



COUNCILMEMBER DAVID ALVAREZ

**City of San Diego
Council District 8**

MEMORANDUM

DATE: February 7, 2012

TO: Honorable City Councilmembers

FROM: Councilmember David Alvarez

SUBJECT: Cap & Freeze Pension Reform Ballot Measure

I am providing this memo to share with you a pension reform ballot measure to be put before the voters on the June 5, 2012 ballot. As I outlined last week at City Council, my proposed "Cap & Freeze" pension reform measure (see attachment #1) will achieve significant savings without the millions of dollars it will cost the City to implement a new 401(k) style retirement plan (see attachment #2). Under this proposal the City would cap all pensions for new employees at \$99,999 and institute a 5-year freeze on pensionable salaries.

If the City Council is supportive of this measure we would need to direct the City Attorney to review the proposed language, direct the City's labor negotiations team to conduct meet and confer with the applicable organized labor groups, after which this proposal would need to be considered by the Council prior to March 9th for placement on the June ballot. I welcome your input and look forward to discussing this matter, as I believe it is crucial that we provide voters with a choice on how best to address pension reform in San Diego.

CC: Honorable Mayor Jerry Sanders
Honorable City Attorney, Jan Goldsmith
Andrea Tevlin, IBA

DRAFT ORDINANCE: Cap and Freeze Pension Reform for San Diego

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON JUNE 5, 2012, ONE PROPOSITION AMENDING THE CITY CHARTER BY ADDING ARTICLE VII, SECTIONS 70.1 AND 70.2; ADDING ARTICLE IX, SECTIONS 140, 141.1, 141.2, 141.3, 141.4 AND 141.5; AND AMENDING ARTICLE IX, SECTION 143.1; ALL RELATING TO CITY OFFICER AND EMPLOYEE COMPENSATION.

Whereas, pursuant to California Constitution, article XI, section 3(b), California Elections Code Section 9255(b)(1), and San Diego City Charter Section 223, the City Council has the authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

Whereas, by Ordinance No. O-2012-53, adopted on January 30, 2012, the Council of the City of San Diego is calling a Municipal Election to be consolidated with the California Statewide Primary Election on June 5, 2012, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

Whereas, the City Council desires to submit to the voters at the Municipal Election one proposition amending the Charter of the City of San Diego to freeze pensionable pay of City Officers and Employees until June 30, 2018, and cap pension benefits; and

Whereas, the City Council's Proposal of a Charter amendment is governed by California Constitution, article XI, section 3(b), California Elections Code section 9255(b)(1), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as Follows:

Section 1. That one proposition amending the City Charter by adding Article VII, Sections 70.1 and 70.2; adding Article IX, Sections 140, 141.1, 141.2, 141.3, 141.4 and 141.5; and amending Article IX, Section 143.1; all relating to City officer and employee compensation and pension benefits, is hereby submitted to the qualified voters at the Municipal Election to be held on June 5, 2012, with the proposition to read as follows:

Proposition

Article VII

Finance

Section 70.1: Reforming Base Compensation Used to Establish Pension Benefits

“Base Compensation for Calculation of Pension Benefits” or “Base Compensation” shall be defined for this Section and for Section 70.2 as the total amount of annual compensation received by an individual City officer or employee for years of service after the implementation of this Section that is used by the Retirement System for the purpose of calculating an individual’s benefits under a Defined Benefit Pension Plan as defined in Section 140 of this Charter.

By January 1, 2013, and to the extent allowed by law, including the legal effect of existing Memorandums of Understanding as of the effective date of this Section, no Earning Codes Included in Retirement Base Compensation in any Annual Salary Ordinance shall include any pay components that may be excluded pursuant to any judicially approved legal settlement from the calculation of Base Compensation for Calculation of Pension Benefits.

This Section shall apply prospectively. Nothing in this section shall be interpreted to limit the ability of the City to offer additional compensation for City officers and employees beyond Base Compensation, provided that such compensation shall not be included in the calculation of Base Compensation. Employees determined to be performing work outside their respective job classifications may have their “out of class” pay included in the calculation of Base Compensation. Furthermore, nothing herein is intended to prohibit or limit the City Council from having its representatives meet and confer with Recognized Employee Organizations or Bargaining Groups as required by applicable labor relations laws to implement this Section.

Section 70.2: Emergency Limitations on Base Compensation for Calculation of Pension Benefits (July 1, 2012 to June 30, 2018)

From the effective date of this Section until June 30, 2018, in the City’s initial bargaining position in negotiations on any Memorandum of Understanding with recognized employee organizations or bargaining groups, the City shall propose terms that are consistent with the following requirements and shall work to achieve the following outcomes:

- a. No Base Compensation for any classification shall be set at an amount higher than the base compensation for that classification established in Ordinance No. 0-19952, adopted on May 4, 2010 (“2011 Fiscal Year Salary Ordinance”).
- b. The Earning Codes Included in Retirement Base Compensation, as adopted in the 2011 Fiscal Year Salary Ordinance, shall not be amended to add any new types of compensation to the Base Compensation for the Calculation of Pension Benefits during the effective period of this Section.
- c. Any new job classification may only be created, during the effective period of this Section, with specific findings that the creation of the new classification is necessary to achieve efficiencies and/or salary savings by consolidation job duties or the creation of a more efficient service delivery method to the public. No base compensation for any new job classification created during the effective period of this Section shall be set at an amount higher than the base compensation for that classification during the Fiscal Year in which it was established.

d. No other forms of compensation shall be provided or increased for any applicable fiscal year that has the effect of increasing Base Compensation as defined under this Section and Section 70.1 of this Charter.

e. Total annual pension benefits for any retiree shall not exceed the limitation set forth in Charter Section 141.5.

City bargaining representatives may be authorized to negotiate tentative agreements with employee organizations incorporating changes in employee compensation and other employee benefits, provided that no provision of a tentative agreement that fails to meet the conditions established in (a)-(e), above, shall become effective unless and until it is approved by a two-thirds majority of the City Council.

From the effective date of this Section until June 30, 2018, prior to any City Council action that establishes the initial bargaining position of the City to meet and confer with recognized employee organizations or bargaining groups that includes increases to salaries and benefits for any City officer or employee, in any proposed Memorandum of Understanding or other agreement, the Retirement System's Actuary shall prepare and submit to the Mayor and City Council an actuarial study that (i) identifies and discloses the impact on the City's Defined Benefit Pension Plan of any increases in proposed compensation or benefits contained in the initial bargaining position, and (ii) certifies whether the proposed action increases the average or mean Base Compensation for any job classification. Prior to any submission of a tentative agreement with any recognized employee organization or bargaining group to the City Council for approval of a Memorandum of Understanding, the City shall refer the tentative agreement to the Retirement System's Actuary to update the actuarial study to include any additional fiscal impacts of the tentative agreement. Such analysis shall be made readily available to the public ten days prior to any final action taken by the Council.

Nothing in this Section shall be interpreted to limit the ability of the City to offer additional compensation for City officers and employees during the effective period of this Section, provided that such compensation shall not have the effect of increasing the Base Compensation for Establishment of Pension Benefits for that City officer or employee without complying with the requirements of this Section.

Nothing in this Section shall be interpreted to limit the ability of the City to exercise authority under Charter Section 124 (Promotions). This Section shall be implemented in a manner consistent with the requirements of any applicable labor relations laws. This Section shall be automatically repealed and removed from this Charter on July 1, 2018, unless extended, modified or repealed by a vote of the City's qualified electors.

Article IX

The Retirement of Employees

Section 140: Defined Benefit Pension Plan

"Defined Benefit Pension Plan" or "Defined Benefit Pension System" is a system or plan to provide a specified allowance to a City retiree or a retiree's spouse after retirement that is based

on a set formula that is itself based on factors such as age, years of service, and elements of compensation as established in this Article.

Any Defined Benefit Pension Plan in place prior to the effective date of this Section and established by the City Council pursuant to Sections 141 through 149 of this Charter, inclusive, may remain in place until, for any reason, there remain no participants in the Plan. At that time, the Council may by ordinance utilize any lawful means for terminating the Plan. Any closure of the Plan shall be designed and implemented to protect the employees' vested rights in the Plan, generate cost savings for taxpayers, and ensure compliance with applicable laws and regulations, including tax regulations.

Section 141.1: Reform of Sworn Police Officer Defined Benefit Pension Plan

Notwithstanding any other provision of this Charter, or any ordinance or other action taken pursuant hereto, the maximum amount of retirement benefit payable to a sworn police officer of the City who is hired after the effective date of this section and who is a participant under the Defined Benefit Pension Plan shall be an amount equivalent to 80% at age 55 of the average of the participant's highest consecutive 36 months of Base Compensation as defined by Section 70.1. The maximum set by this provision shall decrease by 3% (three percentage points) for each year that such participant retires before age 55.

Section 141.2: Full and Fair Employee Contributions for the Defined Benefit Pension Plan.

For City officers and employees who have the legal right to remain in the established Defined Benefit Pension Plan, the City shall contribute annually an amount substantially equal to that required of the employee for a normal retirement allowance, as certified by the Actuary established in Section 142, but shall not contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employee. The City shall not pay, cap the employee contribution rate for, or otherwise compensate for any portion of a contribution to the Retirement System by a City officer or employee.

To the fullest extent permitted by law, in calculating annual contributions for the City and for City officials and employees, the Retirement Board shall divide equally between those two parties all costs except those costs explicitly and exclusively reserved to the City in this Section and Section 143. Contributions shall also be governed by Section 143. In the event of a conflict between this Section and Section 143, this Section shall prevail. This Section is not intended to interfere with vested defined rights of any retiree receiving benefits from the Defined Benefit Pension System or of any employee enrolled in the Defined Benefit Pension System as of the effective date of this section.

Nothing contained in this Section shall preclude the City from entering into a settlement of *City of San Diego v. San Diego City Employees' Retirement System*, San Diego County Superior Court case no. 37-2010-00091207-CU-WM-CTL to define responsibilities of the City and of City officials and employees for unfunded liabilities of the Retirement System even if the settlement includes terms that might otherwise conflict with the above restrictions, as long as the settlement is approved by the court as a good-faith settlement and approved by a two-thirds vote of the City Council. The vote shall not be subject to a veto by the Mayor.

Section 141.3 Elimination of Pension Benefit for Felony Convictions

On or before July 1, 2013, and subject to meet and confer requirements with recognized employee organizations or bargaining groups, the City Council shall adopt an ordinance to eliminate, to the maximum extent permitted by law, the Defined Pension Benefit Plan for any City officer or employee who is convicted of a felony, as defined in California Government Code Section 1770(h) (as amended from time to time), related to his or her service, duties, or obligations as a City officer or employee. The City shall promptly reinstate benefits (including any withheld during the pendency of an appeal) if the felony conviction is overturned on appeal and the appellate decision has become final.

Section 141.4 Transparency and Public Disclosure of City Pension Payouts

No later than January 31 of each year, the City shall post online a listing of the total amount paid to each City retiree for the preceding calendar year from assets held by or managed by the Retirement System. The City shall redact the name and social security number of each retiree but shall provide the final classification held by each retiree and the number of creditable years of service worked by the retiree. This Section shall be implemented in a manner that protects the privacy rights of City officers and employees to the extent required by law and consistent with applicable labor relations laws.

Section 141.5 Cap on Total Annual Pension Benefits for New Officers and Employees.

On or before July 1, 2013, to the maximum extent permitted by law, and subject to any meet and confer requirements with recognized employee organizations or bargaining groups, the City Council shall adopt an ordinance that limits the total annual pension benefits to be paid to any City officer or employee hired after the effective date of this Section to \$99,999.00 per retiree. This limit shall automatically be adjusted annually for inflation.

Section 143.1: Approval of Retirement System Benefit

[strike existing Section 143.1(a)]

(a) No ordinance amending any City retirement system and affecting the benefits of any City officer or employee under such system shall be adopted without the approval of a majority vote of the members of such system. No ordinance amending such system and increasing the benefits of any official or employee, with the exception of Cost of Living Adjustments, shall be adopted without the approval of a majority of the qualified City electors voting on the matter. No ordinance amending such system and affecting the vested defined benefits of any retiree of such retirement system may be adopted without a majority vote of the affected retirees of such system.

To the extent allowed by law, the preceding paragraph's requirement for a majority vote of employees and requirement for a majority vote of retirees for adoption of an ordinance as described in this Section shall terminate and be deemed unenforceable as of the effective date of

this Section. Unless required under a pre-existing Memorandum of Understanding as of the effective date of this article, any city employee hired after September 1, 2012 shall not have a right to vote in any vote required under this Section.

[subsections (b) through (d) no change in text]

END OF PROPOSITION

Section 2. EFFECTIVE DATE

This Charter amendment shall become effective in the manner allowed by law. This Charter amendment addresses the subject of public employee compensation and benefits under the plenary authority granted to the Citizens of San Diego by Article XI, Section 5(b) of the California Constitution. As specified herein, the implementation of various provisions may be delayed in their implementation pursuant to provisions of any Memorandum of Understanding in effect on the effective date of this Charter amendment. Nothing herein is intended to remove legally established rights held by any City officer or employee held by virtue of his or her employment status before the effective date of this Charter Amendment.

Section 3. SEVERABILITY

It is the intent of the People that the provisions of this Charter amendment are severable and that if any section or provision of this amendment or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision or application of this Charter amendment which can be given effect without the invalid provision or application.

Section 4. LIBERAL CONSTRUCTION

The provisions of this act shall be liberally construed in order to effectuate its purposes.

Section 5. CONFLICTING BALLOT MEASURES

In the event that this measure and another measure or measures relating to the establishment of compensation and benefit levels of City officer and employees, or both, appear on the same City-wide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail over conflicting provisions in any other measure, and the conflicting provisions of the other measure shall be null and void. Conversely, in the event that this measure shall receive a lesser number of affirmative votes, the provisions of the other measure or measures shall prevail over conflicting provisions in this measure, and the conflicting provisions of this measure shall be null and void.

Section 6. PASSAGE OF THE PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Election.

Section 7. PUBLISHING THE ORDINANCE

The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 8. PUBLIC EXAMINATION

Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The City Clerk shall post notice of the specific dates that the examination period will run.

Section 9. PASSAGE OF THE ORDINANCE

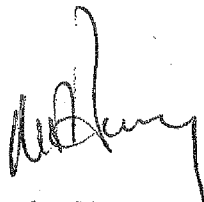
Pursuant to sections 275(c), 295(b), and 295(d) of the Charter of the City of San Diego, this ordinance relating to elections may be passed by the City Council on the date of introduction, which date shall be deemed the date of final passage, and is not subject to veto by the Mayor.

SDCERS

MEMORANDUM

DATE: May 18, 2011

TO: SDCERS Board of Administration

FROM: Mark Hovey, Chief Executive Officer 

SUBJECT: Cheiron Analysis of Pension Plan Closed to New Members

Cheiron has completed an analysis of the UAL and ARC impact of closing the defined benefit plan to new employees, who would instead be enrolled into a 401(k)/Social Security program. That analysis is attached for your review. It was not available in time to be presented to you in advance of this month's Board meeting, so I'll not be discussing this in any detail during the meeting.

As you'll notice on the attached schedules, closing the plan triggers an accelerated amortization of the UAL. In fact, it will cost the City some \$94 million more over the first six years compared to keeping the plan open. This is due to GASB requirements that require a more aggressive amortization of the UAL for closed plans.

You may recall that I previously explained this incremental cost issue in a letter to Councilmember Alvarez last March (the SDCERS Board and City Council were copied on that letter). In my letter, I explained that the City's ARC would increase by \$40 million over four years were the plan closed to new General Members. The current figure of \$90 million is higher because of two factors:

- The new analysis was expanded to include Fire and Lifeguard members, who were not included in the \$40 million analysis. Adding Fire and Lifeguard members increased the ARC impact from \$40 million to approximately \$54 million.
- The new analysis also includes the cost of the 401(k) program, which must be included in any apples-to-apples comparison of current versus proposed plans. The previous analysis only looked at the ARC costs of the pension plan without acknowledging that there would be new costs associated with the 401(k) program. Given that the proposed 401(k) program costs appear to be similar to what the City currently pays for new employees, Cheiron modeled this scenario by isolating just the UAL amortization change by closing the plan.

Let me know if you have any questions, and please refer any questions you receive on this topic to me.

Projected ARC

City General, Fire & Lifeguard Plan closed

	Closed Gen, Fire & Life	Closed Gen, Fire & Life	Open Plan	<u>ARC Difference</u>	
<i>pay inflation</i>	4%	4%	4%		
<i>amortization pattern</i>	0%	0%	4%		
<i>amortization period</i>	15	15	15		
<i>401(k) replacement</i>	No	Yes	N/A		
FY	ARC	ARC	ARC	No 401(k)	401(k)
2011	\$ 229.1	\$ 229.1	\$ 229.1	\$ -	\$ -
2012	\$ 231.2	\$ 231.2	\$ 231.2	\$ -	\$ -
2013	\$ 256.6	\$ 256.6	\$ 256.6	\$ -	\$ -
2014	\$ 301.8	\$ 304.9	\$ 276.2	\$ (25.6)	\$ (28.7)
2015	\$ 312.8	\$ 319.1	\$ 294.7	\$ (18.1)	\$ (24.4)
2016	\$ 322.2	\$ 331.9	\$ 312.5	\$ (9.6)	\$ (19.4)
2017	\$ 330.1	\$ 343.6	\$ 329.8	\$ (0.3)	\$ (13.7)
2018	\$ 337.0	\$ 354.3	\$ 346.8	\$ 9.8	\$ (7.5)
2019	\$ 343.2	\$ 364.5	\$ 363.8	\$ 20.6	\$ (0.7)
2020	\$ 348.9	\$ 374.2	\$ 380.8	\$ 31.9	\$ 6.6
2021	\$ 354.2	\$ 383.6	\$ 397.9	\$ 43.7	\$ 14.3
2022	\$ 359.0	\$ 392.8	\$ 415.4	\$ 56.3	\$ 22.5
2023	\$ 363.8	\$ 402.0	\$ 433.2	\$ 69.4	\$ 31.2
2024	\$ 368.6	\$ 411.1	\$ 451.4	\$ 82.9	\$ 40.3
2025	\$ 372.9	\$ 419.7	\$ 468.0	\$ 95.1	\$ 48.3

	Closed Gen, Fire & Life	Closed Gen, Fire & Life	Open Plan	<u>ARC Difference</u>	
<i>pay inflation</i>	4%	4%	4%		
<i>amortization pattern</i>	0%	0%	4%		
<i>amortization period</i>	15	15	15		
<i>401(k) replacement</i>	No	Yes	N/A		
FY	ARC	ARC	ARC	No 401(k)	401(k)
2026	\$ 339.6	\$ 390.6	\$ 362.1	\$ 22.5	\$ (28.4)
2027	\$ 341.9	\$ 397.3	\$ 372.8	\$ 30.9	\$ (24.4)
2028	\$ 339.0	\$ 398.8	\$ 366.8	\$ 27.8	\$ (32.0)
2029	\$ 109.8	\$ 174.1	\$ 186.7	\$ 76.9	\$ 12.6
2030	\$ 100.0	\$ 169.0	\$ 180.5	\$ 80.5	\$ 11.5
2031	\$ 92.2	\$ 165.9	\$ 176.6	\$ 84.4	\$ 10.7
2032	\$ 86.2	\$ 164.6	\$ 174.7	\$ 88.5	\$ 10.0
2033	\$ 81.6	\$ 164.8	\$ 174.4	\$ 92.8	\$ 9.6
2034	\$ 78.2	\$ 166.2	\$ 175.5	\$ 97.3	\$ 9.3
2035	\$ 75.8	\$ 168.7	\$ 177.8	\$ 102.0	\$ 9.1
2036	\$ 74.2	\$ 172.0	\$ 181.0	\$ 106.8	\$ 9.0
2037	\$ 73.3	\$ 176.1	\$ 185.1	\$ 111.8	\$ 9.0
2038	\$ 73.1	\$ 180.9	\$ 190.0	\$ 116.9	\$ 9.1
2039	\$ 73.4	\$ 186.4	\$ 195.6	\$ 122.2	\$ 9.2
2040	\$ 69.3	\$ 187.6	\$ 186.1	\$ 116.9	\$ (1.4)

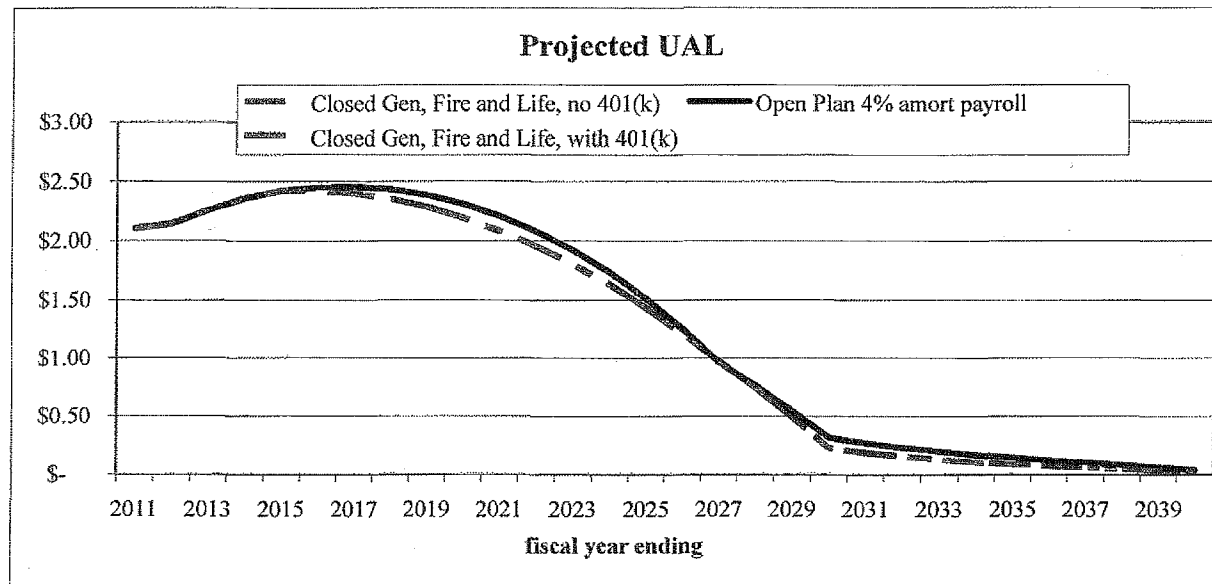
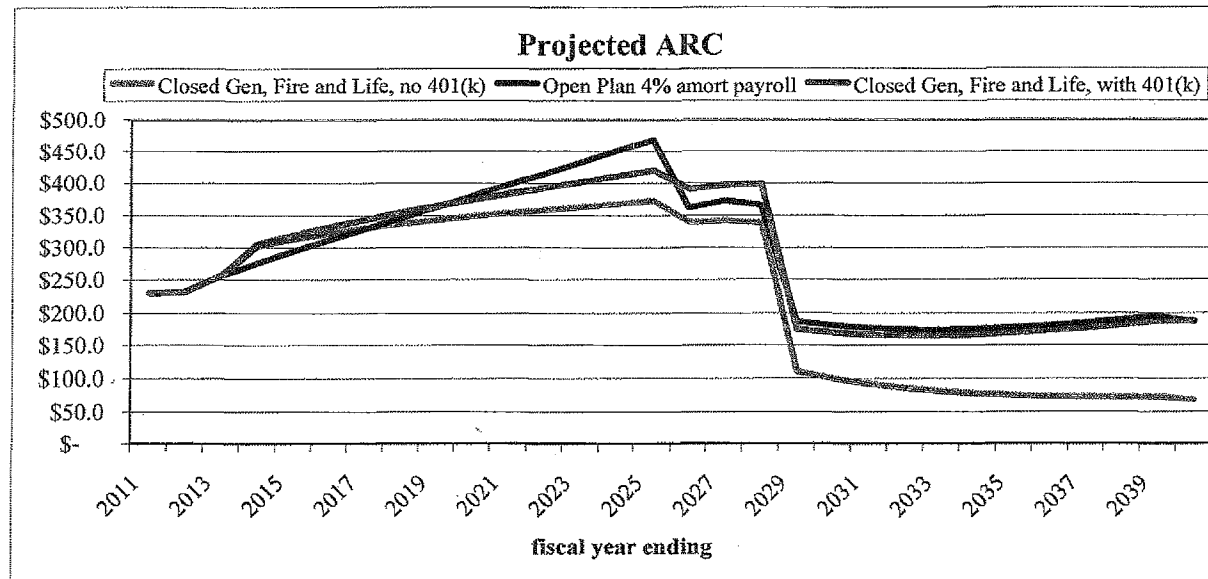
Projected UAL

City General, Fire & Lifeguard Plan closed

	Closed Gen, Fire & Life	Closed Gen, Fire & Life	Open Plan
<i>pay inflation</i>	4%	4%	4%
<i>amortization pattern</i>	0%	0%	4%
<i>amortization period</i>	15	15	15
<i>401(k) replacement</i>	No	Yes	N/A
FY	UAL	UAL	UAL
2011	\$ 2.11	\$ 2.11	\$ 2.11
2012	\$ 2.15	\$ 2.15	\$ 2.15
2013	\$ 2.26	\$ 2.26	\$ 2.26
2014	\$ 2.36	\$ 2.36	\$ 2.36
2015	\$ 2.42	\$ 2.42	\$ 2.42
2016	\$ 2.42	\$ 2.42	\$ 2.45
2017	\$ 2.40	\$ 2.40	\$ 2.46
2018	\$ 2.35	\$ 2.35	\$ 2.43
2019	\$ 2.28	\$ 2.28	\$ 2.38
2020	\$ 2.19	\$ 2.19	\$ 2.31
2021	\$ 2.08	\$ 2.08	\$ 2.21
2022	\$ 1.94	\$ 1.94	\$ 2.08
2023	\$ 1.79	\$ 1.79	\$ 1.92
2024	\$ 1.62	\$ 1.62	\$ 1.73
2025	\$ 1.42	\$ 1.42	\$ 1.51

	Closed Gen, Fire & Life	Closed Gen, Fire & Life	Open Plan
<i>pay inflation</i>	4%	4%	4%
<i>amortization pattern</i>	0%	0%	4%
<i>amortization period</i>	15	15	15
<i>401(k) replacement</i>	No	Yes	N/A
FY	UAL	UAL	UAL
2026	\$ 1.21	\$ 1.21	\$ 1.25
2027	\$ 0.96	\$ 0.96	\$ 0.96
2028	\$ 0.74	\$ 0.74	\$ 0.76
2029	\$ 0.49	\$ 0.49	\$ 0.54
2030	\$ 0.23	\$ 0.23	\$ 0.32
2031	\$ 0.19	\$ 0.19	\$ 0.27
2032	\$ 0.15	\$ 0.15	\$ 0.23
2033	\$ 0.13	\$ 0.13	\$ 0.20
2034	\$ 0.11	\$ 0.11	\$ 0.17
2035	\$ 0.09	\$ 0.09	\$ 0.14
2036	\$ 0.07	\$ 0.07	\$ 0.12
2037	\$ 0.06	\$ 0.06	\$ 0.10
2038	\$ 0.05	\$ 0.05	\$ 0.08
2039	\$ 0.04	\$ 0.04	\$ 0.06
2040	\$ 0.03	\$ 0.03	\$ 0.04

Graphs of Same Numbers



Reliance

In preparing these results, we relied without audit, on information (some oral and some written) supplied by the plan administrator. This information includes, but is not limited to, the plan provisions, employee data, and financial information. Except where otherwise noted, this analysis was based on the current assumptions and methods, financial data through 6/30/2010, and the 2010 membership data. Assumptions, methods and participant valuation data are outlined in the 2010 Actuarial Valuation Report. Actual results can be expected to differ to the extent that future experience differs from the actuarial assumptions used.

We hereby certify that, to the best of our knowledge, this report and its contents, which are work products of Cheiron, Inc. are complete and accurate and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as credentialed actuaries, we meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this report. This report does not address any contractual or legal issues. We are not attorneys and our firm does not provide any legal services or advice.

Gene Kalwarski