Unified Port of San Diego

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May 5, 2015

RECEIVED
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OFFICE OF COUNCILMEMBER
SHERRI LIGHTNER

Elaine Reagan
Deputy CEO, Compliance and Legal Operations
San Diego City Employees' Retirement System
401 West A Street, Suite 400
San Diego, CA 92101

Maureen Kantner
Chief of Policy for Council President Sherri Lightner
City of San Diego
City Administration Building
202 C Street, MS #10A
San Diego, CA 92101

Dear Ms. Reagan and Ms. Kantner:

The San Diego Unified Port District ("District") was recently notified that the City of San Diego has a City Charter Review Committee which is currently accepting suggestions and comments regarding proposed amendments to the City Charter.

The District, as a fiduciary, Plan Sponsor and Member of the San Diego City Employees' Retirement System ("SDCERS") Group Trust is subject to Article IX - The Retirement of Employees, and as such respectfully proposes the following amendments as follows:

Section 144

This section pertains to how the SDCERS Board of Administration is constituted. While the current City Charter language appears broad enough to allow District employees to run for elected positions, the District was informed by Ms. Reagan in her capacity as General Counsel of SDCERS that certain language in the City Charter prohibits the appointment of a District participant in the "Retirement System." Additionally, SDCERS Board Policies currently provide that only City employees may run for elected positions.

Due to the SDCERS Board's broad powers in administering the District's Plan, it is imperative that the District's employees and/or retirees have meaningful representation on the SDCERS Board, appointed by the Board of Port Commissioners. While this would be the District's preference, should the creation of an additional seat on the

Board for a District employee/retiree with all voting rights be legally infeasible, amendments to this section providing District employees and/or retirees the right to run for a position in the general election and/or to allow a retiree of the District to be appointed by the Mayor, based on the current process.

Section 149

This section enables the District (and other Plan Sponsors) to contract with SDCERS to participate in the Group Trust. This section states in part "[t]he Board may establish such rules and regulations as it may deem proper, within the terms of applicable Charter sections and ordinances, for the administration of the public agency's contract and benefits."

Based upon the current language of Section 149, while the right of the District as a Plan Sponsor to have its own independent plan is recognized, the SDCERS Board of Administration retains wide and as read, sole discretion to set rules and regulations applicable to the District's plan. While the District is provided advance notice of proposed changes to SDCERS Board of Administration policies, rules and regulations, and an opportunity to comment, given the absence of representation on the SDCERS Board many policies, rules and regulations are proposed and often implemented by the SDCERS Board which do not fully consider the District's interests and the basic differences between the District and other Plan Sponsors. Such an amendment would also codify the "meet and consult" provision already present in several sections of the Group Trust document.

Additionally, the reference in Section 149 to "ordinances" is troubling because such ordinances are promulgated and subject to approval by the San Diego City Council, not the District's Board of Port Commissioners, and again, are often contemplated and enacted to respond to issues facing employees and retirees of the City of San Diego. "One size" often does not fit all.

Therefore, in addition to establishing a seat on the SDCERS Board for a District employee and/or retiree or alternatively amending the City Charter to clearly and unambiguously allow a District employee or retiree to run for a seat on the SDCERS Board in the general election or through appointment by the District's Board of Port Commissioners, the District requests that Section 149 be amended so any SDCERS Board policies, rules or regulations affecting the District would be subject to consulting in good faith with the District prior to their enactment.

Based upon the above requests, the District would be happy to draft and submit to the City Charter Committee proposed language to effect these amendments to Article IX, Sections 144 and 149 for your timely review.

As a Plan Sponsor, the District works well with SDCERS staff on the myriad issues involved in the administration of a public pension plan and sincerely appreciates the attention and support we receive. We look forward to working collaboratively with you on these matters and look forward to meeting with you, if required, for further discussion.

Please feel free to contact me should you have any questions or to schedule a meeting to discuss the proposed amendments. I can be reached at (619) 686-6509.

Best Regards,

KAREN G. PORTEOUS
Executive Vice President, Administration
San Diego Unified Port District