Smithey congratulated all of the staff that worked on the CAFR noting it is one of the best ones he has seen. He noted an Audit Committee meeting will be held after the Board meeting.

It was **M/S/C** to adjourn the meeting. (Yes: Andersen, Gordon, Holcombe, Kroll, MacDonald, Phillips, Smithey and Watts)

Todd Smithey, Chairman	David MacDonald, Secretary

Segal Consulting

Contra Costa County Employees' Retirement Association

PENSION OBLIGATION BONDS

Educational Session

July 24, 2019

Completed by:

Segal Consulting
San Francisco

Meeting Date
07/24/19
Agenda Item
#6

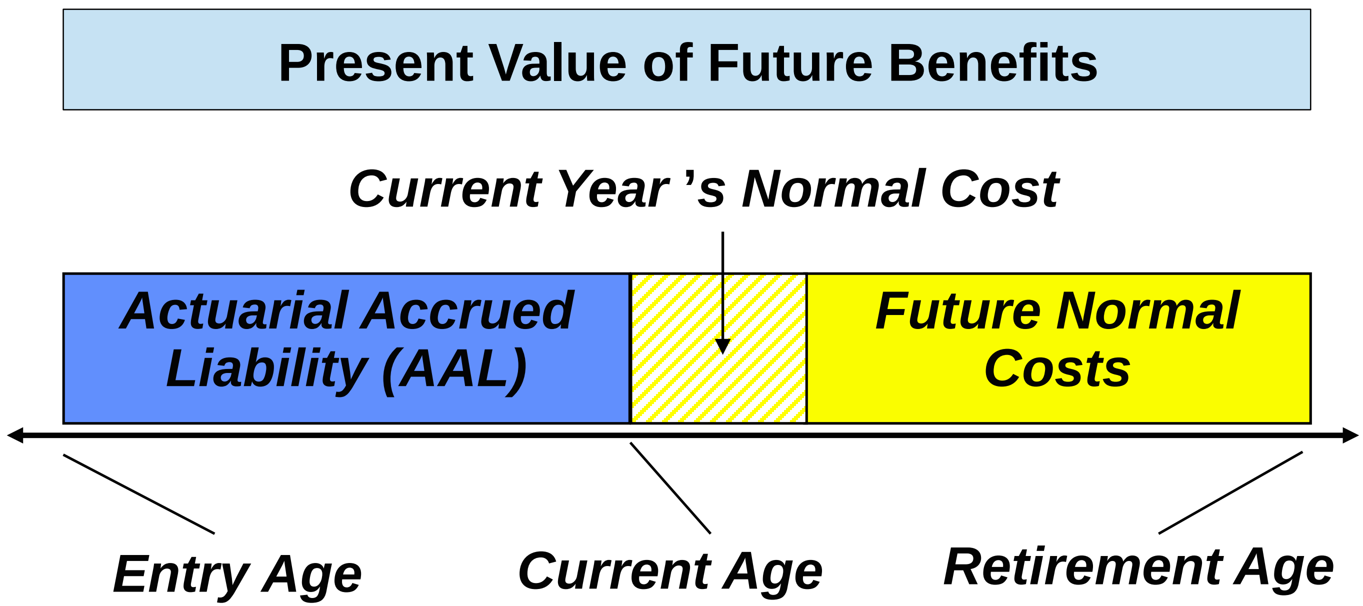
5589288

Content to be Covered

- Review of the Unfunded Actuarial Accrued Liability (UAAL)
  - What it is and how it’s paid
- Pension Obligation Bonds (POBs)
  - Overview and Background
  - General Considerations
  - Measuring the potential economic benefit to the employer
  - Potential Concerns
- Handling of POBs in the actuarial valuation

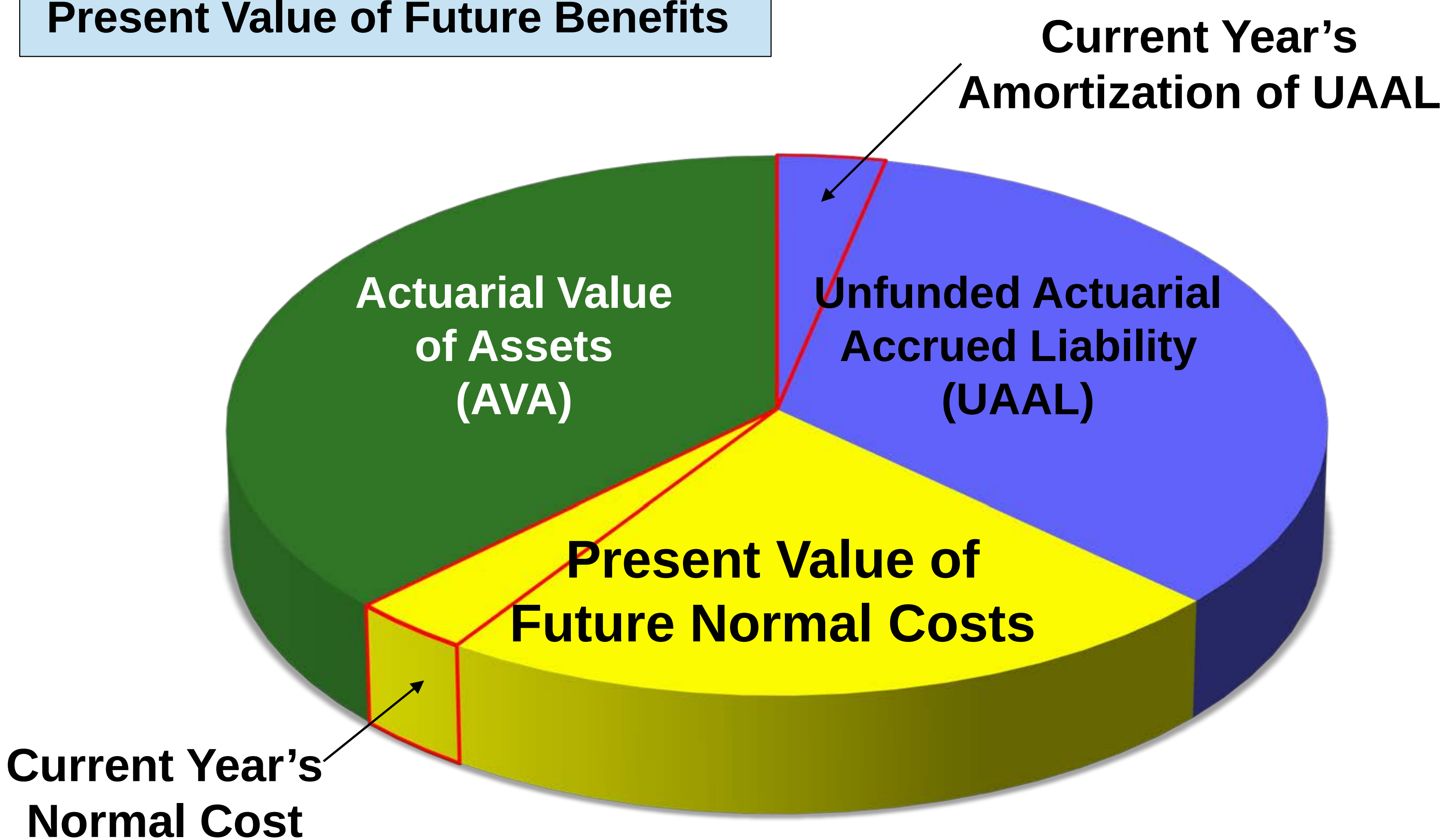
Funding Retirement Benefits—Actuarial Terminology

- **The Normal Cost is the portion of the long term cost allocated to a year of service**—only active members have a current Normal Cost
- **The Actuarial Accrued Liability (AAL) measures the Normal Costs from past years**—for retired members, the AAL is the entire value of their benefit



Funding Retirement Benefits—Cost Elements

Present Value of Future Benefits



Review of the UAAL

- UAAL = Actuarial Accrued Liability Minus Actuarial (or Valuation) Value of Assets
- UAAL is (usually) charged to the employer as a series of increasing annual payments over some fixed period of time
- Percentage increase in annual payments equals expected increase in annual payroll
- Each annual payment includes:
  - Interest on the outstanding UAAL and
  - UAAL “principal” repayment, like a mortgage payment
- Interest is charged to the employer at the actuarially assumed rate (i.e., 7.00%)

What is a Pension Obligation Bond (POB)

- POBs are taxable bonds issued by a government entity
  - Can be used to pay some or all of the entity’s UAAL
- Proceed from POBs are deposited in the pension plan
  - Invested along with the pension plans’ other assets
- The POB affects two different financial obligations:
  - Increased debt service payments from the new bonds
  - Decreased contributions to the retirement system
- Baseline ramifications of POBs:
  - Entity takes on fixed debt to invest in (variable) pension plan assets
  - This results in leveraging by taking on debt to accept more exposure to market volatility

Pension Obligation Bonds: Overview and Background

- Overall purpose of POBs is to allow governmental/public plan sponsors to:
  - Issue fixed obligation debt instruments and invest proceeds in pension assets
  - Reduce overall unfunded liability on assumption that return on assets will exceed cost of bond payments
- First POBs issued in mid-1980 were tax exempt
  - Making it easier to achieve positive spread between return on invested assets and bond service
- 1986 change to federal tax law made POBs taxable
  - POBs have been issued in several “waves” in early 1990s and early 2000s
- Assessment of POBs reflects a combination of financial analysis and more subjective beliefs about risk, governance and future economic conditions

POB Transaction

- Borrow at taxable interest rate
- Pay down existing UAAL
- Employer contribution drops towards or fully to normal cost (only) following issuance
- Bond Underwriter's Pitch:
  - Retirement system charges employer interest on the UAAL at actuarial rate (e.g., 7%)
  - Bond debt is charged at the lower taxable interest rate (e.g., 5%)
  - Difference provides economic benefit to employer by reducing total future cost

POB Transaction

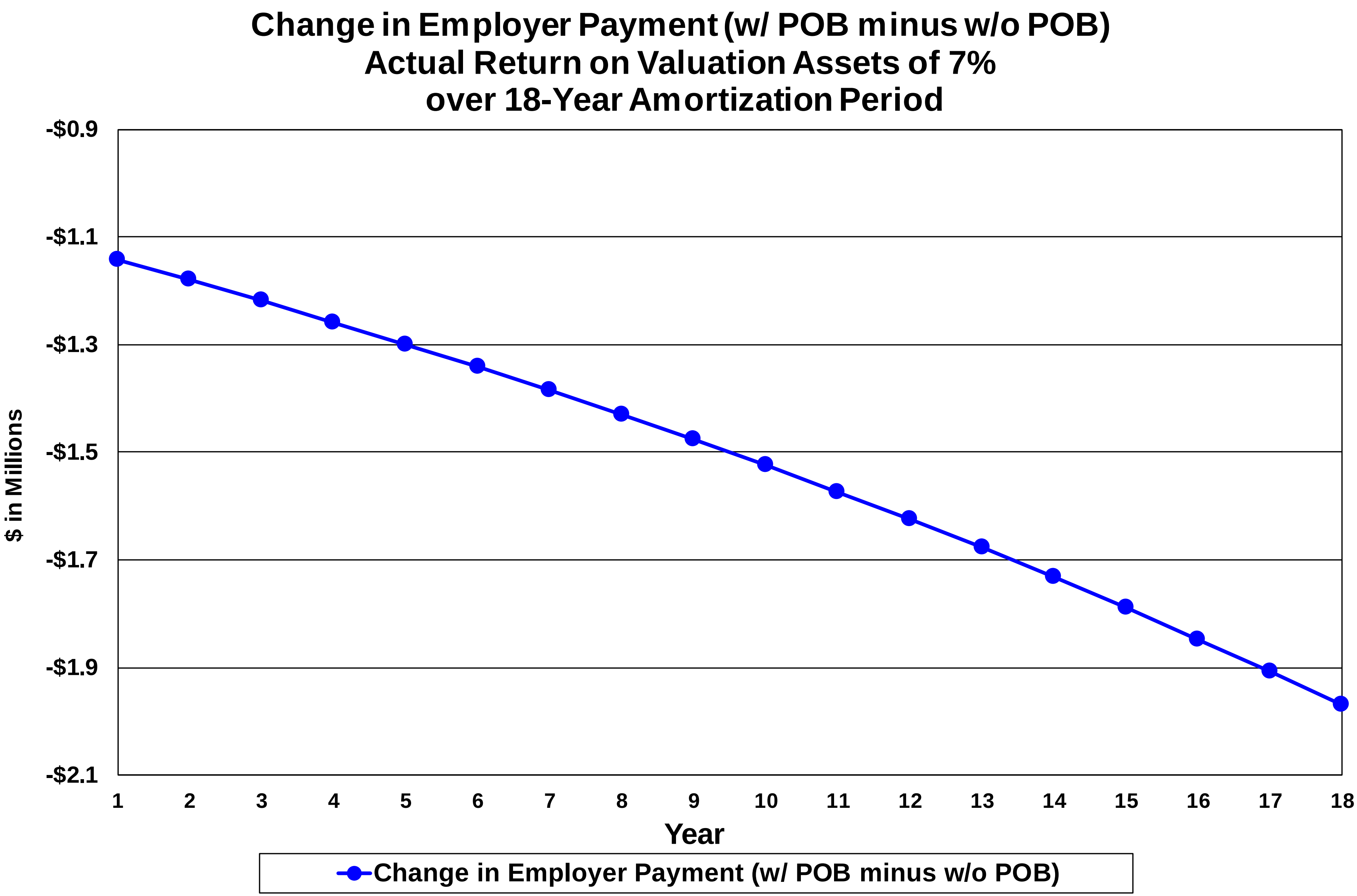
- Potential pitfalls
  - Economic benefit is realized only if the bond proceeds, when invested by the retirement plan, actually earn a return equal to the actuarial rate
    - Increased total cost volatility from investment return
  - Exposes the entity to increased market timing risk
    - The value of POBs over time is largely determined by what happens in the years following issuance
  - Bond issuance fees add to employer debt, and the bonds themselves immediately reduce debt capacity for other purposes
  - POB debt service is a fixed obligation
    - Part of employer's **total** pension cost
  - POB's can cause increased budgetary stress in the future, especially if the POB structure defers costs

POB Example

- Example:
  - $100M POB issue to fully fund $100M UAAL
  - 18 year POB payoff matches 18 year amortization period for UAAL
  - 7% actuarial investment return assumption
  - 3.25% payroll growth assumption
  - 5% POB interest rate
  - $1M POB issuance expenses
- If actual return on Valuation Assets = **7%** in each of the 18 years
  - Total employer payments **decreased** by $27.4M over 18 years
  - PV Employer **Savings** = $17.1M*
    - Net of expenses

* Discounted at 5% bond interest rate

POB Example



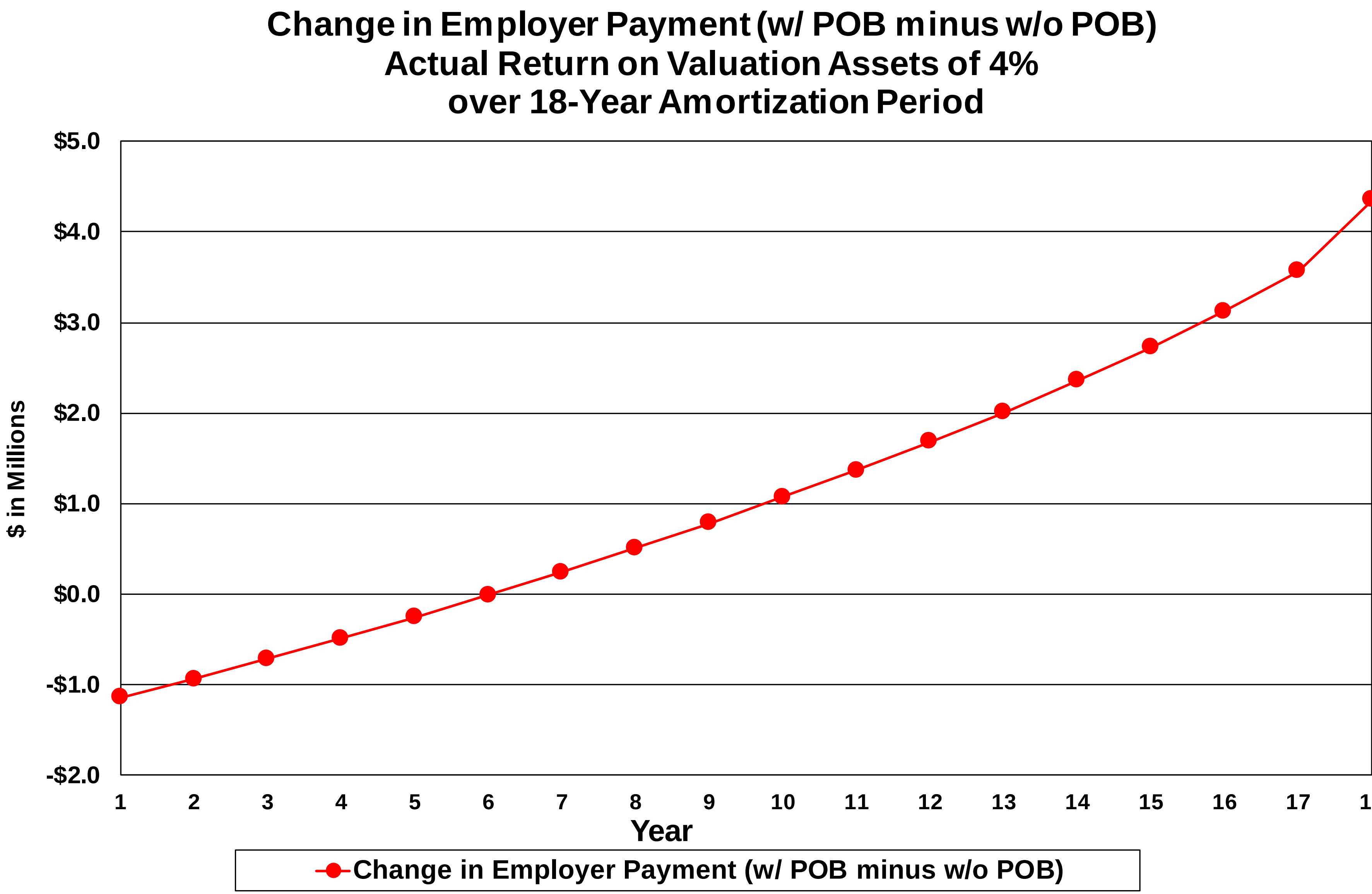
Change in Employer Payment (w/ POB minus w/o POB)
Actual Return on Valuation Assets of 7%
over 18-Year Amortization Period
-$0.9
-$1.1
-$1.3
-$1.5
-$1.7
-$1.9
-$2.1
$ in Millions
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
Year
Change in Employer Payment (w/ POB minus w/o POB)

POB Example

- If Actual Return on Valuation Assets = **4%** in each of the 18 years
  - Total employer payments **increased** by $20.3M over 18 years
  - PV Employer **Cost** = $8.6M*
    - Net of expenses

* Discounted at 5% bond interest rate

POB Example


Change in Employer Payment (w/ POB minus w/o POB)
Actual Return on Valuation Assets of 4%
over 18-Year Amortization Period
$5.0
$4.0
$3.0
$2.0
$1.0
$0.0
-$1.0
-$2.0
$ in Millions
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
Year
Change in Employer Payment (w/ POB minus w/o POB)

General Considerations

- Economic benefit of POB depends on what Fund actually earns
  - **Not** the difference between the actuarial investment return assumption and the POB interest rate
- POB assessment requires use of time horizon reflecting bond duration (and UAAL amortization period)
- POB leverage increases overall contribution volatility for the combined cost of debt service and pension cost
- Even when modeling shows high likelihood of favorable outcome, POB success is heavily impacted by timing
- Real value/cost associated with prior POBs will not be known until bonds mature
- POBs should be focused on UAAL and not substitute for current contributions or other short-term requirements
- Impact of POB on overall bonding authority/capacity of issuer must be considered

POB: Concerns Raised by GFOA

- Government Finance Officers Association (GFOA) issued an advisory in 2015 recommending that governmental entities do not issue POBs
  - Invested POB proceeds might fail to earn interest rate owed on bonds
  - Complex instruments carrying considerable risk
  - Issuing taxable debt to fund pension liability uses up debt capacity that could be used for other purposes
  - Frequently structured in manner that defers principal payment or extends repayment over a period longer than amortization period
  - Rating agencies may not view issuance of POBs as credit positive

POB: Concerns Raised by Credit Rating Agencies

- In 2017, S&P Global Ratings issued the commentary “Pension Obligation Bonds’ Credit Impact On U.S. Local Government Issuers”
- Examines the following aspects:
  - Are POBs being issued for short term budgetary relief?
  - Will any front-loading of savings lead to higher, unsustainable costs in later years?
  - Why is the plan underfunded to begin with
    - Issuing POBs is more of a kind of Band-Aid than a solution to underfunding
  - How could market timing affect the cost profile of the retirement plan and debt combined?
- Emphasizes that POBs for financially distressed issuers is clearly a credit-negative action

Handling of POBs in Actuarial Valuation

- Any POBs or additional employer payments towards the UAAL reduce the employer’s UAAL contribution rate
- Dollar amount of the annual reduction in the employer’s UAAL contributions due to the POB is based on:
  - Amortizing (as a level percent of payroll) the outstanding balance of POB
  - Using same period as used for actuarial gains and losses (18 years)
  - Using investment return and payroll growth assumptions in effect at each valuation date
- Reduction in the UAAL contribution rate will equal:
  - Dollar amount of reduction in the employer’s UAAL contributions divided by the employer’s expected payroll for the year

Depooling and Handling of POBs in Actuarial Valuation

- Twelve cost groups were created when depooling was implemented in the December 31, 2009 valuation
- Many cost groups have only a single employer, but a few have multiple employers
- For cost groups that have multiple employers:
  - Outstanding balance of the POB is tracked separately in a manner consistent with procedure used to track UAAL amortization layers
    - Credited with earnings at CCCERA's investment return assumption in effect at each valuation date
    - Reduced by dollar amount of the annual reduction in the employer's UAAL contributions due to the prepayment
- For employers that are in their own cost group:
  - POB amount is directly added to the assets of cost group
  - Separate tracking of the outstanding balance of the additional UAAL payment is not needed
  - POB payment will automatically reduce the employer's UAAL contributions

QUESTIONS

Meeting Date
07/24/19
Agenda Item
#7

MEMORANDUM

Date: July 24, 2019

To: Board of Retirement

From: Gail Strohl, Chief Executive Officer

Subject: Discussion of East Contra Costa Fire Protection District Request

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Background
When CCCERA was depooled in the 2009 actuarial valuation, Cost Group #8 was created and is comprised of two employers, the East Contra Costa Fire Protection District and the Contra Costa County Fire Protection District.

East Contra Costa Fire Protection District has provided the enclosed request for the Board's consideration. Segal Consulting has prepared responses to this request concerning 1) the treatment of the Contra Costa County Fire Protection District pension obligation bonds and also 2) the allocating of costs based on liabilities rather than payroll for Cost Group #8.

The Board's resolution adopted on July 7, 2005 and the Contra Costa County's resolution approved June 28, 2005 concerning the Contra Costa County Fire Protection District pension obligation bonds is enclosed for reference.

All of these items are being provided to the East Contra Costa Fire Protection District and the Contra Costa County Fire Protection District for their review.

Recommendation
This item is for discussion.

JUDITH W. BOYETTE
PARTNER
DIRECT DIAL (415) 995-5115
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E-MAIL jboyette@hansonbridgett.com

HansonBridgett

May 1, 2019

VIA OVERNIGHT DELIVERY

Board of Retirement for the Contra Costa
County Employees' Retirement Association
Mr. Todd Smithey, Chairperson
1355 Willow Way, Suite 221
Concord, CA 94520

Re: Requested Consideration By the CCCERA Board of Retirement of Two Items That Could Significantly Affect the Determination of the District's Contributions to CCCERA

Dear Chairperson Smithey:

We represent the East Contra Costa Fire Protection District (the "District") with respect to employee benefit matters. We have been working for almost two years now with the Chief Executive Officer of the Contra Costa County Employees' Retirement Association ("CCCERA") and her staff, assisted by CCCERA's actuary, to obtain information necessary to provide advice to the District regarding the legal issues involved in its participation in CCCERA. In particular, the District is concerned about appropriately managing its significant financial commitments related to its participation in CCCERA, including the manner in which its contributions associated with its allocated unfunded actuarial accrued liability ("UAAL") under CCCERA have been calculated. The District is particularly concerned that its contributions, including those related to the UAAL, are a much higher percentage of its active payroll than of other participating employers' payroll. Beyond the magnitude of the financial commitment, more importantly, the District believes that its treatment under Cost Group #8 is grossly unfair and inappropriate given the particular circumstances.

CCCERA has a constitutional obligation to consider the District's relative pension contributions and correct inequitable attribution of pension liabilities.

CCCERA's Board of Retirement is obligated to administer CCCERA in such a way as to minimize employer contributions for the participating employers[1], which necessarily involves an obligation to fairly allocate contribution amounts between the District and other participating employers. This allocation between the various participating employers should be based on a legally informed and commonsense assessment of the specific circumstances presented regarding the District's participation in Cost Group #8.[2]

Thus far, the District's review of its UAAL contribution obligations has focused on two issues, detailed below, that raise the most significant concerns---and that are unique to the District's

[1] California Constitution Article XVI, Section 17(b).
[2] See *Yamaha Corp. of Am. v. State Bd. of Equalization* (1998) 19 Cal. 4th 1.

placement in Cost Group #8.[3] The most recent feedback we received from CCCERA's Chief Executive Officer indicated that CCCERA's further review of these issues would require consideration by the Board of Retirement. Therefore, on behalf of the District, we are requesting that the CCCERA Board of Retirement examine the two issues described below and take action to change the process being used to determine the District's contributions under Cost Group #8.

The District Requests that the CCCERA Board Consider and Take Appropriate Action to Adjust Two Key Factors Driving the District's Allocation of Pension Liabilities for Cost Group #8.

I. First, the District requests that the Board of Retirement make an adjustment to address the inconsistent and inappropriate treatment of ConFire's Pension Obligation Bonds during de-pooling and determination of the asset base for Cost Group #8.

As you may be aware, ConFire issued $129.9 million pension obligation bonds ("POBs") in 2005. According to the bond disclosure, $124.9 million was paid as an excess (above the required) contribution to CCCERA, $3.7 million was applied to prepay ConFire's CCCERA Paulson obligation, and the remaining $1.3 million was the cost of issuance.

The District's retained actuary has reviewed information provided by CCCERA and other publicly available information about the POBs. According to this review, POB balances have been treated differently for different purposes.

A. Actuarial treatment of POB balances for calculation of required contributions

POB balances first appeared in CCCERA's actuarial reports in the report for December 31, 2007, and Segal (the CCCERA actuary) has annually reduced ConFire's contribution by an amortization of the POB balance (17-year fixed period used as of the December 31, 2005 valuation). Each year since, Segal has projected the remaining balance forward using the *discount rate* (i.e. the actuarial assumed return) rather than the *actual return*. To the extent the discount rate exceeds the actual returns, ConFire has been – and will continue to be – credited with larger POB balances and contribution credits than the actual economic impact of the POB.

B. Treatment of POB balances during de-pooling

At the time of the POB contribution, CCCERA's assets were pooled. However, CCCERA was de-pooled effective with the December 31, 2009 actuarial valuations. The de-pooling calculation included a retroactive calculation back to December 31, 2002, with the following basic steps applied:

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[3] The information in this letter addressing actuarial issues is based on publicly available information as well as that received from CCCERA's actuary in response to our information request. Because the District's actuary does not have access to all of the demographic and financial information available to CCCERA's actuary, the information provided in this letter necessarily involves estimations by the District's actuary. The responses received thus far from CCCERA have not asserted that the District's estimations were incorrect, and in fact have reinforced the District's concern that the process of determining the District's contribution amounts may not be appropriate.

1. Allocated December 31, 2002 assets to each cost group:

   a. Calculated, by cost group, December 31, 2002 Actuarial Liability;
   b. Using the Unfunded Actuarial Liability component of the contribution rate and December 31, 2002 payroll, determined the December 31, 2002 Unfunded Actuarial Liability; and
   c. Determined allocated December 31, 2002 assets as the difference between the December 31,2002 Actuarial Liability and the December 31, 2002 Unfunded Actuarial Liability.

2. Rolled allocated assets by cost group forward from December 31, 2002 to December 31, 2009 based on each year's:

   a. Estimated employer benefit payments;
   b. Employer based employer contributions;
   c. Employer based member contributions; and
   d. Actual investment return.

In reviewing the data, the District's actuary assumed – and CCCERA's actuary has confirmed – that Cost Group #8 assets were determined based on *actual* investment returns applied to the ConFire POB through December 31, 2009; however, ConFire was credited with the POB balance that would have existed had the annual investment returns equaled the *discount* rate each year.

C. Analyzing and mitigating the impact of inconsistent treatment of the POB

At this time, the District requests that the CCCERA Board of Retirement and its actuary consider whether, based on an assessment of the particular facts applicable to Cost Group #8, the Retirement Board should adjust the asset base used in the de-pooling for Cost Group #8 by using the *actual returns* for ConFire's POB amount rather than the *actuarial assumed return*.

We believe that the difference may have a significant effect on the District's financial obligation; while the December 31, 2009 actuarial report shows ConFire POB balance as $123.9 million, the District's actuary has estimated the balance based on actual returns was approximately $90.7 million instead.

Carrying the analysis forward, the District's actuary has estimated the balance as of December 31, 2017 using the credits that have been applied through that date to be as follows:

12/31/17 POB Balance	
2017 Valuation Report	Estimate Based on Actual Investment Returns (12/31/05-12/31/17)
$73.3 million	$25.7 million

D. Additional incorrect POB balance adjustments

Furthermore, as indicated above, the initial POB balance credited to ConFire at December 31, 2005 was not included in the actuarial report. Based on the 2017 balance, it appears the initial balance may have included the $3.7 million prepayment of the ConFire's CCCERA Paulson obligation. We do not understand why the initial balance would include the Paulson prepayment. In addition, the 2006 and 2007 actuarial reports indicate ConFire made excess contributions of $8.6 million in 2006 and $3.0 million in 2007. We believe these may have been for the ConFire General plan, which was put into a different cost group upon the de-pooling and so should not have impacted the Cost Group #8 calculations.

E. Request for commonsense review and adjustment

In a challenge to the manner in which CCCERA's Board of Retirement has determined the contributions required from each participating employer, the Board of Retirement will be judged on whether its judgment was based on a thorough consideration of the issues, the validity of its reasoning, and whether the decision was "a legally informed, commonsense assessment" in light of the particular situation.[4]

Taking a commonsense look at this issue, one of the key risks involved in issuing POBs is that debt service on the POBs could exceed the return on invested proceeds. However, crediting the invested funds with the actuarial assumed earnings rate passes the investment risk of ConFire, a wholly unrelated entity, on to the District. This transfer of ConFire's risk to the District, which is inherent in the way that the Retirement Board has chosen to perform this process, is roughly proportional to the cost-sharing in the pool, causing an unfair burden on the District

To the extent that cost groups are composed of entities that ultimately combine into one financial reporting entity, the distortion of liabilities between entities probably does not matter. However, Cost Group # 8 includes only two entities---and those entities do not ultimately share the same financial statement. The distortion inherent in this calculation is grossly affecting the District's contributions under CCCERA in a way that is not based on commonsense and necessitates review and mitigation. In this case, the District is not asking for a complete recalculation of the de-pooling as it relates to the District; the District simply requests a commonsense look at an adjustment to correctly reflect the proportion of liability for UAAL that should fall to the District under Cost Group #8.

II. Second, the District requests that the Board of Retirement consider allocating costs based on liabilities rather than payroll for Cost Group #8.

In an October 26, 2017 letter addressed to me, CCCERA's actuary notes that ConFire comprises about 96% of the retired members, and 91% of the compensation. It is important for the Board of Retirement to understand the following:

- Retiree liabilities are a much higher portion of the overall liabilities, which likely means that ConFire's portion of the liability is closer to 96% than it is to 91%. Note that a 4% cost allocation to the District based on liabilities is approximately 1/2 of the current 8.1% cost allocation to the District based on payroll.
- The Normal Cost rate would not be impacted by a change to the basis of cost allocation. While the Normal Cost rate would stay the same, the District's UAAL cost allocation based on liabilities would be about ½ of the current allocation

[4] Yamaha Corp. of Am. v. State Bd. of Equalization (1998) 19 Cal. 4th 1, 14-15.

based on payroll. The total District contribution would be reduced by about 35%. However, this is a significant adjustment from the District's standpoint.

While no cost allocation is perfect, the District's proposed liability-based approach would significantly better align the actual benefits being paid with the contributions assigned for the two unrelated agencies in Cost Group #8.

To illustrate the impact of the proposed adjustment, the District's actuary estimated the liability allocation using the following assumptions:

- Demographics of District and ConFire active members are similar.
- Demographics of District and ConFire retirees, and inactives, are similar.
- ConFire retirees comprise 96.9% of the retirees in Cost Group #8 (based on Segal's October 26 letter reporting 562 ConFire retirees and 18 District retirees).
- ConFire active members comprise 91.9% of Cost Group #8 payroll (based on December 31, 2017 actuarial valuation report).

On this basis, the District's actuary estimated that the District portion of the Cost Group #8 liability is approximately 4.5%. The following table compares the District contribution rates with the current payroll allocation and estimated liability allocation for Tier A:

Component	Payroll Allocation	Liability Allocation
- Normal Cost	29.9%	29.9%
- UAAL	92.7%	51.8%
- Total	122.6%	81.7%

As you can see, an allocation based on liability more appropriately reflects the total percentage of liabilities for the District and would have a dramatic effect on the contribution amount required from the District to CCCERA.

The relative liabilities for the District and ConFire (and therefore the results in the above table) are very sensitive to demographic differences between the two agencies. We believe that Cost Group #8 is unique in that it combines two agencies with very different proportions of actives to retirees. The distortion happens in Cost Group #8 because it pairs a long and well-established employer like ConFire, with its many retirees and associated UAAL cost, with a relatively newly-created employer like the District, which has a very different proportion of retirees and associated UAAL cost.

When the District presented this concept to CCCERA's Chief Executive Officer, the response we received indicated that CCCERA's actuary had said that an allocation based on liabilities rather than payroll for Cost Group #8 was not feasible. We received no explanation of why it was not feasible. In fact, the District's actuary indicates that this is a commonly used methodology.

Finally, even if the District's proposed approach were not feasible, the current grossly unfair allocation should be adjusted to more fairly allocate costs and liabilities in Cost Group # 8.

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The two concerns we are asking the Board of Retirement to consider have an enormous impact on the District's liability under CCCERA. The inappropriate allocation of liabilities to the District adversely affects the District's ability to use its limited assets and revenues to appropriately compensate its employees (and members of CCCERA)[5], or to provide adequate levels of fire and medical emergency response and fire prevention services to the approximately 115,000 taxpayers it serves. We ask that the Board of Retirement review the concerns described and take legally informed and commonsense action to address the specific factual situation in Cost Group #8.

The District would be happy to provide any further information that may be helpful in your consideration of this communication and would appreciate the opportunity to address the Board of Retirement directly prior to the Board reaching a decision on how it will address the District's concerns. While the District, in this letter, proposes certain remedies for inequities under the current processes applicable to Cost Group #8, the District continues to be open to considering other methodologies that would appropriately address the situation.

Given the importance of these matters to the District's overall financial situation, we would appreciate your prompt response and appropriate action by the Board of Retirement. So that we may appropriately advise the District regarding next steps, which may include commencing formal legal action, **we are requesting a response to this letter (including an expected timeframe for resolution) by May 30**, including our request for evaluation of the concerns set forth herein and resulting adjustments, which we understand may include policy review and amendment.

We look forward to hearing from the Board of Retirement by May 30. Thank you very much for your attention to these matters.

Very truly yours,

Judith W. Boyette

Judith W. Boyette

cc: Gail Strohl, Chief Executive Officer, CCCERA
Karen Levy, General Counsel, CCCERA

Doug Pryor, Bartel Associates
Shayna van Hoften, Hanson Bridgett LLP
Brian Helmick, ECCFPD
Ryan Pesonen, ECCFPD
Joe Young, ECCFPD
Regina Rubier, ECCFPD

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[5] As a fiduciary, the Board of Retirement may take into account how its decisions may adversely affect the working lives of the members of CCCERA . See Bandt v. Board of Retirement (2006) 136 Cal.App.4th 140, Cal.Rptr.3d 544, at pp. 158-159, 38 Cal.Rptr.3d 544.

Segal Consulting

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July 15, 2019

Ms. Gail Strohl
Chief Executive Officer
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

Re: Contra Costa County Employees' Retirement Association (CCCERA)
Response to Requests from East Contra Costa Fire Protection District Letter Dated May 1, 2019

Dear Gail:

As requested, we are providing responses to two requests found in the May 1, 2019 letter from Hanson Bridgett that is enclosed. The requests are on behalf of the East Contra Costa County Fire Protection District ("the District"). The requests are for the Retirement Board to take appropriate action to adjust two key factors driving the District's allocation of pension liabilities in Cost Group #8. In our responses below, we list out each of the requests in bold followed by our response.

Note that Cost Group #8 was created as a result of depooling in the December 31, 2009 actuarial valuation. The Contra Costa County Fire Protection District ("ConFire") and the District were both pooled together in Cost Group #8 since the District had roughly 50 active members at the time of depooling implementation. This was the threshold for the number of active members for pooling smaller employers in a cost group for a larger employer.

First, the District requests that the Board of Retirement make an adjustment to address the inconsistent and inappropriate treatment of ConFire's Pension Obligation Bonds during depooling and determination of the asset base for Cost Group #8.

ConFire issued pension obligation bonds (POBs) in 2005. About $124.9 million of the POBs were an additional employer contribution towards paying down their UAAL. ConFire also made additional employer contribution towards their UAAL of $10.1 million in total during 2006 and 2007.

First, we note that Hanson Bridgett is not correct in believing that all of the additional employer contributions were allocated to ConFire General in Cost Group #5. Any POBs or additional employer contributions towards paying down ConFire's UAAL were allocated to both ConFire Safety in Cost Group #8 and ConFire General in Cost Group #5 based on UAAL. Almost all of these amounts were allocated to ConFire Safety in Cost Group #8 as the UAAL for Cost Group #8 was significantly larger than the UAAL for ConFire General in Cost Group #5. This includes not only the initial POB, but also the additional employer contributions towards paying down their UAAL.

Hanson Bridgett also asks why the initial POB balance would have included a $3.7 million prepayment towards the Paulson Settlement. Our understanding is that a Paulson Settlement amount was calculated for each employer and that amount was included in the financial statements as a contribution receivable. However, in practice, employers were allowed to pay the Paulson Settlement amount over a period of years.

Hanson Bridgett is not correct in their understanding that the initial POB balance that was tracked in the valuation included any payment towards the Paulson Settlement. When ConFire issued POBs in 2005, the UAAL amount for this employer was $124,917,000. This specific amount[1] did not include the additional contributions that the ConFire was obligated to pay as part of the Paulson Settlement.

As to the treatment of the POBs, in the actuarial valuation, employer contribution rates are first determined by <u>excluding</u> any POBs. This methodology only applies to cost groups that have more than one employer like Cost Group #8. This initial contribution rate applies to employers such as the District that did not issue POBs or make additional payments towards the UAAL. Then the remaining balance of any POBs is amortized into a dollar amount and then converted to a contribution rate credit by dividing by the compensation for that employer. The contribution rate credit only applies to the employer that issued the POBs.

The assets for each Cost Group (including Cost Group #8) reflect <u>actual</u> investment returns as the assets for all cost groups in total must equal CCCERA's actual Market, Actuarial or Valuation Value of Assets.

The balance of ConFire's POB and additional payments has been tracked since these amounts were deposited into CCCERA. The dollar amount of the contribution credit is calculated as a level percentage of compensation, so it increases by assumed wage growth (3.25% in the latest valuation) each year. The balance is increased with interest based on the investment return

[1] We believe that $129,900,000 was the total principal amount for the bond offering. We understand that there were some fees associated with the bond offering, plus it is possible that amounts above the $124,917,000 were used to pay for ConFire's remaining portion of the Paulson Settlement. If so, then those amounts were <u>not</u> treated in a manner similar to the POBs. Instead, they were treated like other contributions that were included as a contribution receivable in the financial statements and valuation.

assumption. It is decreased by the amount of any credits applied to reduce ConFire's contribution rates.

As noted above, ConFire's POB balance was credited with interest based on the assumed investment return for each year. This results in the same POB balance that would have existed had the actual annual investment returns equaled the discount rate each year. All of the above is consistent with CCCERA's Actuarial Funding Policy (attached). These practices are described in detail under the section titled "Additional Employer UAAL Payments".

We have been requested, along with CCCERA, to consider whether it is more reasonable to adjust the asset base used in the de-pooling by using the actual returns for ConFire's POB amount rather than the actuarial assumed return.

Regarding the District's request to consider adjusting the asset base used in the depooling by using the actual returns rather than the actuarially assumed return, we believe that it could be reasonable to do that. However, we also believe that the current methodology as applied is also reasonable.

The current method of crediting the POB balance with the assumed return does mean that any actuarial gains or losses associated with the POB assets are allocated to both ConFire and the District. Such gains and losses occur when the actual market returns come in different than the investment return assumption, which is currently 7% per year. These actuarial gains or losses are applied to the contribution rates for both employers based on payroll. Since the payroll for ConFire represents about 92% of the payroll for Cost Group #8, 92% of the actuarial gain or loss is funded by ConFire with the remaining 8% funded by the District.

For example, if the actuarial investment loss associated with the POB assets was $45 million, then roughly $41 million of the loss would be funded by ConFire with the remaining $4 million funded by the District.

Note that not only gains and losses associated with the POB, but all other gains and losses are pooled between the two employers in this cost group. In addition, the Normal Cost is also pooled between these two employers. We note that the District's employer Normal Cost for Safety Tier A and D is 0.6% of payroll higher than for ConFire. Nevertheless, the District pays substantially the same employer Normal Cost rate as ConFire due to the pooling.

We believe that consideration could be given to instead crediting the POB with actual market returns on a prospective basis only (not retroactive) starting from the last valuation. This would eliminate the pooling of future investment gains and losses associated with the POB between these two employers. Consideration could also be given to credit actual market returns on a retroactive basis back to the original date of POB issuance. Since the depooling calculation was retroactive to December 31, 2002, which is prior to the issuance of the POB, any retroactive adjustment to ConFire's POB balance would not affect the depooling calculation for other employers. It would only affect the allocation of costs between ConFire and the District in Cost Group #8.

Second, the District requests that the Board of Retirement consider allocating costs based on liabilities rather than payroll for Cost Group #8

The second request is to consider whether it is more reasonable to allocate costs based on liabilities rather than active payroll within Cost Group #8. The District believes that allocation of costs based on liabilities would better align the actual benefits being paid with the contributions assigned for each agency in Cost Group #8. When the District is referring to "costs", we believe that they are referring primarily to costs associated with paying down the UAAL (i.e., the UAAL contribution rate).

We can confirm that while ConFire's payroll represents about 92% of the total payroll for Cost Group #8, ConFire's Actuarial Accrued Liability (AAL) represents about 96% of the AAL for Cost Group #8. This means that an allocation of UAAL costs based on liabilities instead of payroll would result in a significant reduction in the UAAL contribution rate for the District and an increase in the UAAL rate for ConFire that are very roughly equal to those calculated by the District's actuary.

Over the past nine valuations, the active member payroll for the District has decreased by 16%, while there has only been an 8% decrease for ConFire. Since the UAAL costs are allocated by payroll, this means that, all other things equal, more of the UAAL cost is now being funded by ConFire and less by the District than in past years.

Based on all of the above and on CCCERA's pooling practices, we do not believe it would be feasible to allocate costs based on liabilities while still continuing to have both employers in the same cost group. However, given the relative liabilities of the two employers, we believe that it would be reasonable for CCCERA to consider depooling the District into their own cost group on a prospective basis. This could be done by transferring the District's entire AAL to a new cost group along with assets allocated based on AAL (consistent with the District's request to have costs allocated based on liabilities) rather than payroll.

Under this approach as part of this new depooling calculation, there would still need to be an adjustment to credit the balance of the POB to ConFire. In effect, this means that the assets allocated based on AAL would exclude the POB balance and then the POB balance would be allocated to the ConFire assets. The POB balance used in this calculation could include an adjustment similar to that requested by the District in their initial question above to reflect actual investment returns from the original date of POB issuance.

This depooling would eliminate any pooling of future investment gains or losses associated with ConFire's POB. It would also eliminate any future shifting of the UAAL cost from the District to ConFire if the number of active members at the District continues to decline over time. Any other future actuarial gains or losses associated with the District and ConFire will also be funded separately by the District and ConFire, respectively.

Based on the December 31, 2017 actuarial valuation, this type of depooling action would result in a significant (over 40% of payroll) decrease in the UAAL contribution rate for the District and a roughly 4% of payroll increase in the UAAL contribution rate for ConFire. This calculation is based on the current practice of using ConFire's POB balance reflecting assumed investment returns, as shown in the actuarial valuation report.

The employer contribution rates for these two employers based on the December 31, 2017 actuarial valuation before and after reflecting this type of depooling are shown in the first two rows in the table below. The third row contains similar information as the second with the exception that ConFire's POB balance is adjusted retroactively to the date of POB issuance to reflect actual investment returns on a market value basis from that date through December 31, 2017. Because cumulative returns on a market value basis have been lower than the assumption for the period from the date of POB issuance through December 31, 2017, the ConFire employer rate in the third row is higher than that shown in the second row where the POB reflects assumed returns.

Employer Contribution Rate For Cost Group #8 (All Tiers Combined)		
Scenario	Contra Costa County Fire Protection District	East Contra Costa Fire Protection District
Current without Depooling	71.6%	121.6%
Depooling Based on Liability with Assumed Returns on POB	75.4%	78.1%
Depooling Based on Liability with Actual Returns on POB Starting from POB Issuance[2]	76.7%	63.4%

One last consideration is that since the District has experienced some volatility in the number of active members, it may be more appropriate to express their UAAL amortization payment as a dollar amount (instead of a percent of payroll) if they are depooled. This would be similar to the current methodology used for determining the UAAL payment for the Rodeo-Hercules Fire Protection District. Otherwise, there could be significant volatility in the District's UAAL payment when expressed as a percent of payroll.

We are members of the American Academy of Actuaries and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

[2] Most of ConFire's POBs were issued in 2005. Any adjustment to ConFire's POB balance and the assets of Cost Group #8 (excluding the POB balance) has been amortized over 5 years. This is equal to the remaining amortization period on ConFire's POB as of December 31, 2017.

Please feel free to call us with any questions.

Sincerely,

Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President & Actuary

John Monroe, ASA, MAAA, EA
Vice President & Actuary

JZM/bbf
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May 1, 2019

VIA OVERNIGHT DELIVERY

Board of Retirement for the Contra Costa
County Employees' Retirement Association
Mr. Todd Smithey, Chairperson
1355 Willow Way, Suite 221
Concord, CA 94520

Re: Requested Consideration By the CCCERA Board of Retirement of Two Items That Could Significantly Affect the Determination of the District's Contributions to CCCERA

Dear Chairperson Smithey:

We represent the East Contra Costa Fire Protection District (the "District") with respect to employee benefit matters. We have been working for almost two years now with the Chief Executive Officer of the Contra Costa County Employees' Retirement Association ("CCCERA") and her staff, assisted by CCCERA's actuary, to obtain information necessary to provide advice to the District regarding the legal issues involved in its participation in CCCERA. In particular, the District is concerned about appropriately managing its significant financial commitments related to its participation in CCCERA, including the manner in which its contributions associated with its allocated unfunded actuarial accrued liability ("UAAL") under CCCERA have been calculated. The District is particularly concerned that its contributions, including those related to the UAAL, are a much higher percentage of its active payroll than of other participating employers' payroll. Beyond the magnitude of the financial commitment, more importantly, the District believes that its treatment under Cost Group #8 is grossly unfair and inappropriate given the particular circumstances.

CCCERA has a constitutional obligation to consider the District's relative pension contributions and correct inequitable attribution of pension liabilities.

CCCERA's Board of Retirement is obligated to administer CCCERA in such a way as to minimize employer contributions for the participating employers[1], which necessarily involves an obligation to fairly allocate contribution amounts between the District and other participating employers. This allocation between the various participating employers should be based on a legally informed and commonsense assessment of the specific circumstances presented regarding the District's participation in Cost Group #8.[2]

Thus far, the District's review of its UAAL contribution obligations has focused on two issues, detailed below, that raise the most significant concerns---and that are unique to the District's

[1] California Constitution Article XVI, Section 17(b).
[2] See *Yamaha Corp. of Am. v. State Bd. of Equalization* (1998) 19 Cal. 4th 1.

placement in Cost Group #8.[3] The most recent feedback we received from CCCERA's Chief Executive Officer indicated that CCCERA's further review of these issues would require consideration by the Board of Retirement. Therefore, on behalf of the District, we are requesting that the CCCERA Board of Retirement examine the two issues described below and take action to change the process being used to determine the District's contributions under Cost Group #8.

The District Requests that the CCCERA Board Consider and Take Appropriate Action to Adjust Two Key Factors Driving the District's Allocation of Pension Liabilities for Cost Group #8.

I. **First, the District requests that the Board of Retirement make an adjustment to address the inconsistent and inappropriate treatment of ConFire's Pension Obligation Bonds during de-pooling and determination of the asset base for Cost Group #8.**

As you may be aware, ConFire issued $129.9 million pension obligation bonds ("POBs") in 2005. According to the bond disclosure, $124.9 million was paid as an excess (above the required) contribution to CCCERA, $3.7 million was applied to prepay ConFire's CCCERA Paulson obligation, and the remaining $1.3 million was the cost of issuance.

The District's retained actuary has reviewed information provided by CCCERA and other publicly available information about the POBs. According to this review, POB balances have been treated differently for different purposes.

A. Actuarial treatment of POB balances for calculation of required contributions

POB balances first appeared in CCCERA's actuarial reports in the report for December 31, 2007, and Segal (the CCCERA actuary) has annually reduced ConFire's contribution by an amortization of the POB balance (17-year fixed period used as of the December 31, 2005 valuation). Each year since, Segal has projected the remaining balance forward using the *discount rate* (i.e. the actuarial assumed return) rather than the *actual return*. To the extent the discount rate exceeds the actual returns, ConFire has been – and will continue to be – credited with larger POB balances and contribution credits than the actual economic impact of the POB.

B. Treatment of POB balances during de-pooling

At the time of the POB contribution, CCCERA's assets were pooled. However, CCCERA was de-pooled effective with the December 31, 2009 actuarial valuations. The de-pooling calculation included a retroactive calculation back to December 31, 2002, with the following basic steps applied:

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[3] The information in this letter addressing actuarial issues is based on publicly available information as well as that received from CCCERA's actuary in response to our information request. Because the District's actuary does not have access to all of the demographic and financial information available to CCCERA's actuary, the information provided in this letter necessarily involves estimations by the District's actuary. The responses received thus far from CCCERA have not asserted that the District's estimations were incorrect, and in fact have reinforced the District's concern that the process of determining the District's contribution amounts may not be appropriate.

1. Allocated December 31, 2002 assets to each cost group:

   a. Calculated, by cost group, December 31, 2002 Actuarial Liability;
   b. Using the Unfunded Actuarial Liability component of the contribution rate and December 31, 2002 payroll, determined the December 31, 2002 Unfunded Actuarial Liability; and
   c. Determined allocated December 31, 2002 assets as the difference between the December 31,2002 Actuarial Liability and the December 31, 2002 Unfunded Actuarial Liability.

2. Rolled allocated assets by cost group forward from December 31, 2002 to December 31, 2009 based on each year's:

   a. Estimated employer benefit payments;
   b. Employer based employer contributions;
   c. Employer based member contributions; and
   d. Actual investment return.

In reviewing the data, the District's actuary assumed – and CCCERA's actuary has confirmed – that Cost Group #8 assets were determined based on *actual* investment returns applied to the ConFire POB through December 31, 2009; however, ConFire was credited with the POB balance that would have existed had the annual investment returns equaled the *discount* rate each year.

C. Analyzing and mitigating the impact of inconsistent treatment of the POB

At this time, the District requests that the CCCERA Board of Retirement and its actuary consider whether, based on an assessment of the particular facts applicable to Cost Group #8, the Retirement Board should adjust the asset base used in the de-pooling for Cost Group #8 by using the *actual returns* for ConFire's POB amount rather than the *actuarial assumed return*.

We believe that the difference may have a significant effect on the District's financial obligation; while the December 31, 2009 actuarial report shows ConFire POB balance as $123.9 million, the District's actuary has estimated the balance based on actual returns was approximately $90.7 million instead.

Carrying the analysis forward, the District's actuary has estimated the balance as of December 31, 2017 using the credits that have been applied through that date to be as follows:

12/31/17 POB Balance	
2017 Valuation Report	Estimate Based on Actual Investment Returns (12/31/05-12/31/17)
$73.3 million	$25.7 million

D. Additional incorrect POB balance adjustments

Furthermore, as indicated above, the initial POB balance credited to ConFire at December 31, 2005 was not included in the actuarial report. Based on the 2017 balance, it appears the initial balance may have included the $3.7 million prepayment of the ConFire's CCCERA Paulson obligation. We do not understand why the initial balance would include the Paulson prepayment. In addition, the 2006 and 2007 actuarial reports indicate ConFire made excess contributions of $8.6 million in 2006 and $3.0 million in 2007. We believe these may have been for the ConFire General plan, which was put into a different cost group upon the de-pooling and so should not have impacted the Cost Group #8 calculations.

E. Request for commonsense review and adjustment

In a challenge to the manner in which CCCERA's Board of Retirement has determined the contributions required from each participating employer, the Board of Retirement will be judged on whether its judgment was based on a thorough consideration of the issues, the validity of its reasoning, and whether the decision was "a legally informed, commonsense assessment" in light of the particular situation.[4]

Taking a commonsense look at this issue, one of the key risks involved in issuing POBs is that debt service on the POBs could exceed the return on invested proceeds. However, crediting the invested funds with the actuarial assumed earnings rate passes the investment risk of ConFire, a wholly unrelated entity, on to the District. This transfer of ConFire's risk to the District, which is inherent in the way that the Retirement Board has chosen to perform this process, is roughly proportional to the cost-sharing in the pool, causing an unfair burden on the District

To the extent that cost groups are composed of entities that ultimately combine into one financial reporting entity, the distortion of liabilities between entities probably does not matter. However, Cost Group # 8 includes only two entities---and those entities do not ultimately share the same financial statement. The distortion inherent in this calculation is grossly affecting the District's contributions under CCCERA in a way that is not based on commonsense and necessitates review and mitigation. In this case, the District is not asking for a complete recalculation of the de-pooling as it relates to the District; the District simply requests a commonsense look at an adjustment to correctly reflect the proportion of liability for UAAL that should fall to the District under Cost Group #8.

II. Second, the District requests that the Board of Retirement consider allocating costs based on liabilities rather than payroll for Cost Group #8.

In an October 26, 2017 letter addressed to me, CCCERA's actuary notes that ConFire comprises about 96% of the retired members, and 91% of the compensation. It is important for the Board of Retirement to understand the following:

- Retiree liabilities are a much higher portion of the overall liabilities, which likely means that ConFire's portion of the liability is closer to 96% than it is to 91%. Note that a 4% cost allocation to the District based on liabilities is approximately 1/2 of the current 8.1% cost allocation to the District based on payroll.
- The Normal Cost rate would not be impacted by a change to the basis of cost allocation. While the Normal Cost rate would stay the same, the District's UAAL cost allocation based on liabilities would be about ½ of the current allocation

[4] Yamaha Corp. of Am. v. State Bd. of Equalization (1998) 19 Cal. 4th 1, 14-15.

based on payroll. The total District contribution would be reduced by about 35%. However, this is a significant adjustment from the District's standpoint.

While no cost allocation is perfect, the District's proposed liability-based approach would significantly better align the actual benefits being paid with the contributions assigned for the two unrelated agencies in Cost Group #8.

To illustrate the impact of the proposed adjustment, the District's actuary estimated the liability allocation using the following assumptions:

- Demographics of District and ConFire active members are similar.
- Demographics of District and ConFire retirees, and inactives, are similar.
- ConFire retirees comprise 96.9% of the retirees in Cost Group #8 (based on Segal's October 26 letter reporting 562 ConFire retirees and 18 District retirees).
- ConFire active members comprise 91.9% of Cost Group #8 payroll (based on December 31, 2017 actuarial valuation report).

On this basis, the District's actuary estimated that the District portion of the Cost Group #8 liability is approximately 4.5%. The following table compares the District contribution rates with the current payroll allocation and estimated liability allocation for Tier A:

Component	Payroll Allocation	Liability Allocation
- Normal Cost	29.9%	29.9%
- UAAL	92.7%	51.8%
- Total	122.6%	81.7%

As you can see, an allocation based on liability more appropriately reflects the total percentage of liabilities for the District and would have a dramatic effect on the contribution amount required from the District to CCCERA.

The relative liabilities for the District and ConFire (and therefore the results in the above table) are very sensitive to demographic differences between the two agencies. We believe that Cost Group #8 is unique in that it combines two agencies with very different proportions of actives to retirees. The distortion happens in Cost Group #8 because it pairs a long and well-established employer like ConFire, with its many retirees and associated UAAL cost, with a relatively newly-created employer like the District, which has a very different proportion of retirees and associated UAAL cost.

When the District presented this concept to CCCERA's Chief Executive Officer, the response we received indicated that CCCERA's actuary had said that an allocation based on liabilities rather than payroll for Cost Group #8 was not feasible. We received no explanation of why it was not feasible. In fact, the District's actuary indicates that this is a commonly used methodology.

Finally, even if the District's proposed approach were not feasible, the current grossly unfair allocation should be adjusted to more fairly allocate costs and liabilities in Cost Group # 8.

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The two concerns we are asking the Board of Retirement to consider have an enormous impact on the District's liability under CCCERA. The inappropriate allocation of liabilities to the District adversely affects the District's ability to use its limited assets and revenues to appropriately compensate its employees (and members of CCCERA)[5], or to provide adequate levels of fire and medical emergency response and fire prevention services to the approximately 115,000 taxpayers it serves. We ask that the Board of Retirement review the concerns described and take legally informed and commonsense action to address the specific factual situation in Cost Group #8.

The District would be happy to provide any further information that may be helpful in your consideration of this communication and would appreciate the opportunity to address the Board of Retirement directly prior to the Board reaching a decision on how it will address the District's concerns. While the District, in this letter, proposes certain remedies for inequities under the current processes applicable to Cost Group #8, the District continues to be open to considering other methodologies that would appropriately address the situation.

Given the importance of these matters to the District's overall financial situation, we would appreciate your prompt response and appropriate action by the Board of Retirement. So that we may appropriately advise the District regarding next steps, which may include commencing formal legal action, **we are requesting a response to this letter (including an expected timeframe for resolution) by May 30**, including our request for evaluation of the concerns set forth herein and resulting adjustments, which we understand may include policy review and amendment.

We look forward to hearing from the Board of Retirement by May 30. Thank you very much for your attention to these matters.

Very truly yours,

Judith W. Boyette

Judith W. Boyette

cc: Gail Strohl, Chief Executive Officer, CCCERA
Karen Levy, General Counsel, CCCERA

Doug Pryor, Bartel Associates
Shayna van Hoften, Hanson Bridgett LLP
Brian Helmick, ECCFPD
Ryan Pesonen, ECCFPD
Joe Young, ECCFPD
Regina Rubier, ECCFPD

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[5] As a fiduciary, the Board of Retirement may take into account how its decisions may adversely affect the working lives of the members of CCCERA . See Bandt v. Board of Retirement (2006) 136 Cal.App.4th 140, Cal.Rptr.3d 544, at pp. 158-159, 38 Cal.Rptr.3d 544.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

ACTUARIAL FUNDING POLICY

INTRODUCTION:

The purpose of this Actuarial Funding Policy is to record the funding objectives and policies set by the Board of Retirement (Board) for the Contra Costa County Employees' Retirement Association (CCCERA). The Board establishes this Actuarial Funding Policy to help ensure the systematic funding of future benefit payments for members of CCCERA. In addition, this document records certain guidelines established by the Board to assist in administering CCCERA in a consistent and efficient manner.

This Actuarial Funding Policy supersedes any previous Actuarial Funding Policies. It is a working document and may be modified as the Board deems necessary.

GOALS OF ACTUARIAL FUNDING POLICY:

1. To determine future contributions that, together with current plan assets, are expected to be sufficient to provide for all benefits provided by CCCERA;

2. To seek reasonable and equitable allocation of the cost of benefits over time including the goal that annual contributions should, to the extent reasonably possible, maintain a close relationship to both the expected cost of each year of service and to variations around that expected cost;

3. To manage and control future contribution volatility to the extent reasonably possible, consistent with other policy goals; and,

4. To support the general public policy goals of accountability and transparency by being clear as to both intent and effect, allowing for an assessment of whether, how and when the plan sponsors will meet the funding requirements of the plan.

FUNDING REQUIREMENT AND POLICY COMPONENTS:

CCCERA's annual funding requirement is comprised of a payment of the Normal Cost and a payment on the Unfunded Actuarial Accrued Liability (UAAL). The Normal Cost and the amount of payment on UAAL are determined by the following three components of this funding policy:

I. Actuarial Cost Method: Allocates the total present value of future benefits to each year (Normal Cost), including all past years (Actuarial Accrued Liability or AAL);

II. Asset Smoothing Method: Spreads the recognition of investment gains or losses over a period of time for the purposes of determining the Actuarial Value of Assets used in the actuarial valuation process. This reduces the effect of short-term market volatility while still tracking the overall movement of the market value of plan assets; and,

III. Amortization Policy: Determines the length of time and the structure of the increase or decrease in contributions required to systemically (1) fund any Unfunded Actuarial Accrued Liability or UAAL, or (2) recognize any surplus, i.e., any assets in excess of the AAL.

I. Actuarial Cost Method:

The Entry Age method shall be applied to the projected benefits in determining the Normal Cost and the AAL. The Normal Cost shall be determined as a level percent of payroll on an individual basis for each active member.

II. Asset Smoothing Method:

The investment gains or losses of each valuation period, as a result of comparing the actual market return to the expected market return, shall be recognized in level amounts over 5 years in calculating the Actuarial Value of Assets.

This policy anticipates that future circumstances may warrant adjustments to change the pattern of the recognition of the net deferred investment gains or losses after a period of significant market change followed by a period of market correction, upon receiving an analysis from CCCERA's actuary. Such adjustments would be appropriate when the net deferred investment gains or losses are relatively small (i.e., the actuarial and market values are very close together), but the recognition of that net deferred amount is markedly non-level. Any such adjustment would be made subject to the following conditions:

- The net deferred investment gains or losses are unchanged as of the date of the adjustment; and,

- The period over which the net deferred investment gains and losses are fully recognized is unchanged as of the date of the adjustment.

III. Amortization Policy:

- The UAAL (i.e., the difference between the AAL and the Valuation Value of Assets) as of December 31, 2012 shall continue to be amortized over separate amortization layers based on the valuations during which each separate layer was previously established.

- Any new UAAL as a result of actuarial gains or losses identified in the annual valuation as of December 31 will be amortized over a period of 18 years.

- Any new UAAL as a result of change in actuarial assumptions or methods will be amortized over a period of 18 years.

- Unless the Board adopts an alternative amortization period after receiving an actuarial analysis[1]:

  a. with the exception noted in b., below, the increase in UAAL as a result of any plan amendments will be amortized over a period of 10 years;

  b. the entire increase in UAAL resulting from a temporary retirement incentive will be funded in full upon adoption of the incentive. If the increase in UAAL is due to the impact of benefits resulting from additional service permitted in Section 31641.04 of the 1937 CERL (Golden Handshake), the entire increase in UAAL will be funded in full upon adoption of the Golden Handshake.

- UAAL shall be amortized over "closed" amortization periods so that the amortization period for each layer decreases by one year with each actuarial valuation.

- UAAL shall be amortized as a level percentage of payroll so that the amortization amount in each year during the amortization period shall be expected to be a level percentage of covered payroll, taking into consideration the current assumption for general payroll increase.

- If an overfunding or "surplus" exists (i.e., the Valuation Value of Assets exceeds the AAL, so that the total of all UAAL amortization layers become negative), any prior UAAL amortization layers will be considered fully amortized, and any subsequent UAAL will be amortized as the first of a new series of amortization layers, using the above amortization periods.

  If the surplus exceeds 20% of the AAL per Section 7522.52 of the Government Code, then the amount of such surplus in excess of 20% of the AAL (and any subsequent surpluses in excess of that amount) will be amortized over an "open" amortization period of 30 years, but only if the other conditions of Section 7522.52 have also been met. If those conditions are not met, then the surplus will not be amortized and the full Normal Cost will be contributed.

- These amortization policy components will generally apply separately to each of CCCERA's UAAL cost groups with the exception that the conditions of Section 7522.52 apply to the total plan.

OTHER POLICY CONSIDERATIONS:

<u>Adjustment for 18-Month Delay in Rate Implementation</u>

[1] In particular, the Board may want to incorporate into the amortization period demographic matching specific to the plan amendment. This could entail using the remaining active future service for plan changes that affect actives. For plan changes that affect retirees, this could entail using the remaining life expectancy for retirees or the period over which the increased cash flow to retirees is expected to be paid.

In order to allow employers to more accurately budget for pension contributions and other practical considerations, the contribution rates determined in each valuation (as of December 31) will apply to the 12-month period beginning 18 months after the valuation date. Any shortfall or excess contributions as a result of the implementation lag will be amortized as part of CCCERA's UAAL in the following valuation.

Implementation of Contribution Rate Change Due to Plan Amendment

Any change in contribution rate requirement that results from a plan amendment is generally implemented on the effective date of the plan amendment or as soon as administratively feasible.

Cost Sharing Arrangements

Starting with the December 31, 2009 Actuarial Valuation, the Board took action to depool CCCERA's assets, liabilities and Normal Cost by employer when determining employer contribution rates. The Board action included a review of experience back to December 31, 2002. This did not involve recalculation of any employer rates prior to December 31, 2009. However, it did involve establishing the depooled assets so as to reflect the separate experience of the employers in each individual cost group from December 31, 2002 through December 31, 2009. In addition, the Board took action to discontinue certain cost sharing adjustments for both member and employer contribution rates for General Tier 1 and Safety Tier A.

Even under the depooling structure, there are a few remaining cost sharing arrangements. Here is a summary of the ongoing cost sharing arrangements:

- Smaller employers (less than 50 active members) were pooled with the applicable County tier. Safety members from the East Contra Costa Fire Protection District were pooled with Safety members of the Contra Costa County Fire Protection District.

- Due to a statutory requirement, the Superior Court is pooled with the County regardless of how many members the Court has.

- UAAL costs are pooled between Cost Group 1 and Cost Group 2 which represent General County and Small Districts for Tiers 1 and 3. UAAL costs are also pooled for Cost Groups 7 and 9 which are Safety County Tiers A and C.

  This was done because Cost Group 1 and Cost Group 7 had active members but were generally closed to new members. If the UAAL for these two cost groups is not pooled with another cost group that is open to new active members then the UAAL rate for these generally closed cost groups would increase substantially in future years. This is due to the fact that the UAAL for CCCERA is amortized as a level percent of payroll and the payroll growth for the generally closed cost group would be less than the payroll growth assumption. This will help stabilize the employer contribution rates for the mostly closed Cost Group 1 and Cost Group 7. Normal Cost rates for those cost groups are not pooled.

  There are some substantial differences between the Safety Tier A Enhanced and Safety Tier C Enhanced benefits, such as the period over which final average salaries are determined and the COLA. However, since the County is the only employer in these two cost groups, they will be the only employer affected by this particular pooling.

Employer/Member Cost Sharing

The Cost Impact of Leave Cashouts

CCCERA's Basic and COLA member rates for members with membership dates before January 1, 2013 are increased to anticipate leave cashouts in the final year of employment using the same leave cashout assumptions adopted by the Board for the actuarial valuation for projecting benefit payments.

The Cost Impact of Service from Unused Sick Leave Conversion

Pursuant to Government Code Section 31641.01, for members with membership dates before January 1, 2013, the cost of this benefit will be charged only to employers and will not affect member contribution rates.

Employer/Member cost sharing arrangements are subject to modification under Government Code Section 31631.5, and any such modifications would be incorporated into the determination of the employer and member contribution rates.

Additional Employer UAAL Payments

Absent any specific action by the Board, any additional employer payments towards the UAAL (including those from Pension Obligation Bonds (POBs) will be accepted by CCCERA in exchange for a corresponding reduction in the employer's UAAL contribution rate over period(s) and in a manner consistent with that employer's outstanding UAAL amortization layers and payments.

The outstanding balance of the additional UAAL payment is tracked separately in a manner consistent with the procedure used to track the UAAL amortization layers. It will be credited with earnings at CCCERA's investment return assumption in effect at each valuation date and reduced by the dollar amount of the annual reduction in the employer's UAAL contributions due to the prepayment.

Unless otherwise directed by the Board, the dollar amount of the annual reduction in the employer's UAAL contributions due to the additional UAAL payment will be based on amortizing (as a level percentage of payroll) the outstanding balance of the additional UAAL payment amount over the same period as used for actuarial gains and losses, using CCCERA's investment return and payroll growth assumptions in effect at each valuation date.

The reduction in the UAAL contribution rate will then equal the dollar amount of reduction in the employer's UAAL contributions divided by the employer's expected payroll for the year following the valuation date. Rate reductions will apply starting on July 1 following receipt of the payment. The additional UAAL payment amount will be discounted back to the valuation date for which the contribution rates from that valuation become effective on that July 1.

The separate tracking of the outstanding balance applies only to employers that are in a cost group with more than one employer. For employers that are in their own cost group, the additional UAAL payment amount is directly added to the assets of their cost group. Separate tracking of the outstanding balance of the additional UAAL payment is not needed in this situation as the additional UAAL payment will automatically reduce the employer's UAAL contributions.

Employers with Declining Covered Payrolls

Refer to the Declining Employer Payroll Actuarial Funding Policy for more information.

POLICY REVIEW

The Board of Retirement will review this Policy at least every three (3) years to ensure that it remains relevant and appropriate.

HISTORY

Adopted: 2/26/2014

Amended: 8/13/2014, 5/22/2019

GLOSSARY OF FUNDING POLICY TERMS:

- **Present Value of Benefits (PVB) or total cost**: the “value” at a particular point in time of all projected future benefit payments for current plan members. The “future benefit payments” and the “value” of those payments are determined using actuarial assumptions as to future events. Examples of these assumptions are estimates of retirement patterns, salary increases, investment returns, etc. Another way to think of the PVB is that if the plan has assets equal to the PVB and all actuarial assumptions are met, then no future contributions would be needed to provide all future service benefits for all members, including future service and salary increases for active members.

- **Actuarial Cost Method:** allocates a portion of the total cost (PVB) to each year of service, both past service and future service.

- **Normal Cost (NC):** the cost allocated under the Actuarial Cost Method to each year of active member service.

- **Entry Age Actuarial Cost Method:** A funding method that calculates the Normal Cost as a level percentage of pay over the expected working lifetime of the plan’s members.

- **Actuarial Accrued Liability (AAL)**: the value at a particular point in time of all past Normal Costs. This is the amount of assets the plan would have today if the current plan provisions, actuarial assumptions and participant data had always been in effect, contributions equal to the Normal Cost had been made and all actuarial assumptions came true. Note that for inactive members the AAL equals the entire PVB.

- **Market Value of Assets:** the fair value of assets of the plan as reported in the plan’s audited financial statements.

- **Actuarial Value of Assets (AVA) or smoothed value:** a market-related value of the plan assets for determining contribution requirements. The AVA tracks the market value of assets over time, smoothes out short term fluctuations in market values and produces a smoother pattern of UAALs and contributions than would result from using market value.

- **Valuation Value of Assets (VVA):** the value of assets used in the actuarial valuation to determine contribution rate requirements. It is equal to the Actuarial Value of Assets reduced by the value of any non-valuation reserves.

- **Unfunded Actuarial Accrued Liability (UAAL):** the positive difference, if any, between the AAL and the VVA.

- **Surplus:** the positive difference, if any, between the VVA and the AAL.

- **Actuarial Value Funded Ratio:** the ratio of the VVA to the AAL.

- **Market Value Funded Ratio:** the ratio of the MVA to the AAL.

- **Actuarial Gains and Losses:** changes in UAAL or surplus due to actual experience different from what is assumed in the actuarial valuation. For example, if during a given year the assets earn more than the investment return assumption, the amount of earnings above the assumption will cause an unexpected reduction in UAAL, or "actuarial gain" as of the next valuation. These include contribution gains and losses that result from actual contributions made being greater or less than the level determined under the policy.

- **Valuation Date:** December 31 of every year.

TO: BOARD OF SUPERVISORS

FROM: JOHN SWEETEN, COUNTY ADMINISTRATOR

DATE: June 28, 2005

SUBJECT: **Contra Costa County Fire Protection District Pension Obligation Bonds**

Contra Costa County

C.26

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

RECOMMENDATIONS:

ADOPT Resolution No. 2005/408 authorizing the issuance of not to exceed $135,000,000 in bonds to refinance pension liabilities of the Contra Costa County Fire Protection District and the execution and delivery of documents for such financing, including an official statement, a debenture, a trust agreement, a bond purchase contract and continuing disclosure agreement.

FINANCIAL IMPACT:

The proposed pension obligation bonds would reduce the Contra Costa County Fire Protection District's pension-related costs by approximately $3 million per year, or approximately $54 M over the 18-year term of the bonds.

BACKGROUND

The proposed pension obligation bonds (POBs) would refinance the Contra Costa County Fire Protection District's (the District) current unfunded actuarial accrued liability (UAAL) with the Contra Costa County Employees' Retirement Association (CCCERA) and the District's financial obligation to CCCERA under the Paulson Settlement. Staff estimates the District's UAAL to be approximately $125 million as of December 31, 2004; CCCERA's actuary will certify the amount of the District's UAAL as of December 31, 2004 prior to the sale of the POBs. The remaining amount of the District's Paulson Settlement obligation is known to be about $3.7 million. Thus, the District expects the POBs to refinance approximately $128.7 million in outstanding obligations, representing the combined UAAL and Paulson Settlement amounts. On June 22, 2005, the CCCERA Retirement Board will consider taking action to acknowledge the District's right to prepay the UAAL and Paulson Settlement obligations from proceeds of the POBs.

The District's UAAL is currently amortized over a 20-year period that began in 2003 at an interest rate of 7.9%. The District's Paulson Settlement obligation to CCCERA is amortized over roughly the same period at a rate of 8.0%.

CONTINUED ON ATTACHMENT: ✓ YES SIGNATURE: Jason Crapo

✓ RECOMMENDATION OF COUNTY ADMINISTRATOR ____ RECOMMENDATION OF BOARD COMMITTEE
✓ APPROVE ____ OTHER

SIGNATURE(S): Julie Enea

ACTION OF BOARD ON JUNE 28, 2005 APPROVE AS RECOMMENDED XX OTHER ____

VOTE OF SUPERVISORS

XX UNANIMOUS (ABSENT NONE)

AYES: ____ NOES: ____
ABSENT: ____ ABSTAIN: ____

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MINUTES OF THE BOARD OF SUPERVISORS ON THE DATE SHOWN.

ATTESTED JUNE 28, 2005
JOHN SWEETEN, CLERK OF THE BOARD OF SUPERVISORS AND COUNTY ADMINISTRATOR

CONTACT: Jason Crapo

CC: CAO
Contra Costa County Fire Protection District

BY ____, DEPUTY

Signed Copy of #2

COPY

RESOLUTION OF THE RETIREMENT BOARD OF THE CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION AUTHORIZING CERTAIN ACTIONS RELATING TO THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT'S LIABILITY TO MAKE CONTRIBUTIONS TO THE RETIREMENT ASSOCIATION AND OTHER MATTERS RELATED THERETO

WHEREAS, the Contra Costa County Employees' Retirement Association ("CCCERA") is a cost-sharing multiple-employer retirement plan established under the County Employees Retirement Law of 1937 (Cal. Gov't Code §§31450, et seq.) (hereinafter "CERL"), which is administered by CCCERA's Board of Retirement ("Retirement Board"), and which is governed by, and operates under, CERL, the California Constitution, Article XVI, Section 17, other applicable law ("Retirement Law"), and its own adopted policies, procedures and regulations; and

WHEREAS, Gov't Code Section 31557(a) authorizes officers and employees of a district for which the board of supervisors is the governing body to become a member of a CERL retirement association if the district's governing body adopts, by four-fifths vote, a resolution providing for the inclusion of the district in the retirement association and if the retirement board, by majority vote, consents thereto; and

WHEREAS, Gov't Code Section 31585 provides that when any district becomes a part of the retirement system, the same appropriations and transfers of funds shall be made as those required of the county under Article 5 of CERL, and such charges are legal charges against the funds of the district; and

WHEREAS, on December 29, 1964, by Resolution No. 3627, the Board of Supervisors of the County of Contra Costa created the Contra Costa County Fire Protection District ("District"), as a consolidation of the Central and Mt. Diablo County Fire Protection Districts, and provided for the assumption by the District of obligations of the prior districts under the Retirement Law; and

WHEREAS, the Retirement Law obligates the District to make contributions to CCCERA to fund pension benefits for its employees, which contribution amounts are recommended by the Retirement Board, based upon the investigation, valuation, and recommendation of CCCERA's independent actuary ("Actuary"); and

WHEREAS, the Retirement Law permits the Retirement Board to determine the District's contributions on the basis of (1) a normal contribution rate computed in accordance with Gov't Code Section 31454.3; and (2) an amortization of any unfunded actuarial accrued liability ("UAAL") over a period not to exceed 30 years; and

WHEREAS, the Retirement Board is informed that the Board of Directors of the District intends to authorize the issuance of a debenture (the "Debenture") to CCCERA evidencing the obligation of the District to pay the UAAL component of the District's obligation to CCCERA, calculated as of December 31, 2004 ("District's UAAL as of December 31, 2004"); and

WHEREAS, upon the Retirement Board's adoption of CCCERA's December 31, 2004 actuarial valuation on June 22, 2005, the Actuary certified the amount of the District's UAAL as of December 31, 2004 in the amount of $124,917,000, as is set forth in Exhibit 1 hereto; and

WHEREAS, the District and CCCERA have heretofore entered into an agreement, dated as of August 28, 2003 (the "Paulson Agreement"), respecting the payment of the District's proportionate share of liability arising from a settlement of the cases of *Paulson v. Contra Costa County Employees' Retirement Association*, Contra Costa Superior Court Case No. C-96-02939, and *Walden v. Contra Costa County Employees' Retirement Association*, Contra Costa Superior Court Case No. C-97-02935. A true and correct copy of the Paulson Agreement is attached hereto as Exhibit 2.

WHEREAS, the outstanding principal balance owed by the District to CCCERA under the Paulson Agreement is $3,459,368.09 as of September 1, 2004 (the "Paulson Obligation"), as is set forth on the payment schedule attached hereto as Exhibit 3; and

WHEREAS, in accordance with the Settlement Agreement that is referenced in the Paulson Agreement, CCCERA and the District may agree to shorten the amortization period of the Paulson Obligation to less than 20 years; and

WHEREAS, the Retirement Board is informed that the Board of Directors of the District intends to authorize the issuance of bonds (the "Bonds") for the purpose of redeeming the Debenture and prepaying the District's Paulson Obligation, thereby immediately providing additional funds to CCCERA for investment;

NOW, THEREFORE, BE IT RESOLVED:

1. The Actuary has determined that the amount of the District's UAAL as of December 31, 2004 is $124,917,000, as is set forth in the Actuary's certification attached hereto as Exhibit 1. Based upon the Actuary's determination, the Board hereby finds and declares that the District's payment of that amount on or before July 31, 2005, will satisfy the District's portion of the December 31, 2004 UAAL as determined by the Actuary.

2. The District's obligation under the Paulson Agreement as of September 1, 2004 is $3,459,368.09, as is set forth in the payment schedule attached hereto as Exhibit 3. Based upon the Actuary's determination, the Board hereby finds and declares that the District's payment of that amount plus simple interest accruing at 8% per annum, calculated per diem from September 1, 2004, until the date of prepayment on or before August 31, 2005, will satisfy the District's portion of the Paulson Obligation.

3. The Retirement Board finds that the transactions contemplated by this Resolution will result in additional contributions to CCCERA, which may then used by CCCERA for the purposes authorized by law.

4. Upon CCCERA's timely receipt from the District of the amount set forth in paragraph 1 above, the subsequent UAAL component of the District's employer contributions due to CCCERA for the years July 1, 2005- June 30, 2006 and July 1, 2006-June 30, 2007, shall

be eliminated, as is set forth on Attachment B of the Actuary's certification attached hereto as Exhibit 1 ("District's Revised Rate Schedule"). The Retirement Administrator is hereby authorized to advise the District of the revised rates, as shown on the Revised Rate Schedule, upon timely receipt of $124,917,000 from the District. The District remains obligated to make all contributions to CCCERA that the Retirement Board subsequently deems necessary, taking into consideration the prepayment of $124,917,000 by the District. If CCCERA does not receive said $124,917,000 from the District on or before July 31, 2005, in cash or clear funds, the District's obligation to pay the District's UAAL as of December 31, 2004 shall not have been satisfied.

5. The Retirement Administrator is hereby authorized and directed to do any and all things necessary or advisable in order to effectuate CCCERA's actions as contemplated by this Resolution.

6. This Resolution shall take effect immediately upon its adoption at a duly constituted regular or special meeting called for that purpose.

Passed, approved and adopted this 7th day of July, 2005.

CONTRA COSTA COUNTY
EMPLOYEES' RETIREMENT
ASSOCIATION

By: Robert Rey

ATTEST:

By: B D Wast.
Secretary

Agenda Item #2
Exhibit 1

SEGAL

THE SEGAL COMPANY
120 Montgomery Street Suite 500 San Francisco, CA 94104-4308
T 415.263.8200 F 415.263.8290 www.segalco.com

RECEIVED JUN 23 2005 BY:

June 22, 2005

Board of Retirement
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

Re: **Contra Costa County Fire Protection District – Proposed Pension Obligation Bond Issuance**

Dear Board Members:

At the request of the Contra Costa County Fire Protection District (CCCFPD), we have prepared this letter with regard to the proposed issuance of Pension Obligation Bonds (POB's) by CCCFPD.

Since the Contra Costa County Employees' Retirement Association ("CCCERA") is a cost-sharing multiple employer plan, there is no Unfunded Actuarial Accrued Liability ("UAAL") maintained on an employer-by-employer basis in our valuation. Instead, each year we develop contributions to fund the UAAL strictly according to payroll for each employer. The UAAL that we determine for each participating employer is developed consistent with this methodology. Therefore, the liability we calculate for each employer is not the exactly the same liability that would be allocated to that employer in the event of a plan termination by that employer.

Based on this methodology, the UAAL of CCCFPD to CCCERA as of the December 31, 2004 valuation date is estimated to be $124,917,000. An amortization schedule for that UAAL is included as Attachment A to this letter.

If the POB's are issued in July 2005 as planned, the CCCFPD employer contribution rates for fiscal year 2005-2006 (FY 2006) and fiscal year 2006-2007 (FY 2007) would be reduced to reflect only the normal cost portion of the rate. Attachment B provides a summary of the applicable FY 2006 and FY 2007 rates from the December 31, 2003 and December 31, 2004 actuarial valuations, respectively, consistent with the presentation (with regard to subvention) in the December 31, 2004 valuation report.

Please let us know if you have any questions.

Sincerely,

Drew James, FSA, MAAA
Consulting Actuary

DZJ/jc

Enclosures

187185/05337.001

Attachment A

Contra Costa County Employees' Retirement Association

12/31/2004 Contra Costa Fire Protection District Unfunded Actuarial Accrued Liability Amortization Schedule

Annual Interest Rate: 7.90%
Annual Payroll Inflation: 4.25%
Amortization Period: 18-Year Fixed (Decreasing) Amortization Period

Year	Beginning of Year Balance	Annual Payment	Interest Paid	Principal Paid	End of Year Balance
1	$ 124,917,000	$ 9,536,335	$ 9,530,474	$ 5,860	$ 124,911,140
2	124,911,140	9,941,629	9,515,648	425,981	124,485,159
3	124,485,159	10,364,148	9,467,021	897,127	123,588,032
4	123,588,032	10,804,624	9,380,538	1,424,087	122,163,945
5	122,163,945	11,263,821	9,251,761	2,012,060	120,151,885
6	120,151,885	11,742,533	9,075,842	2,666,691	117,485,194
7	117,485,194	12,241,591	8,847,487	3,394,104	114,091,090
8	114,091,090	12,761,859	8,560,915	4,200,944	109,890,146
9	109,890,146	13,304,238	8,209,818	5,094,419	104,795,727
10	104,795,727	13,869,668	7,787,320	6,082,348	98,713,379
11	98,713,379	14,459,128	7,285,924	7,173,204	91,540,175
12	91,540,175	15,073,641	6,697,462	8,376,179	83,163,996
13	83,163,996	15,714,271	6,013,040	9,701,231	73,462,765
14	73,462,765	16,382,128	5,222,974	11,159,154	62,303,611
15	62,303,611	17,078,368	4,316,726	12,761,642	49,541,969
16	49,541,969	17,804,199	3,282,833	14,521,366	35,020,603
17	35,020,603	18,560,877	2,108,828	16,452,049	18,568,555
18	18,568,555	19,349,715	781,160	18,568,555	0
Total		$ 250,252,772	$ 125,335,772	$ 124,917,000	

Note: Results may be slightly off due to rounding

M:\CCCERA.cli\VAL2005\SPECIAL_STUDIES\CCFPD\[20 Year CCFPD amort sch 7.9%.xls]Summary

SEGAL
THE SEGAL COMPANY

Attachment B
Components of Recommended Employer Contribution Rates
Contra Costa Fire Protection District - Assuming July 2005 POB Issuance of $124,917,000
Enhanced

	FY 2005-06 (December 31, 2003 Valuation)			FY 2006-07 (December 31, 2004 Valuation)		
	Normal Cost +	UAAL =	Total	Normal Cost +	UAAL =	Total
General Tier 1 (Aggregate)						
Basic	13.34%	0.00%	13.34%	13.86%	0.00%	13.86%
50% Subvention	2.97%	0.00%	2.97%	3.11%	0.00%	3.11%
Basic + 50% Subvention	16.31%	0.00%	16.31%	16.97%	0.00%	16.97%
COL	3.95%	0.00%	3.95%	4.01%	0.00%	4.01%
Total	20.26%	0.00%	20.26%	20.98%	0.00%	20.98%
General Tier 1 (Under $350)						
Basic	9.09%	0.00%	9.09%	9.42%	0.00%	9.42%
50% Subvention	2.03%	0.00%	2.03%	2.11%	0.00%	2.11%
Basic + 50% Subvention	11.12%	0.00%	11.12%	11.53%	0.00%	11.53%
COL	2.69%	0.00%	2.69%	2.72%	0.00%	2.72%
Total	13.81%	0.00%	13.81%	14.25%	0.00%	14.25%
General Tier 1 (Over $350)						
Basic	13.64%	0.00%	13.64%	14.13%	0.00%	14.13%
50% Subvention	3.04%	0.00%	3.04%	3.17%	0.00%	3.17%
Basic + 50% Subvention	16.68%	0.00%	16.68%	17.30%	0.00%	17.30%
COL	4.04%	0.00%	4.04%	4.08%	0.00%	4.08%
Total	20.72%	0.00%	20.72%	21.38%	0.00%	21.38%
Safety						
Basic	22.97%	0.00%	22.97%	23.81%	0.00%	23.81%
50%/0% Subvention	4.53%	0.00%	4.53%	0.00%	0.00%	0.00%
Basic + 50%/0% Subvention	27.50%	0.00%	27.50%	23.81%	0.00%	23.81%
COL	6.66%	0.00%	6.66%	6.89%	0.00%	6.89%
Total	34.16%	0.00%	34.16%	30.70%	0.00%	30.70%
General Tier 3 (Aggregate)						
Basic	11.57%	0.00%	11.57%	12.19%	0.00%	12.19%
50% Subvention	3.22%	0.00%	3.22%	3.33%	0.00%	3.33%
Basic + 50% Subvention	14.79%	0.00%	14.79%	15.52%	0.00%	15.52%
COL	3.20%	0.00%	3.20%	3.33%	0.00%	3.33%
Total	17.99%	0.00%	17.99%	18.85%	0.00%	18.85%
General Tier 3 (Under $350)						
Basic	7.85%	0.00%	7.85%	8.33%	0.00%	8.33%
50% Subvention	2.18%	0.00%	2.18%	2.27%	0.00%	2.27%
Basic + 50% Subvention	10.03%	0.00%	10.03%	10.60%	0.00%	10.60%
COL	2.16%	0.00%	2.16%	2.27%	0.00%	2.27%
Total	12.19%	0.00%	12.19%	12.87%	0.00%	12.87%
General Tier 3 (Over $350)						
Basic	11.77%	0.00%	11.77%	12.49%	0.00%	12.49%
50% Subvention	3.27%	0.00%	3.27%	3.41%	0.00%	3.41%
Basic + 50% Subvention	15.04%	0.00%	15.04%	15.90%	0.00%	15.90%
COL	3.25%	0.00%	3.25%	3.41%	0.00%	3.41%
Total	18.29%	0.00%	18.29%	19.31%	0.00%	19.31%

M:\CCCERA.cli\VAL2005\SPECIAL_STUDIES\CCFPD\[Revised Rates.xls]Component Er' Rate FNPNA

AGREEMENT TO PAY APPORTIONED SHARE OF WALDEN/PAULSON SETTLEMENT AGREEMENT LIABILITY

This Agreement is entered into as of the 28th day of August, 2003, by and between Contra Costa County Fire Protection District (CCCFPD) ("Employer") and the Contra Costa County Employees' Retirement Association ("CCCERA") (collectively referred to as the "Parties").

WHEREAS Employer (or its predecessor) was a participating employer in the Contra Costa County Employees' Retirement Association in 1999 and was a party to a class action settlement agreement ("Settlement Agreement") that settled the cases of *Paulson v. Contra Costa County Employees' Retirement Association,* Contra Costa County Superior Court Case No. C-96-02939, and *Walden v. Contra Costa County Employees' Retirement Association,* Contra Costa County Superior Court Case No. C-97-02935, and that was approved by order of the Superior Court filed on October 15, 1999; and

WHEREAS pursuant to that Settlement Agreement Employer (or its predecessor) agreed to pay its proportionate share of the calculated liabilities arising from the Settlement Agreement which are not covered by an initial transfer of $90 million from CCCERA reserves once all member claims had been processed and the full cost of the settlement could be calculated; and

WHEREAS all member claims under the Settlement Agreement have now been processed and CCCERA's actuary has now calculated the proportionate share of Employer's liability arising from the Settlement Agreement as of December 31, 2002 (the "Valuation Date"); and

WHEREAS Employer and CCCERA each has the power to enter into and be bound by this Agreement and to perform the obligations required by it to be performed hereunder, which obligations are fully enforceable by and against each Party to this Agreement;

NOW, THEREFORE, Employer and CCCERA agree as follows:

1. Employer agrees to pay and CCCERA agrees to accept the sum of $\$$__________________ determined as of the Valuation Date, together with interest thereon at 8% per annum compounded ("Interest"), in full settlement of the Employer's proportionate share of the liability apportioned to it pursuant to the Settlement Agreement.

OR

1. Employer has elected to pay a lump sum payment of _\$519,642_ by applying its 2002-03 *overpayment of prepayment of contributions to the liability owed and amortize the balance of* _\$3,914,020.23_ over _20_ years, resulting in _19_ annual payments of _\$369,122_ due and payable on *September 1 of each year beginning with September 1, 2003 and a final payment of* _\$369,115.47_ *due* and payable on September 1, 2022, with Interest due on any overdue payment, which amortization *CCCERA agrees to accept pursuant to the Settlement Agreement.*

2. CCCERA and Employer understand that any experience gains or losses related to CCCERA members affected by the Settlement Agreement **and any changes in the assumed rate of interest** occurring after the Valuation Date will be allocated among all employers then participating in CCCERA in accordance with CCCERA's general procedures for allocating experience gains or losses in effect at the time any such post-December 31, 2002 experience gains or losses occur **and will not affect the terms of this agreement.**

3. This Agreement constitutes a single integrated written contract expressing the entire agreement between Employer and CCCERA with regard to the payment of Employer's share of its proportionate liability arising from the Settlement Agreement, and supercedes all prior or contemporaneous written or oral agreements between Employer (or its predecessor) and CCCERA with regard to the payment of such liability. CCCERA and Employer expressly acknowledge that there are no other agreements, arrangements, or understandings between them with respect to the payment of Employer's share of its proportionate liability arising from the Settlement Agreement.

4. This Agreement shall inure to the benefit of and shall be binding upon CCCERA and Employer and their respective successors and assigns.

5. This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of California as applied to domiciliaries therein.

6. This Agreement may be signed in counterparts, each of which shall constitute a duplicate original and all of which shall constitute one and the same Agreement.

7. In the event that any dispute arises between the Parties (or their successors) concerning or in any way relating to this Agreement, the Parties expressly agree that they and their successors will each bear their own costs or attorney's fees incurred as a result of or arising in connection with any such dispute, including any such costs or fees incurred in the course of any legal proceeding arising in connection with or necessary to resolve any such dispute, and that neither Party nor its successor will be entitled to recover any such costs or fees from the other Party or its successor on any basis whatsoever.

8. This Agreement may be modified only by the express written agreement of the Parties (or their successors) signed by the authorized representatives of each.

IN WITNESS WHEREOF, the Parties hereto have duly executed and entered into this Agreement through their authorized representatives as designated below, as of the date and year first above written.

Date: Aug. 28, 2003

EMPLOYER CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

By: Keith B. Richter

Title: Fire Chief

Date: 9/8/03

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

By: Patricia F. Wagner

Title: ADMINISTRATOR

Consolidated Fire Paulson Liability Payment Schedule 2003-2022

		Payment	Interest	Principal	Balance	
	8/31/03				3,914,020.23	
1	9/1/03	369,122.00 PD	-	369,122.00	3,544,898.23	
2	9/1/04	369,122.00 PD	283,591.86	85,530.14	3,459,368.09	PD ck# 0892 8/31/04
3	9/1/05	369,122.00	276,749.45	92,372.55	3,366,995.54	
4	9/1/06	369,122.00	269,359.64	99,762.36	3,267,233.18	
5	9/1/07	369,122.00	261,378.65	107,743.35	3,159,489.83	
6	9/1/08	369,122.00	252,759.19	116,362.81	3,043,127.02	
7	9/1/09	369,122.00	243,450.16	125,671.84	2,917,455.18	
8	9/1/10	369,122.00	233,396.41	135,725.59	2,781,729.60	
9	9/1/11	369,122.00	222,538.37	146,583.63	2,635,145.96	
10	9/1/12	369,122.00	210,811.68	158,310.32	2,476,835.64	
11	9/1/13	369,122.00	198,146.85	170,975.15	2,305,860.49	
12	9/1/14	369,122.00	184,468.84	184,653.16	2,121,207.33	
13	9/1/15	369,122.00	169,696.59	199,425.41	1,921,781.92	
14	9/1/16	369,122.00	153,742.55	215,379.45	1,706,402.47	
15	9/1/17	369,122.00	136,512.20	232,609.80	1,473,792.67	
16	9/1/18	369,122.00	117,903.41	251,218.59	1,222,574.08	
17	9/1/19	369,122.00	97,805.93	271,316.07	951,258.01	
18	9/1/20	369,122.00	76,100.64	293,021.36	658,236.65	
19	9/1/21	369,122.00	52,658.93	316,463.07	341,773.58	
20	9/1/22	369,115.47	27,341.89	341,773.58	(0.00)	
		7,382,433.47	3,468,413.24	3,914,020.23		

CONTRA COSTA COUNTY CCCERA
Employees' Retirement Association

Meeting Date
07/24/19
Agenda Item
#8

MEMORANDUM

Date: July 24, 2019

To: CCCERA Board of Retirement

From: Gail Strohl, Chief Executive Officer

Subject: Consider and take possible action to adopt Board of Retirement Resolution 2019-5, Funding of I.R.C. Section 115 Trust for Other Post Employment Benefits for CCCERA employees.

Background

At the June 26, 2019 Board meeting, Milliman presented information related to various amortization periods for the I.R.C. Section 115 Trust. The Board provided direction to change the amortization period and fully fund the actuarially determined contribution in 10 years. Board of Retirement Resolution 2019-5, Funding of I.R.C. Section 115 Trust for Other Post Employment Benefits for CCCERA employees reflects this change.

Recommendation

Consider and take possible action to adopt Board of Retirement Resolution 2019-5, Funding of I.R.C. Section 115 Trust for Other Post Employment Benefits for CCCERA employees.

RESOLUTION OF THE BOARD OF RETIREMENT
CONTRA COSTA COUNTY EMPLOYEES RETIREMENT ASSOCIATION

FUNDING OF I.R.C. SECTION 115 TRUST

FOR OTHER POST EMPLOYMENT BENEFITS

EFFECTIVE JANUARY 23, 2019
AMENDED JULY 24, 2019

WHEREAS, Contra Costa County Employees' Retirement Association ("CCCERA") is a public agency formed pursuant to the County Employees Retirement Law of 1937, Government Code Section 31450, et seq.; and

WHEREAS, CCCERA personnel are employees of CCCERA pursuant to Government Code Section 31522.9 which became effective on January 1, 2015; and

WHEREAS, the Board of Retirement is the governing body of CCCERA with authority to set terms and conditions of employment of CCCERA employees (*see* Government Code Section 31522.9); and

WHEREAS, the Board of Retirement established an Internal Revenue Code Section 115 Trust to fund other post-employment benefits ("OPEB") for employees of CCCERA; and

WHEREAS, CCCERA has engaged an OPEB actuary to determine CCCERA's annual Actuarially Determined Contribution ("ADC") towards the cost of OPEB, based on biennial actuarial valuations in compliance with the Government Accounting Standards Board; and

WHEREAS, the biennial actuarial valuations shall be prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the applicable Actuarial Standards of Practice of the American Academy of Actuaries; and

WHEREAS, the ADC includes the employer's share of the normal cost for current service and an amortization of any unfunded liability; and

WHEREAS, in the ordinary course, CCCERA intends to fund its employer OPEB contributions by making timely ADC contributions into the Section 115 Trust on an annual basis, except in exigent circumstances; and

WHEREAS, the Board of Retirement adopted Resolution No. 2019-1, Funding of I.R.C. Section 115 Trust for Other Post Employment Benefits on January 23, 2019 to annually fund the ADC on an amortization schedule designed to achieve full funding over a 30 year period.

NOW, THEREFORE BE IT RESOLVED that the Board of Retirement will continue to appropriate in the annual budget established under Government Code Section 31580.2 for its employer ADC contributions to the Section 115 Trust, and to timely fund the cost of OPEB from the Section 115 Trust, unless under the prevailing circumstances the Board determines that it is in the best interests of CCCERA and its members and beneficiaries not to do so. The Board of Retirement will annually fund the ADC on an amortization schedule designed to achieve full funding over a 10 year period. This Resolution 2019-5 hereby amends and supersedes Resolution 2019-1.

THIS RESOLUTION WAS ADOPTED BY THE AFFIRMATIVE VOTE OF THE BOARD OF RETIREMENT OF THE CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION THIS 24th DAY OF JULY, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

____

Todd Smithey
Chairperson of the Board of Retirement

Attest:

____

David MacDonald
Secretary

CONTRA COSTA COUNTY CCCERA
Employees' Retirement Association

Meeting Date
07/24/19
Agenda Item
#9

MEMORANDUM

Date: July 24, 2019

To: Board of Retirement

From: Wrally Dutkiewicz
Compliance Officer

Subject: Final Employer Audit Report Dated June 4, 2019
Contra Costa County Local Area Formation Commission

Background:

Between March and June 2019 an employer audit was performed on Contra Costa County Local Area Formation Commission (LAFCO). An onsite review was performed at the LAFCO office on March 5, 2019.

The employer audit scope items include the following:

- Accuracy of Payroll Information Provided to CCCERA;
- Salaries In Accordance with Publicly Available Pay Schedules;
- Enrollment of All Eligible Employees;
- Pension Benefit Review;
- Internal Revenue Code 415 Limits;
- Retiree Return to Work Monitoring; and
- Forfeiture of Benefits Earned or Accrued from the Commission of a Felony.

Follow Up Items:

The final Employer Audit Report was presented to the CCCERA Audit Committee at its June 26, 2019 meeting.

The employer does not have any follow-up items. The following item was noted in the final audit report: At the time of the on-site visit, LAFCO was not able to provide a current salary schedule. During the Interim Audit Check-In meeting on April 26, 2019, LAFCO provided CCCERA Compliance with an updated salary schedule which updated the salary ranges for all positions effective April 19, 2019 and met the requirements for publicly available pay schedules pursuant to CCCERA's *Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits [Adopted: 9/10/2014]*.

Employer Audit:

Contra Costa County Local Area Formation Commission

Employer Audit Report dated 6/04/2019 prepared by:

CONTRA COSTA COUNTY CCCERA Employees' Retirement Association

Table of Contents

Contra Costa County Local Area Formation Commission

Audit Transmittal Letter

June 4, 2019

Lou Ann Texeira
Executive Director
Contra Costa County Local Agency
Formation Commission
651 Pine St.
Sixth Floor
Martinez, CA 94553

Re: Employer Audit Report – Contra Cost County Local Agency Formation Commission Pensionable Compensation, Contribution and Reporting Audit

Dear Ms. Texeira,

Enclosed is the employer audit report of the Contra Costa County Local Area Formation Commission (LAFCO) pensionable compensation, contribution and reporting audit, conducted pursuant to Government Code Section 31543. I want to thank you and all LAFCO staff for their assistance in gathering all the records and documents and making them readily available during this audit. This cooperation was greatly appreciated and allowed for the audit to be completed in an efficient manner.

The *Employer Audit Report* is enclosed for your review. There were no *"Follow-Up Items"* noted for the Commission to address.

This report will be placed on the agenda and will be presented to the CCCERA Board of Retirement at its Wednesday June 26, 2019 meeting.

Should you wish to discuss or have any questions regarding the items reviewed and the observations contained within this report, please contact me at 925-521-3960.

Best regards,

Wrally Dutkiewicz
Compliance Officer

Cc: Kate Sibley, Executive Assistant, LAFCO

Background

The Contra Costa County Employees' Retirement Association (CCCERA) is a public employee retirement system that was established by Contra Costa County on July 1, 1945, and is administered by the Board of Retirement (Board) to provide service retirement, disability, death, and survivor benefits for Contra Costa County (County) employees and 16 other participating agencies under the California State Government Code, Section 31450, et. seq. (County Employees Retirement Law of 1937 or CERL) and the California Public Employees' Pension Reform Act of 2013 (PEPRA).

CCCERA administers the retirement benefits for the employees of Contra Costa County and participating District employers. Participating employers within the CCCERA retirement system transmit payroll information and contributions to fund the benefits for their employees. CCCERA sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits when needed.

Retirement allowances are computed in accordance with statute using three factors: years of service, age at retirement, and final compensation. For Legacy (pre-PEPRA) members, final compensation is defined as the highest average annual compensation earnable (as defined in G.C. Section 31461) by a member during the last one or three consecutive years of employment depending on the member's Tier, unless the member elects a different period with a higher average. For PEPRA members, final compensation is defined as the highest average annual pensionable compensation (as defined in G.C. Section 7522.34) earned by the member during a period of 36 consecutive months.

The employer's knowledge of the rules relating to membership and payroll reporting facilitates the employer in providing CCCERA with appropriate employee information. Correct enrollment of eligible employees and correct reporting of payroll information are necessary for the accurate computation of a member's retirement allowance.

In 1963, the California Legislature responded to the urban boundary wars, and the problem of public finance and service they created, by enacting the Local Agency Formation Commissions (LAFCOs). This law established a commission in each county responsible for overseeing most forms of local government boundary change, including incorporation, annexations, and special district formations. In the interest of more orderly development, LAFCOs were to act as judges of boundary disputes among governments and communities.[1]

Contra Costa County Local Area Formation Commission (LAFCO) has had two staff members during the audit period, the appointed Executive Officer and the Executive Assistant.

Contra Costa County Local Area Formation Commission

For fiscal year 2016-2017 LAFCO had budgeted expenditures for salaries and benefits in the amount of $406,000 and for fiscal year 2017-2018 it budgeted $403,000. Per CCCERA records, LAFCO had two (2) employees in fiscal years 2016-2017 and 2017-2018 with active memberships in CCCERA and submitted approximately $17,000 in employee pension contributions and $97,000 in employer pension contributions per fiscal year. As of December 31, 2018, CCCERA had two (2) retirees and beneficiaries on record for LAFCO with a total paid benefit amount of approximately $116,000 in 2018.

[1] http://contracostalafco.org/

Scope

The 2013 Pension Reform legislation granted CCCERA the authority under Government Code Section 31543 to conduct audits of employers to ensure that employee and payroll information used in the calculation of retiree pension benefits is correct and verifiable. The scope of these on-site reviews includes:

- Correctness of retirement benefits;
- Reportable compensation;
- Enrollment in, and reinstatement to the system (GC 31554);
- Pensionable compensation (GC 31461 and GC 7522.34);
- Determine if employees convicted of certain felonies have forfeited benefits earned or accrued from the commission of the felony (GC 7522.72(g) and GC 7522.74(g));
- Review MOUs with respect to compensation and salary regulations (i.e. Vacation Sales, etc.);
- Determine if compensation is paid to enhance a member's retirement benefit (GC 31461(b)(1) and GC 7522.34(c)(1));
- Evaluate employer's compliance with restrictions on retirees returning to work (GC 7522.56, I.R.S. bona fide separation and normal retirement age rules).

The on-site review of the Commission was conducted on March 5, 2019. The review period encompassed active employee records for 2016 through 2018 and no retired employee records as no employees retired within the audit period.

Observations and Findings

Accuracy of Payroll Information provided to CCCERA

1: Statement of Observation: No exceptions were observed in this section.

Payroll and Reporting Process and Receivables Review

Pursuant to Board of Retirement Regulations Section IV: Employer pensionable payroll and corresponding pension contributions are to be reported to the retirement system timely and accurately. (*Contributions And Reporting, 2. Due Dates, 4. Employer Certification*).

Due Dates
Each employer shall report to the Association in a manner and frequency as determined by the Board sufficient for the Board to credit contributions and service to each member's record.

Unless otherwise specified, reports shall be due no later than the tenth of each month for the previous month's payroll and shall be accompanied by member and employer contributions. If the tenth of the month falls on a weekend or holiday, the due date shall be the last working day before the tenth. Reports, which are unreadable or incorrect, shall not be accepted and shall be returned to the employer. (Emphasis added.)

Reports and contributions received after the due date shall be considered late and subject to a late reporting penalty equal to: the prime rate in effect on the due date computed on a daily, non-compounding basis and applied to the contributions due.

Observation 1: None

Input File Review

Employer Certification

Each payroll and pension contribution report shall include or be accompanied by a certification, under penalty of perjury, as to its accuracy. The certification shall be made by a duly authorized representative of the employer. (Board of Retirement Regulations *Section IV, 4. Employer Certification.)*

Observation 2: None

Compensation Limits

Federal and state laws place annual limits on the compensation that can be used to determine contributions and benefits for CCCERA plan members.

Legacy Members:

- The Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans which are adjusted annually for cost-of-living increases.
- Members who commenced participation in CCCERA on or after January 1, 1996 are subject to the annual federal Internal Revenue Code Section 401(a)(17) compensation limit.
- For CERL benefit formulas (General Tiers 1, 3, Safety Tiers A & C), the 2018 calendar year compensation limit was increased by the I.R.S. to $275,000 from $270,000 for calendar year 2017.
- Members who commenced participation in CCCERA prior to January 1, 1996 are not subject to the Internal Revenue Code annual compensation limit.

PEPRA Members:

- For new employees who commenced participation in CCCERA on or after January 1, 2013 under PEPRA benefit formulas (General Tiers 4,5, Safety Tiers D & E), the compensation which exceeds that annual pensionable compensation limit under California Government Code Section 7522.10(c) and (d) is not included in determining benefits or contributions.
- The 2018 calendar year PEPRA compensation limits are as follows:
  - For employees enrolled in Social Security – increased to $121,388.
  - For employees not enrolled in Social Security – increased to $145,666.
- The 2017 calendar year PEPRA compensation limits are as follows:
  - For employees enrolled in Social Security – increased to $118,775.
  - For employees not enrolled in Social Security – increased to $142,530.

Observation 3: None

Payroll Reporting – Pensionable Compensation and Contribution Review

Compensation Earnable Applicable Law for Legacy Members

"Compensation earnable" does not include, in any case, the following:
"Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise." (G.C. § 31461(b)(3).)

Pursuant to CCCERA's "Compensation Earnable Policy"[2], Section III.D. "Compensation Earnable" excludes payments for additional services rendered outside of normal working hours.

Pay received for "overtime" is not included in "compensation earnable." To be included, the time for which compensation is received:

(1) must be the normal working hours set forth in the applicable employment agreement;
(2) must be required by the employer to be worked by the employee (as distinguished from voluntarily worked); and

[2] https://www.cccera.org/governance-and-policies

(3) must be ordinarily worked by all others in the same grade or classification at the same rate of pay during the FAS period.

Pay that will be reviewed under these conditions is often described as "standby" and "on-call." Employers must report to CCCERA as pensionable only that pay for work that is required of and ordinarily served by everyone in the same grade or classification, at the same rate of pay.

Pensionable Compensation Applicable Law for PEPRA members

PEPRA defines "pensionable compensation" as follows:

"Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid. (Gov. Code Section 7522.34(a) and (b).)

PEPRA excludes from "pensionable compensation" the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.
(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
(3) Any one-time or ad hoc payments made to a member.
(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.
(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.
(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code [FLSA].

(9) Employer contributions to deferred compensation or defined contribution plans.
(10) Any bonus paid in addition to the compensation described in subdivision (a) [of G.C. § 7522.34].
(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a) [of G.C. § 7522.34].
(12) Any other form of compensation a public retirement board determines should not be pensionable compensation. (Gov. Code Section 7522.34(a) and (b).)

Pursuant to CCCERA's "Pensionable Compensation Policy"[3], Section III:

The CCCERA Board has determined that "Pensionable Compensation" includes "base pay." Pensionable compensation does not include any pay other than base pay, in accordance with Govt. Code Sections 7522.34(c)(11) and (12).

Pensionable compensation (GC 31461 and 7522.34) is to be reported to the retirement system and the corresponding contributions are to be reported to the retirement system.

Observation 4: None

Salaries in Accordance with Publicly Available Pay Schedule

2: Statement of Observation: No exceptions were observed in this section.

Pursuant to CCCERA's Policy On Determining "Pensionable Compensation"[4] Under PEPRA For Purposes Of Calculating Retirement Benefits, a "publicly available pay schedule" must meet all of the following requirements:

1. *Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;*
2. *Identifies the position title for every employee position;*
3. *Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;*
4. *Indicates the time base, including, but not limited to, whether the time base is hourly daily, bi-weekly, monthly, bi-monthly, or annually;*

[3] https://www.cccera.org/governance-and-policies
[4] https://www.cccera.org/governance-and-policies

5. *Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;*
6. *Indicates an effective date and date of any revisions;*
7. *Is retained by the employer and available for public inspection for not less than five years; and*
8. *Does not reference another document in lieu of disclosing the pay rate.*

Observation 5: At the time of the on-site visit, LAFCO was not able to provide a current salary schedule. During the Interim Audit Check-In meeting, LAFCO provided CCCERA with an updated salary schedule which updated the salary ranges for all positions effective April 19, 2019.

Enrollment of Eligible Employees

3: Statement of Observation: No exceptions were observed in this section.

<u>1. Exclusion from Membership – By Type of Employment</u>

A. All officers and employees of the County or districts shall be members of the association as provided in Article 4 under Sections 31550-31567 of the County Employees' Retirement Law of 1937 (Gov. Code Secs. 31450, et seq. "CERL"), unless excluded from membership by this Section.

B. The following employees shall be excluded from membership:

   i. Temporary, seasonal or independent contract employees who are employed or re-employed for temporary service or at certain specified periods each year.

   ii. Intermittent or permanent-intermittent employees who are appointed to serve less than 80% of the full number of working hours required of regular employees or who actually serve less than 80% of such full number of working hours in one year as certified by their appointing authority.

iii. Part-time employees whose service for the County or district is less than fifty (50) percent of the full number or working hours required of fulltime employees at that employer.

iv. Project employees, unless the appointing authority certifies that the project is expected to be of one year or more in duration on a greater than part-time basis.

v. Provisional employees, unless they otherwise meet the requirements for reciprocal benefits with other retirement systems under Article 15 of CERL.

C. In making its determination regarding an employee's inclusion in or exclusion from membership, the Board will not rely solely upon the term given to the type of employment. Rather, the Board will rely upon such additional facts such as the nature of the employment, its expected or actual duration, and its relationship to what is considered full-time, permanent employment.

2. Exclusion from Membership – by Compensation

Except as otherwise herein provided, all employees of the County or district who receive compensation amounting to less than one-hundred ($100) dollars per month, and in the case of employees paid on other than a monthly basis an average of one-hundred ($100) dollars per month for the preceding year, including maintenance valued according to the schedule adopted by the governing body, are hereby excluded and exempted from membership in the Retirement Association. Any member of the Retirement Association whose salary is reduced to an amount less than one-hundred ($100) dollars per month shall have the option of continuing or discontinuing his/her active membership in the Association.

2.1 Exclusion from Membership – by Waiver

Newly hired employees age 60 and older may waive membership as authorized by Gov. Code Section 31552. Any such waiver of membership shall be effective only if it is submitted to the CCCERA Retirement Chief Executive Officer within 90 days of the employee's date of hire; provided, however, that the Retirement Chief Executive Officer may, in his/her sole and reasonable discretion, waive the time limitation if the newly hired employee establishes good cause for such a waiver.

3. Certifications

Every employee of the County or district within the county whose employees are members of the Association shall, upon entry into the Association, complete a sworn statement as provided for in Gov. Code Section 31526(b). A certified copy of the member's birth certificate or other evidence of birth may be required by the Board.

It shall be the employer's responsibility to assure compliance with this section. The Board shall assess the employer five hundred ($500) dollars per employee for every month or fraction thereof that the required certification is not submitted. The Board shall notify the employer in writing of the imposition of assessment at least thirty days before the assessment.

Observation 6: None

Pension Benefit Review

4: Statement of Observation: No exceptions were observed in this section.

Review of Pension Benefit Calculations

a. Compensation Policies
   i. *Policy On Determining "Compensation Earnable Under Assembly Bill 197 For Purposes Of Calculating Retirement Benefits For "Legacy" (Pre-PEPRA) Members* – Adopted: 9/10/2014; GC 31461;
   ii. *Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits* - Adopted: 9/10/2014; GC 7522.34;
   iii. *Policy Regarding Assessment and Determination Of Compensation Enhancements* – Adopted 11/1/2012, Amended: 3/8/2017; GC 31461(b)(1) and 7522.34(c)(1)

Observation 7: None

Retiree Return to Work Monitoring

b. Retiree Return to Work Monitoring
   i. GC 7522.56 Retired Persons; Service and Employment Restrictions

Observation 8: None

Forfeiture of Benefits Earned or Accrued From the Commission of a Felony

c. Felony Forfeiture Monitoring and Notification – GC 7522.72(g) and GC 7522.74(g)

Observation 9: None

Internal Revenue Code Section 415 Compliance

As adopted on December 8, 2010 and amended on January 9, 2013 and July 11, 2018.

Observation 10: None

Follow-Up Items

The following items were noted during the course of the review and require follow-up by the Commission and CCCERA:

The Commission has no follow-up items.

Meeting Date
07/24/19
Agenda Item
#10

MEMORANDUM

Date: July 24, 2019

To: Board of Retirement

From: Wrally Dutkiewicz
Compliance Officer

Subject: Final Employer Audit Report Dated June 13, 2019
First 5 Contra Costa County Children and Families Commission

Background:

Between March and June 2019 an employer audit was performed on First 5 Contra Costa County Children and Families Commission. An onsite review was performed at the Commission's office on March 22, 2019.

The employer audit scope items include the following:

- Accuracy of Payroll Information Provided to CCCERA;
- Salaries In Accordance with Publicly Available Pay Schedules;
- Enrollment of All Eligible Employees;
- Pension Benefit Review;
- Internal Revenue Code 415 Limits;
- Retiree Return to Work Monitoring; and
- Forfeiture of Benefits Earned or Accrued from the Commission of a Felony.

Follow Up Items:

The final Employer Audit Report was presented to the CCCERA Audit Committee at its June 26, 2019 meeting.

> The following item was noted in the final audit report: The Commission's salary schedule did not meet the requirements for publicly available pay schedules pursuant to CCCERA's *Policy On Determining "Pensionable*

Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits [Adopted: 9/10/2014]. The Commission continued to dialogue with CCCERA Compliance during the course of the audit and provided a written response dated June 12, 2019 stating its concurrence with the audit observation and publicly available salary schedule follow up item. In its response the Commission stated that the updated publicly available pay schedule will go before its governing board for adoption at its December 9, 2019 meeting.

Pursuant guidance received from the CCCERA Audit Committee at its June 26, 2019 meeting, CCCERA Compliance sent a follow up letter dated July 3, 2019 to the Commission requesting clarification for delaying until December 2019 to bring its publicly available salary schedule into compliance.

Employer Audit:

First 5 Contra Costa

Children and Families

Commission

Employer Audit Report dated 6/13/2019 prepared by:

CONTRA COSTA COUNTY CCCERA
Employees' Retirement Association

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First 5 Contra Costa Children and Families Commission

Audit Transmittal Letter

June 13, 2019

Sean Casey
Executive Director
First 5 Contra Costa
Children and Families Commission
1485 Civic Court
Suite 1200
Concord, CA 94520

Re: Employer Audit Report – First 5 Contra Costa Children and Families Commission Pensionable Compensation, Contribution and Reporting Audit

Dear Mr. Casey,

Enclosed is the employer audit report of the First 5 Contra Costa Children and Families Commission (First 5) pensionable compensation, contribution and reporting audit, conducted pursuant to Government Code Section 31543. I want to thank you and all First 5 staff for their assistance in gathering all the records and documents and making them readily available during this audit. This cooperation was greatly appreciated and allowed for the audit to be completed in an efficient manner.

The *Employer Audit Report* is enclosed for your review. I would direct your attention to the "*Observations*" made under each scope item and the *"Follow-Up Items"* section of the report. CCCERA is in receipt of a written response from First 5 dated June 12, 2019 pertaining to the *"Follow-Up Items"* indicated in the report. This response will be included with the "*Final Report"* which will be submitted to CCCERA's Audit Committee for its review.

This report will be placed on the agenda and will be presented to the CCCERA Board of Retirement Audit Committee at its Wednesday June 26, 2019 meeting.

In addition, I would like to extend my gratitude to First 5 payroll and human resources staff and the courtesy that they extended to CCCERA compliance staff during the review. Should you wish to discuss or have any questions regarding the items reviewed and the observations contained within this report, please contact me at 925-521-3960.

Best regards,

Wrally Dutkiewicz
Compliance Officer

Cc: Marnie Huddleston, Finance and Operations Director, First 5
Shawn Garcia, Administrative Manager, First 5

Background

The Contra Costa County Employees' Retirement Association (CCCERA) is a public employee retirement system that was established by Contra Costa County on July 1, 1945, and is administered by the Board of Retirement (Board) to provide service retirement, disability, death, and survivor benefits for Contra Costa County (County) employees and 16 other participating agencies under the California State Government Code, Section 31450, et. seq. (County Employees Retirement Law of 1937 or CERL) and the California Public Employees' Pension Reform Act of 2013 (PEPRA).

CCCERA administers the retirement benefits for the employees of Contra Costa County and participating District employers. Participating employers within the CCCERA retirement system transmit payroll information and contributions to fund the benefits for their employees. CCCERA sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits when needed.

Retirement allowances are computed in accordance with statute using three factors: years of service, age at retirement, and final compensation. For Legacy (pre-PEPRA) members, final compensation is defined as the highest average annual compensation earnable (as defined in G.C. Section 31461) by a member during the last one or three consecutive years of employment depending on the member's Tier, unless the member elects a different period with a higher average. For PEPRA members, final compensation is defined as the highest average annual pensionable compensation (as defined in G.C. Section 7522.34) earned by the member during a period of 36 consecutive months.

The employer's knowledge of the rules relating to membership and payroll reporting facilitates the employer in providing CCCERA with appropriate employee information. Correct enrollment of eligible employees and correct reporting of payroll information are necessary for the accurate computation of a member's retirement allowance.

It is First 5's purpose to help young children start school healthy and ready to learn by investing in programs and advocating for policies focused on children during their first five years.[1]

Per CCCERA records, First 5 had approximately thirty (30) employees in fiscal years 2016-2017 and 2017-2018 with active memberships in CCCERA. For these employees First 5 reported pensionable compensation to CCCERA of approximately $2,400,000 for fiscal year 2016-2017 and $2,500,000 for fiscal year 2017-2018. First 5 submitted approximately $270,000 in employee pension contributions and $615,000 in employer pension contributions for fiscal year 2016-2017 and $300,000 in employee pension contributions and $680,000 in employer pension contributions for fiscal year 2017-2018. As of December 31, 2018, CCCERA had four (4) retirees on record for First 5 with a total paid benefit amount of approximately $83,000 in 2018.

[1] http://www.first5coco.org/about-us/faq/

Scope

The 2013 Pension Reform legislation granted CCCERA the authority under Government Code Section 31543 to conduct audits of employers to ensure that employee and payroll information used in the calculation of retiree pension benefits is correct and verifiable. The scope of these on-site reviews includes:

- Correctness of retirement benefits;
- Reportable compensation;
- Enrollment in, and reinstatement to the system (GC 31554);
- Pensionable compensation (GC 31461 and GC 7522.34);
- Determine if employees convicted of certain felonies have forfeited benefits earned or accrued from the commission of the felony (GC 7522.72(g) and GC 7522.74(g));
- Review MOUs with respect to compensation and salary regulations (i.e. Vacation Sales, etc.);
- Determine if compensation is paid to enhance a member's retirement benefit (GC 31461(b)(1) and GC 7522.34(c)(1));
- Evaluate employer's compliance with restrictions on retirees returning to work (GC 7522.56, I.R.S. bona fide separation and normal retirement age rules).

The on-site review of the Commission was conducted on March 22, 2019. The review period encompassed active employee records and retired employee records from 2016 through 2018.

Observations and Findings

Accuracy of Payroll Information provided to CCCERA

1: Statement of Observation: No exceptions were observed in this section.

Payroll and Reporting Process and Receivables Review

Pursuant to Board of Retirement Regulations Section IV: Employer pensionable payroll and corresponding pension contributions are to be reported to the retirement system timely and accurately. (*Contributions And Reporting, 2. Due Dates, 4. Employer Certification*).

Due Dates
Each employer shall report to the Association in a manner and frequency as determined by the Board sufficient for the Board to credit contributions and service to each member's record.

Unless otherwise specified, reports shall be due no later than the tenth of each month for the previous month's payroll and shall be accompanied by member and employer contributions. If the tenth of the month falls on a weekend or holiday, the due date shall be the last working day before the tenth. Reports, which are unreadable or incorrect, shall not be accepted and shall be returned to the employer. (Emphasis added.)

Reports and contributions received after the due date shall be considered late and subject to a late reporting penalty equal to: the prime rate in effect on the due date computed on a daily, non-compounding basis and applied to the contributions due.

Observation 1: None

Input File Review

Employer Certification

Each payroll and pension contribution report shall include or be accompanied by a certification, under penalty of perjury, as to its accuracy. The certification shall be made by a duly authorized representative of the employer. (Board of Retirement Regulations *Section IV, 4. Employer Certification.)*

Observation 2: None

Compensation Limits

Federal and state laws place annual limits on the compensation that can be used to determine contributions and benefits for CCCERA plan members.

Legacy Members:

- The Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans which are adjusted annually for cost-of-living increases.
- Members who commenced participation in CCCERA on or after January 1, 1996 are subject to the annual federal Internal Revenue Code Section 401(a)(17) compensation limit.
- For CERL benefit formulas (General Tiers 1, 3, Safety Tiers A & C), the 2018 calendar year compensation limit was increased by the I.R.S. to $275,000 from $270,000 for calendar year 2017.
- Members who commenced participation in CCCERA prior to January 1, 1996 are not subject to the Internal Revenue Code annual compensation limit.

PEPRA Members:

- For new employees who commenced participation in CCCERA on or after January 1, 2013 under PEPRA benefit formulas (General Tiers 4,5, Safety Tiers D & E), the compensation which exceeds that annual pensionable compensation limit under California Government Code Section 7522.10(c) and (d) is not included in determining benefits or contributions.
- The 2018 calendar year PEPRA compensation limits are as follows:
  - For employees enrolled in Social Security – increased to $121,388.
  - For employees not enrolled in Social Security – increased to $145,666.
- The 2017 calendar year PEPRA compensation limits are as follows:
  - For employees enrolled in Social Security – increased to $118,775.
  - For employees not enrolled in Social Security – increased to $142,530.

Observation 3: None

Payroll Reporting – Pensionable Compensation and Contribution Review

Compensation Earnable Applicable Law for Legacy Members

"Compensation earnable" does not include, in any case, the following:
"Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise." (G.C. § 31461(b)(3).)

Pursuant to CCCERA's "Compensation Earnable Policy"[2], Section III.D. "Compensation Earnable" excludes payments for additional services rendered outside of normal working hours.

Pay received for "overtime" is not included in "compensation earnable." To be included, the time for which compensation is received:

(1) must be the normal working hours set forth in the applicable employment agreement;
(2) must be required by the employer to be worked by the employee (as distinguished from voluntarily worked); and

[2] https://www.cccera.org/governance-and-policies

(3) must be ordinarily worked by all others in the same grade or classification at the same rate of pay during the FAS period.

Pay that will be reviewed under these conditions is often described as "standby" and "on-call." Employers must report to CCCERA as pensionable only that pay for work that is required of and ordinarily served by everyone in the same grade or classification, at the same rate of pay.

Pensionable Compensation Applicable Law for PEPRA members

PEPRA defines "pensionable compensation" as follows:

"Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid. (Gov. Code Section 7522.34(a) and (b).)

PEPRA excludes from "pensionable compensation" the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.
(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
(3) Any one-time or ad hoc payments made to a member.
(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.
(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.
(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code [FLSA].

(9) Employer contributions to deferred compensation or defined contribution plans.
(10) Any bonus paid in addition to the compensation described in subdivision (a) [of G.C. § 7522.34].
(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a) [of G.C. § 7522.34].
(12) Any other form of compensation a public retirement board determines should not be pensionable compensation. (Gov. Code Section 7522.34(a) and (b).)

Pursuant to CCCERA's "Pensionable Compensation Policy"[3], Section III:

The CCCERA Board has determined that "Pensionable Compensation" includes "base pay." Pensionable compensation does not include any pay other than base pay, in accordance with Govt. Code Sections 7522.34(c)(11) and (12).

Pensionable compensation (GC 31461 and 7522.34) is to be reported to the retirement system and the corresponding contributions are to be reported to the retirement system.

Observation 4: None

Salaries in Accordance with Publicly Available Pay Schedule

2: Statement of Observation: First 5's salary schedule does not meet the requirements set forth in CCCERA's Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits.

Pursuant to CCCERA's Policy On Determining "Pensionable Compensation"[4] Under PEPRA For Purposes Of Calculating Retirement Benefits, a "publicly available pay schedule" must meet all of the following requirements:

1. *Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;*
2. *Identifies the position title for every employee position;*
3. *Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;*

[3] https://www.cccera.org/governance-and-policies
[4] https://www.cccera.org/governance-and-policies

4. *Indicates the time base, including, but not limited to, whether the time base is hourly daily, bi-weekly, monthly, bi-monthly, or annually;*
5. *Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;*
6. *Indicates an effective date and date of any revisions;*
7. *Is retained by the employer and available for public inspection for not less than five years; and*
8. *Does not reference another document in lieu of disclosing the pay rate.*

Observation 5: The pay schedule published in First 5's annual Compensation and Benefits Resolution does not identify the position title for every employee position. On May 21, 2019 the employer provided CCCERA Compliance staff with an updated list of all positions for each of the broad classification categories that the employer has under its Compensation and Benefits Resolution. This list is not currently incorporated into the Benefits Resolution document and therefore does not meet the above requirements.

Enrollment of Eligible Employees

3: Statement of Observation: No exceptions were observed in this section.

1. Exclusion from Membership – By Type of Employment

A. All officers and employees of the County or districts shall be members of the association as provided in Article 4 under Sections 31550-31567 of the County Employees' Retirement Law of 1937 (Gov. Code Secs. 31450, et seq. "CERL"), unless excluded from membership by this Section.

B. The following employees shall be excluded from membership:

   i. Temporary, seasonal or independent contract employees who are employed or re-employed for temporary service or at certain specified periods each year.

ii. Intermittent or permanent-intermittent employees who are appointed to serve less than 80% of the full number of working hours required of regular employees or who actually serve less than 80% of such full number of working hours in one year as certified by their appointing authority.

iii. Part-time employees whose service for the County or district is less than fifty (50) percent of the full number or working hours required of fulltime employees at that employer.

iv. Project employees, unless the appointing authority certifies that the project is expected to be of one year or more in duration on a greater than part-time basis.

v. Provisional employees, unless they otherwise meet the requirements for reciprocal benefits with other retirement systems under Article 15 of CERL.

C. In making its determination regarding an employee’s inclusion in or exclusion from membership, the Board will not rely solely upon the term given to the type of employment. Rather, the Board will rely upon such additional facts such as the nature of the employment, its expected or actual duration, and its relationship to what is considered full-time, permanent employment.

2. Exclusion from Membership – by Compensation

Except as otherwise herein provided, all employees of the County or district who receive compensation amounting to less than one-hundred ($100) dollars per month, and in the case of employees paid on other than a monthly basis an average of one-hundred ($100) dollars per month for the preceding year, including maintenance valued according to the schedule adopted by the governing body, are hereby excluded and exempted from membership in the Retirement Association. Any member of the Retirement Association whose salary is reduced to an amount less than one-hundred ($100) dollars per month shall have the option of continuing or discontinuing his/her active membership in the Association.

2.1 Exclusion from Membership – by Waiver

Newly hired employees age 60 and older may waive membership as authorized by Gov. Code Section 31552. Any such waiver of membership shall be effective only if it is submitted to the CCCERA Retirement Chief Executive Officer within 90 days of the employee’s date of hire; provided, however, that the Retirement Chief Executive Officer may, in his/her sole and reasonable discretion, waive the time limitation if the newly hired employee establishes good cause for such a waiver.

3. Certifications

Every employee of the County or district within the county whose employees are members of the Association shall, upon entry into the Association, complete a sworn statement as provided for in Gov. Code Section 31526(b). A certified copy of the member's birth certificate or other evidence of birth may be required by the Board.

It shall be the employer's responsibility to assure compliance with this section. The Board shall assess the employer five hundred ($500) dollars per employee for every month or fraction thereof that the required certification is not submitted. The Board shall notify the employer in writing of the imposition of assessment at least thirty days before the assessment.

Observation 6: None

Pension Benefit Review

4: Statement of Observation: No exceptions were observed in this section.

Review of Pension Benefit Calculations

a. Compensation Policies
   i. *Policy On Determining "Compensation Earnable Under Assembly Bill 197 For Purposes Of Calculating Retirement Benefits For "Legacy" (Pre-PEPRA) Members* – Adopted: 9/10/2014; GC 31461;
   ii. *Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits* - Adopted: 9/10/2014; GC 7522.34;
   iii. *Policy Regarding Assessment and Determination Of Compensation Enhancements* – Adopted 11/1/2012, Amended: 3/8/2017; GC 31461(b)(1) and 7522.34(c)(1)

Observation 7: None

Retiree Return to Work Monitoring

b. Retiree Return to Work Monitoring
   i. GC 7522.56 Retired Persons; Service and Employment Restrictions

Observation 8: None

Forfeiture of Benefits Earned or Accrued From the Commission of a Felony

c. Felony Forfeiture Monitoring and Notification – GC 7522.72(g) and GC 7522.74(g)

Observation 9: None

Internal Revenue Code Section 415 Compliance

As adopted on December 8, 2010 and amended on January 9, 2013 and July 11, 2018.

Observation 10: None

Follow-Up Items

The following items were noted during the course of the review and require follow-up by the Commission and CCCERA:

1) **Publicly Available Pay Schedule:** In order to be in compliance with CCCERA policy, the Commission will need to provide a publicly available pay schedule that meets the requirements of CCCERA's Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits.

FIRST 5
CONTRA COSTA

June 12, 2019

Wrally Dutkiewicz
Compliance Officer
Contra Cost County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

Re: Employer Audit Report – First 5 Contra Costa Children and Families Commission Pensionable Compensation, Contribution and Reporting Audit

Dear Mr. Dutkiewicz:

I have reviewed the preliminary audit report completed by Contra Cost County Employees' Retirement Association (CCCERA). In response to the Follow-Up Item included in the report, First 5 Contra Costa will incorporate a pay schedule by employee titles into the Employee Compensation and Benefits Resolution (Resolution). The Resolution is updated and adopted annually at a publicly noticed meeting of the First 5 Contra Costa Children and Families Commission (Commission). The Commission will adopt the Resolution at its regularly scheduled December 9, 2019 meeting.

Please contact me if you have any questions or require additional information.

Sincerely,

Sean Casey
Executive Director

@first5coco

1485 Civic Court, Suite 1200, Concord, CA 94520
tel (925) 771-7300 | fax (925) 771-6083

www.first5coco.org

CONTRA
COSTA
COUNTY
CCCERA
Employees' Retirement Association

July 3, 2019

Sean Casey
Executive Director
First 5 Contra Costa Children & Families Commission
1485 Civic Court, Suite 1200
Concord, CA 94520

RE: Request for Compliance With Publicly Available Pay Schedule Requirements

Dear Mr. Casey,

The CCCERA Board Audit Committee has reviewed the audit report of First 5 Contra Costa Children and Families Commission as well as your response dated June 12, 2019. The Audit Committee has directed that CCCERA make the following further requests of your agency:

1. Please take the necessary steps to timely come within compliance with the Board's "publicly available pay schedule" requirements, as set forth on pages 2-3 of the Board's Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes of Calculating Retirement Benefits, a copy of which is enclosed, for your reference.

2. In the agency's June 12, 2019 response, it is noted that the agency will take this item to its governing board in December of 2019. Please provide a written explanation of the reason for the delay, as it is CCCERA's understanding that the agency's board meets approximately once monthly.

Thank you. If you have any questions or wish to discuss further, please contact the undersigned.

Sincerely,

Wrally Dutkiewicz
Compliance Officer

FIRST 5
CONTRA COSTA

July 16, 2019

Wrally Dutkiewicz
Compliance Officer
Contra Cost County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

Re: Request for Compliance with Publicly Available Pay Schedule Requirements

Dear Mr. Dutkiewicz:

In response to your letter dated July 3, 2019, First 5 Contra Costa will incorporate a pay schedule by employee titles into the Employee Compensation and Benefits Resolution (Resolution). The Resolution is updated and adopted each December at a publicly noticed meeting of the First 5 Contra Costa Children and Families Commission (Commission). The Commission will adopt the Resolution with the requested requirements at its regularly scheduled December 9, 2019 meeting.

Please contact me if you have any questions or require additional information.

Sincerely,

Sean Casey
Executive Director

@first5coco

1485 Civic Court, Suite 1200, Concord, CA 94520
tel (925) 771-7300 | fax (925) 771-6083

www.first5coco.org

CONTRA COSTA COUNTY CCCERA Employees' Retirement Association

Meeting Date
07/24/19
Agenda Item
#11

MEMORANDUM

Date: July 24, 2019

To: Board of Retirement

From: Wrally Dutkiewicz
Compliance Officer

Subject: Final Employer Audit Report Dated June 18, 2019
Contra Costa In-Home Supportive Services Public Authority

Background:

Between March and June 2019 an employer audit was performed on Contra Costa In-Home Supportive Services Public Authority. The Public Authority's governing body is Contra Costa County and it contracts with Contra Costa County Employment and Human Services Department (EHSD) to provide payroll and human resources administration services. EHSD acted as the audit respondent on behalf of the Public Authority. An onsite review was performed at the EHSD's office on March 20, 2019.

The employer audit scope items include the following:

- Accuracy of Payroll Information Provided to CCCERA;
- Salaries In Accordance with Publicly Available Pay Schedules;
- Enrollment of All Eligible Employees;
- Pension Benefit Review;
- Internal Revenue Code 415 Limits;
- Retiree Return to Work Monitoring; and
- Forfeiture of Benefits Earned or Accrued from the Commission of a Felony.

Follow Up Items:

The final Employer Audit Report was presented to the CCCERA Audit Committee at its June 26, 2019 meeting.

The following item was noted in the final audit report: At the time of the on-site visit, on March 20, 2019 the IHSS Public Authority was not able to provide a current salary schedule as it had not published one. During the audit the requirements for publicly available pay schedules pursuant to CCCERA's *Policy On Determining "Pensionable Compensation Under PEPRA For Purposes Of Calculating Retirement Benefits [Adopted: 9/10/2014]* were discussed in multiple communications. The Public Authority continued to coordinate with its governing body and updated CCCERA compliance on its progress towards its remedial plan to come into compliance with the policy requirement. During the audit exit conference with the Public Authority on June 13, 2019 the publicly available salary schedule requirements were discussed and the employer presented its remedial plan. Subsequent to the audit exit conference, on June 14, 2019 the publicly available salary schedules for the Public Authority were published by Contra Costa County, the governing body of the Public Authority.

CCCERA Compliance received a written response dated June 17, 2019 from the Executive Director of EHSD, the delegated audit respondent by the Public Authority's governing body. The letter affirms that the publicly available pay schedules were compiled with the coordination of the County Human Resources Department and published and made publicly available on June 14, 2019.

Upon receipt the Public Authority's response, CCCERA Compliance reviewed the published publicly available pay schedules and acknowledged by return communication on June 19, 2019 the Public Authority's compliance with CCCERA's policy in most respects except for the following which are outstanding follow-up items:

I. The publicly available salary schedule did not reference previous revision dates;
II. There is no indication the published salary schedule will be retained for five years going forward;
III. Documentation supporting the adoption of the salary schedule by the Public Authority's governing body was not provided.

Employer Audit:

Contra Costa In-Home Supportive Services Public Authority

Employer Audit Report dated 6/18/2019 prepared by:

CONTRA COSTA COUNTY CCCERA Employees' Retirement Association

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Audit Transmittal Letter

June 18, 2019

Elizabeth Dondi
Executive Director
Contra Costa In-Home Supportive
Services Public Authority
500 Ellinwood Way
Suite 110
Pleasant Hill, CA 94523

Re: Employer Audit Report – Contra Costa In-Home Supportive Services Public Authority Pensionable Compensation, Contribution and Reporting Audit

Dear Ms. Dondi,

Enclosed is the employer audit report of the Contra Costa In-Home Supportive Services Public Authority (IHSS) pensionable compensation, contribution and reporting audit, conducted pursuant to Government Code Section 31543. I want to thank you and all IHSS and Employment & Human Services Department (EHSD) staff for their assistance in gathering all the records and documents and making them readily available during this audit. This cooperation was greatly appreciated and allowed for the audit to be completed in an efficient manner.

The *Employer Audit Report* is enclosed for your review. I would direct your attention to the "*Observations"* made under each scope item and the *"Follow-Up Items"* section of the report. CCCERA is in receipt of a written response from IHSS dated June 17, 2019 pertaining to the *"Follow-Up Items"* indicated in the report. This response will be included in the "*Final Report"* which will be submitted to CCCERA's Audit Committee for its review.

This report will be placed on the agenda and will be presented to the CCCERA Board of Retirement Audit Committee at its Wednesday June 26, 2019 meeting.

In addition, I would like to extend my gratitude to IHSS staff and EHSD payroll and human resources staff and the courtesy that they extended to CCCERA compliance staff during the review. Should you wish to discuss or have any questions regarding the items reviewed and the observations contained within this report, please contact me at 925-521-3960.

Best regards,

Wrally Dutkiewicz
Compliance Officer

Cc: Kathy Gallagher, Employment & Human Services Director
Mansoorali Hudda, Chief Financial Officer of Contra Costa County Employment & Human Services Department (EHSD)
Alicja Hermanson, Departmental Fiscal Officer, EHSD

Background

The Contra Costa County Employees' Retirement Association (CCCERA) is a public employee retirement system that was established by Contra Costa County on July 1, 1945, and is administered by the Board of Retirement (Board) to provide service retirement, disability, death, and survivor benefits for Contra Costa County (County) employees and 16 other participating agencies under the California State Government Code, Section 31450, et. seq. (County Employees Retirement Law of 1937 or CERL) and the California Public Employees' Pension Reform Act of 2013 (PEPRA).

CCCERA administers the retirement benefits for the employees of Contra Costa County and participating District employers. Participating employers within the CCCERA retirement system transmit payroll information and contributions to fund the benefits for their employees. CCCERA sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits when needed.

Retirement allowances are computed in accordance with statute using three factors: years of service, age at retirement, and final compensation. For Legacy (pre-PEPRA) members, final compensation is defined as the highest average annual compensation earnable (as defined in G.C. Section 31461) by a member during the last one or three consecutive years of employment depending on the member's Tier, unless the member elects a different period with a higher average. For PEPRA members, final compensation is defined as the highest average annual pensionable compensation (as defined in G.C. Section 7522.34) earned by the member during a period of 36 consecutive months.

The employer's knowledge of the rules relating to membership and payroll reporting facilitates the employer in providing CCCERA with appropriate employee information. Correct enrollment of eligible employees and correct reporting of payroll information are necessary for the accurate computation of a member's retirement allowance.

In-Home Supportive Services (IHSS) Public Authority is a home care program which helps to pay for services to eligible aged, blind and disabled individuals who are unable to remain safely in their own homes without assistance. Disabled children are also potentially eligible for IHSS. IHSS is an alternative to out-of-home care such as skilled nursing facilities, assisted living or board and care facilities.[1]

Per CCCERA records, IHSS had approximately fifteen (15) employees in fiscal years 2016-2017 and 2017-2018 with active memberships in CCCERA. For these employees IHSS reported pensionable compensation to CCCERA of approximately $820,000 for fiscal year 2016-2017 and $870,000 for fiscal year 2017-2018. IHSS submitted approximately $82,000 in employee pension contributions and $311,000 in employer pension contributions for fiscal year 2016-2017 and $92,000 in employee pension contributions and $325,000 in employer pension contributions for fiscal year 2017-2018. As of December 31, 2018, CCCERA had thirteen (13) retirees on record for IHSS with a total paid benefit amount of approximately $480,000 in 2018.

[1] https://ehsd.org/elderly-disabled/in-home-supportive-services-ihss/

Scope

The 2013 Pension Reform legislation granted CCCERA the authority under Government Code Section 31543 to conduct audits of employers to ensure that employee and payroll information used in the calculation of retiree pension benefits is correct and verifiable. The scope of these on-site reviews includes:

- Correctness of retirement benefits;
- Reportable compensation;
- Enrollment in, and reinstatement to the system (GC 31554);
- Pensionable compensation (GC 31461 and GC 7522.34);
- Determine if employees convicted of certain felonies have forfeited benefits earned or accrued from the commission of the felony (GC 7522.72(g) and GC 7522.74(g));
- Review MOUs with respect to compensation and salary regulations (i.e. Vacation Sales, etc.);
- Determine if compensation is paid to enhance a member's retirement benefit (GC 31461(b)(1) and GC 7522.34(c)(1));
- Evaluate employer's compliance with restrictions on retirees returning to work (GC 7522.56, I.R.S. bona fide separation and normal retirement age rules).

The on-site review of the Public Authority was conducted on March 20, 2019. The review period encompassed active employee records and retired employee records from 2016 through 2018.

Observations and Findings

Accuracy of Payroll Information provided to CCCERA

1: Statement of Observation: No exceptions were observed in this section.

Payroll and Reporting Process and Receivables Review

Pursuant to Board of Retirement Regulations Section IV: Employer pensionable payroll and corresponding pension contributions are to be reported to the retirement system timely and accurately. (*Contributions And Reporting, 2. Due Dates, 4. Employer Certification*).

Due Dates
Each employer shall report to the Association in a manner and frequency as determined by the Board sufficient for the Board to credit contributions and service to each member's record.

Unless otherwise specified, reports shall be due no later than the tenth of each month for the previous month's payroll and shall be accompanied by member and employer contributions. If the tenth of the month falls on a weekend or holiday, the due date shall be the last working day before the tenth. Reports, which are unreadable or incorrect, shall not be accepted and shall be returned to the employer. (Emphasis added.)

Reports and contributions received after the due date shall be considered late and subject to a late reporting penalty equal to: the prime rate in effect on the due date computed on a daily, non-compounding basis and applied to the contributions due.

Observation 1: None

Input File Review

Employer Certification

Each payroll and pension contribution report shall include or be accompanied by a certification, under penalty of perjury, as to its accuracy. The certification shall be made by a duly authorized representative of the employer. (Board of Retirement Regulations *Section IV, 4. Employer Certification.)*

Observation 2: None

Compensation Limits

Federal and state laws place annual limits on the compensation that can be used to determine contributions and benefits for CCCERA plan members.

Legacy Members:

- The Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans which are adjusted annually for cost-of-living increases.
- Members who commenced participation in CCCERA on or after January 1, 1996 are subject to the annual federal Internal Revenue Code Section 401(a)(17) compensation limit.
- For CERL benefit formulas (General Tiers 1, 3, Safety Tiers A & C), the 2018 calendar year compensation limit was increased by the I.R.S. to $275,000 from $270,000 for calendar year 2017.
- Members who commenced participation in CCCERA prior to January 1, 1996 are not subject to the Internal Revenue Code annual compensation limit.

PEPRA Members:

- For new employees who commenced participation in CCCERA on or after January 1, 2013 under PEPRA benefit formulas (General Tiers 4,5, Safety Tiers D & E), the compensation which exceeds that annual pensionable compensation limit under California Government Code Section 7522.10(c) and (d) is not included in determining benefits or contributions.
- The 2018 calendar year PEPRA compensation limits are as follows:
  - For employees enrolled in Social Security – increased to $121,388.
  - For employees not enrolled in Social Security – increased to $145,666.
- The 2017 calendar year PEPRA compensation limits are as follows:
  - For employees enrolled in Social Security – increased to $118,775.
  - For employees not enrolled in Social Security – increased to $142,530.

Observation 3: None

Payroll Reporting – Pensionable Compensation and Contribution Review

Compensation Earnable Applicable Law for Legacy Members

"Compensation earnable" does not include, in any case, the following:
"Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise." (G.C. § 31461(b)(3).)

Pursuant to CCCERA's "Compensation Earnable Policy"[2], Section III.D. "Compensation Earnable" excludes payments for additional services rendered outside of normal working hours.

Pay received for "overtime" is not included in "compensation earnable." To be included, the time for which compensation is received:

(1) must be the normal working hours set forth in the applicable employment agreement;
(2) must be required by the employer to be worked by the employee (as distinguished from voluntarily worked); and

[2] https://www.cccera.org/governance-and-policies

(3) must be ordinarily worked by all others in the same grade or classification at the same rate of pay during the FAS period.

Pay that will be reviewed under these conditions is often described as "standby" and "on-call." Employers must report to CCCERA as pensionable only that pay for work that is required of and ordinarily served by everyone in the same grade or classification, at the same rate of pay.

Pensionable Compensation Applicable Law for PEPRA members

PEPRA defines "pensionable compensation" as follows:

"Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid. (Gov. Code Section 7522.34(a) and (b).)

PEPRA excludes from "pensionable compensation" the following:

(1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.
(2) Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
(3) Any one-time or ad hoc payments made to a member.
(4) Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
(5) Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
(6) Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.
(7) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniforms.
(8) Compensation for overtime work, other than as defined in Section 207(k) of Title 29 of the United States Code [FLSA].

(9) Employer contributions to deferred compensation or defined contribution plans.
(10) Any bonus paid in addition to the compensation described in subdivision (a) [of G.C. § 7522.34].
(11) Any other form of compensation a public retirement board determines is inconsistent with the requirements of subdivision (a) [of G.C. § 7522.34].
(12) Any other form of compensation a public retirement board determines should not be pensionable compensation. (Gov. Code Section 7522.34(a) and (b).)

Pursuant to CCCERA's "Pensionable Compensation Policy"[3], Section III:

The CCCERA Board has determined that "Pensionable Compensation" includes "base pay." Pensionable compensation does not include any pay other than base pay, in accordance with Govt. Code Sections 7522.34(c)(11) and (12).

Pensionable compensation (GC 31461 and 7522.34) is to be reported to the retirement system and the corresponding contributions are to be reported to the retirement system.

Observation 4: None

Salaries in Accordance with Publicly Available Pay Schedule

2: Statement of Observation: IHSS could not provide a pay schedule to CCCERA as it did not publish one. This does not meet the requirements set forth in CCCERA's Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits.

Pursuant to CCCERA's Policy On Determining "Pensionable Compensation"[4] Under PEPRA For Purposes Of Calculating Retirement Benefits, a "publicly available pay schedule" must meet all of the following requirements:

1. *Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;*
2. *Identifies the position title for every employee position;*

[3] https://www.cccera.org/governance-and-policies
[4] https://www.cccera.org/governance-and-policies

3. *Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;*
4. *Indicates the time base, including, but not limited to, whether the time base is hourly daily, bi-weekly, monthly, bi-monthly, or annually;*
5. *Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;*
6. *Indicates an effective date and date of any revisions;*
7. *Is retained by the employer and available for public inspection for not less than five years; and*
8. *Does not reference another document in lieu of disclosing the pay rate.*

Observation 5: No pay schedule was available to perform the salaries review. Alternatively, CCCERA utilized PeopleSoft salary history to perform the review.

Enrollment of Eligible Employees

3: Statement of Observation: No exceptions were observed in this section.

1. Exclusion from Membership – By Type of Employment

A. All officers and employees of the County or districts shall be members of the association as provided in Article 4 under Sections 31550-31567 of the County Employees' Retirement Law of 1937 (Gov. Code Secs. 31450, et seq. "CERL"), unless excluded from membership by this Section.

B. The following employees shall be excluded from membership:

   i. Temporary, seasonal or independent contract employees who are employed or re-employed for temporary service or at certain specified periods each year.

   ii. Intermittent or permanent-intermittent employees who are appointed to serve less than 80% of the full number of working hours required of regular employees or who actually serve less than 80% of such full number of working hours in one year as certified by their appointing authority.

iii. Part-time employees whose service for the County or district is less than fifty (50) percent of the full number or working hours required of fulltime employees at that employer.

iv. Project employees, unless the appointing authority certifies that the project is expected to be of one year or more in duration on a greater than part-time basis.

v. Provisional employees, unless they otherwise meet the requirements for reciprocal benefits with other retirement systems under Article 15 of CERL.

C. In making its determination regarding an employee's inclusion in or exclusion from membership, the Board will not rely solely upon the term given to the type of employment. Rather, the Board will rely upon such additional facts such as the nature of the employment, its expected or actual duration, and its relationship to what is considered full-time, permanent employment.

2. Exclusion from Membership – by Compensation

Except as otherwise herein provided, all employees of the County or district who receive compensation amounting to less than one-hundred ($100) dollars per month, and in the case of employees paid on other than a monthly basis an average of one-hundred ($100) dollars per month for the preceding year, including maintenance valued according to the schedule adopted by the governing body, are hereby excluded and exempted from membership in the Retirement Association. Any member of the Retirement Association whose salary is reduced to an amount less than one-hundred ($100) dollars per month shall have the option of continuing or discontinuing his/her active membership in the Association.

2.1 Exclusion from Membership – by Waiver

Newly hired employees age 60 and older may waive membership as authorized by Gov. Code Section 31552. Any such waiver of membership shall be effective only if it is submitted to the CCCERA Retirement Chief Executive Officer within 90 days of the employee's date of hire; provided, however, that the Retirement Chief Executive Officer may, in his/her sole and reasonable discretion, waive the time limitation if the newly hired employee establishes good cause for such a waiver.

3. Certifications

Every employee of the County or district within the county whose employees are members of the Association shall, upon entry into the Association, complete a sworn statement as provided for in Gov. Code Section 31526(b). A certified copy of the member's birth certificate or other evidence of birth may be required by the Board.

It shall be the employer's responsibility to assure compliance with this section. The Board shall assess the employer five hundred ($500) dollars per employee for every month or fraction thereof that the required certification is not submitted. The Board shall notify the employer in writing of the imposition of assessment at least thirty days before the assessment.

Observation 6: None

Pension Benefit Review

4: Statement of Observation: No exceptions were observed in this section.

Review of Pension Benefit Calculations

a. Compensation Policies
   i. *Policy On Determining "Compensation Earnable Under Assembly Bill 197 For Purposes Of Calculating Retirement Benefits For "Legacy" (Pre-PEPRA) Members* – Adopted: 9/10/2014; GC 31461;
   ii. *Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits* - Adopted: 9/10/2014; GC 7522.34;
   iii. *Policy Regarding Assessment and Determination Of Compensation Enhancements* – Adopted 11/1/2012, Amended: 3/8/2017; GC 31461(b)(1) and 7522.34(c)(1)

Observation 7: None

Retiree Return to Work Monitoring

b. Retiree Return to Work Monitoring
   i. GC 7522.56 Retired Persons; Service and Employment Restrictions

Observation 8: None

Forfeiture of Benefits Earned or Accrued From the Commission of a Felony

c. Felony Forfeiture Monitoring and Notification – GC 7522.72(g) and GC 7522.74(g)

Observation 9: None

Internal Revenue Code Section 415 Compliance

As adopted on December 8, 2010 and amended on January 9, 2013 and July 11, 2018.

Observation 10: None

Follow-Up Items

The following items were noted during the course of the review and require follow-up by the Public Authority and CCCERA:

1. **Publicly Available Pay Schedule:** In order to be in compliance with CCCERA policy, IHSS will need to provide a publicly available pay schedule that meets the requirements of CCCERA's Policy On Determining "Pensionable Compensation" Under PEPRA For Purposes Of Calculating Retirement Benefits.

CONTRACOSTA
COUNTY

EMPLOYMENT &
HUMAN SERVICES

Kathy Gallagher
Director

Employment & Human Services partners with the community to deliver quality services to ensure access to resources that support, protect, and empower individuals and families to achieve self-sufficiency.

June 17, 2019

Via email

Wrally Dutkiewicz
Compliance Officer
Contra Costa County Employees Retirement Association (CCCERA)
1355 Willow Way, Suite 221
Concord, CA 94520

Re: 2019 Employer Audit of In-Home Supportive Services Public Authority

Dear Mr. Dutkiewicz,

This letter is in response to an audit finding resulting from CCCERA's audit of In-Home Supportive Services (IHSS) Public Authority.

During the review the following deficiency was noted:
Pay Schedule was not available in order to perform the salaries review.

EHSD Personnel staff worked with Ms. Dianne Dinsmore, Contra Costa County Director of Human Services and the Pay Schedule was posted on the Contra Costa County's website on 6/14/2019.

It can be found by following this link:

http://www.contracosta.ca.gov/DocumentCenter/View/1392/Salary-SchedulePDF?bidId=

Please let me know if you have any questions.

Sincerely,

Kathy Gallagher
EHSD Director

CC: Elizabeth Dondi, IHSS Director
Mansoorali Hudda, EHSD Chief Financial Officer
Debora Boutte, EHSD Personnel Officer
Cheryl McDaniel, Account Clerk Supervisor
Kristina Dohrn, CCCERA Compliance Business Analyst

Dimensional

Meeting Date
07/24/19
Agenda Item
#12a.

DIMENSIONAL FUND ADVISORS
CORDIALLY INVITES YOU TO ATTEND OUR

Investment Forum

Join us as we gather with some of the world's leading investors to discuss the most recent research and insights from both academic and practitioner perspectives. Leading the discussions with presentations on their latest research and investment trends will be Zvi Bodie, Professor Emeritus at Boston University; Marco Di Maggio, Professor of Finance at Harvard Business School; David Levine, Principal at Groom Law Group; and senior members of Dimensional's Investment and Research teams.

We are committed to building a community of engaged investment professionals and are excited to provide this great opportunity to interact with other institutional investors, academics, leading experts, and Dimensional Teams.

Wednesday, September 18
8:30 am–3:30 pm PT

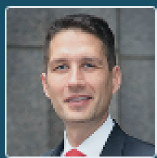
Dimensional Fund Advisors
1299 Ocean Avenue
Santa Monica, CA 90401
(310) 395-8005

For registration details or for more information on the forum, please contact US Events at US_Events@dimensional.com or (512) 306-4630.

AGENDA

8:30–9:00 am	**Breakfast and Registration**
9:00–9:15 am	**Welcome Remarks**
9:15–10:15 am	**Exchange Fees and Overall Trading Costs** Marco Di Maggio Professor of Finance Harvard Business School Faculty Research Fellow National Bureau of Economic Research
10:15–11:15 am	**Evaluating Systematic Managers** Jacobo Rodríguez Vice President, Research Dimensional Fund Advisors
11:15 am–12:30 pm	**Unlocking the Performance Potential in Your ESG Portfolio** Marcus Axthelm Senior Portfolio Manager Vice President Dimensional Fund Advisors
12:30–1:30 pm	**Optimal Life-Cycle Savings and Investing: From Theory to Practice** Zvi Bodie President Bodie Associates Professor Emeritus Boston University
1:30–2:30 pm	**Washington Update: Implications for Your Retirement Plan** David Levine Principal Groom Law Group
2:30–3:30 pm	**Investor Roundtable Discussion**

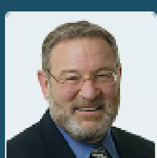
Speakers



Marcus Axthelm

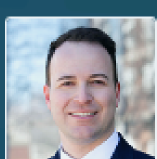
Marcus Axthelm, a Senior Portfolio Manager and Vice President, oversees a team of investment professionals who manage global equity portfolios in the Charlotte office. He also serves as the lead for fund construction and portfolio parameter calculation, and enhances the team's global perspective with his experience as a Portfolio Manager in the London, Austin, and Sydney offices. Marcus frequently meets with current and prospective clients to discuss Dimensional's investment philosophy and strategies.

Prior to joining Dimensional, Marcus spent six years as Senior Rating Specialist at Commerzbank in Frankfurt, where he built, implemented, and validated credit risk models for corporate and specialized finance loan portfolios. He holds a bachelor's degree in banking and finance from Berufsakademie Mosbach (Germany) and earned his MBA with concentrations in economics, finance, and strategy from the University of Chicago Booth School of Business.



Zvi Bodie

Zvi Bodie is a financial consultant, educator, and Professor Emeritus at Boston University, where he taught from 1973 to 2016. He holds a PhD from the Massachusetts Institute of Technology and has served on the finance faculty at the Harvard Business School and MIT's Sloan School of Management. His textbook, Investments, coauthored by Alex Kane and Alan Marcus, now in its eleventh edition is the market leader. His other textbook Financial Economics coauthored by Nobel-Prize winning economist Robert C. Merton has been translated into 9 languages. In 2007 the Retirement Income Industry Association gave him their Lifetime Achievement Award for applied research. He has authored and edited many books and articles on pensions and investing for retirement. With the support of the Research Foundation of the CFA Institute, he organized a series of 3 conferences on the theory and practice of life-cycle finance. They all resulted in published volumes available for free download at the website of the CFA Institute. Currently he serves on the curriculum committee of the Investments and Wealth Institute and consults for a number of financial firms including Dimensional Fund Advisors.



Marco Di Maggio

Marco Di Maggio is a Professor of Finance at Harvard Business School and a faculty research fellow at the National Bureau of Economic Research. Before joining HBS, he was a faculty member in the finance and economics division of Columbia Business School.

Professor Di Maggio's current research focuses on financial intermediation with a particular focus on institutions' trading behavior and on how new technologies have disrupted financial markets. His work has been published in leading academic peer-reviewed journals such as the American Economic Review, Journal of Finance, Journal of Financial Economics, The Review of Financial Studies, Management Science and has been widely cited by outlets such as the Wall Street Journal, The Economist, Slate, Bloomberg, Institutional Investor, and Forbes.

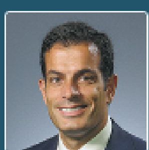
In 2016, Poets and Quants named him to its list of the Best 40 Under 40 Business School Professors.

David Levine

David N. Levine is a principal at Groom Law Group, Chartered. He advises plan sponsors, advisors, and other service providers on a wide range of employee benefits matters, from retirement and executive compensation to health and welfare plan matters.

Mr. Levine advises on the design and redesign of complex retirement, executive, and health and welfare plans; ongoing, day-to-day counseling of plan sponsors; in-depth compliance reviews of corporate and governmental benefit programs; products and compliance for retirement and health service providers and representation of tax-exempt organizations with respect to issues involving corporate governance, executive compensation, and unrelated business income tax liability.

Mr. Levine was previously the Chair of the IRS Advisory Committee on Tax Exempt and Government Entities (2011-2013) and is currently a member of the Executive Committee of the Defined Contribution Institutional Investment Association and serves in a number of leadership roles in the American Bar Association Tax Section's Employee Benefits Committee. Mr. Levine regularly speaks on plan design, fiduciary governance, and legislative issues and contributes a recurring column to NAPA Net — The Magazine. He is recognized in the Chambers USA guide for Employee Benefits & Executive Compensation. Mr. Levine received his J.D., from the University of Pennsylvania Law School and his B.A., with general and departmental honors, from Johns Hopkins University.



Jacobo Rodríguez

Jacobo Rodríguez, a Vice President in the Research group at Dimensional, has written articles and research papers on a broad range of investment topics to support the firm's client relations since joining in 2004. With a keen interest in economics and the history of economic thought, Jacobo is also involved in Dimensional's internal training programs for client-facing employees, helping colleagues better understand and articulate Dimensional's investment philosophy and process. From 2005 to 2017, he was the editor of Dimensional's Quarterly Institutional Review.

Prior to Dimensional, Jacobo served for 10 years at the Cato Institute as a policy analyst in a number of areas. He has served since 2002 as a director of the Fundacion Internacional para la Libertad, a nonprofit foundation headed by Nobel laureate Mario Vargas Llosa that promotes and defends free and democratic societies in Latin America.

Jacobo holds a BA in economics from the University of California, Berkeley, and obtained a master's degree in applied economics from Johns Hopkins University.