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9/25

RESOLUTION NUMBER R- 303037

DATE OF FINAL PASSAGE OCT 12 2007

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE PARTICIPATION AND ADMINISTRATION AGREEMENTS OF THE CITY OF SAN DIEGO, THE SAN DIEGO UNIFIED PORT DISTRICT AND THE SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY TO PARTICIPATE IN THE SDCERS GROUP TRUST

WHEREAS, the San Diego City Employees' Retirement System [SDCERS] was created by ordinance pursuant to Section 141 of the Charter for the City of San Diego [Charter]; and

WHEREAS, under Charter section 144, the SDCERS Board of Administration [Board] has control of the administration and investment of the SDCERS Trust Fund [Trust Fund], and sole authority to determine the rights to benefits under SDCERS; and

WHEREAS, under Charter section 145, all funds contributed to SDCERS by the City are held in the Trust Fund and may be used only to pay benefits consistent with, and to carry out the provisions of, Article IX, and no payments may be made from the Trust Fund unless ordered by the Board; and

WHEREAS, Charter section 145 prohibits the merging of funds in the Trust Fund with other funds of the City; and

WHEREAS, Charter section 149 allows public agencies, in addition to the City of San Diego [City], to participate in the Trust Fund by contract with the Board, after the San Diego City Council [Council] finds that the public agency is eligible to participate in the Trust Fund and approves the contract between the public agency and the Board; and

WHEREAS, Charter section 149 requires a public agency that contracts with the Board to establish its own benefits and vesting schedule in a separate retirement plan; and

WHEREAS, Charter section 149 requires a contracting public agency and its employees to pay all costs associated with agency's participation in the Trust Fund and administration of the agency's benefits; and

WHEREAS, under Charter section 149, all funds contributed by a contracting public agency and its employees must be deposited into the Trust Fund to be held in trust and used only to pay benefits and necessary expenses related to administering the retirement benefits of that agency; and

WHEREAS, in 2002, the Council found that the San Diego Unified Port District [Port] and the San Diego County Regional Airport Authority [Airport Authority] were eligible under City Charter section 149 to participate in the Trust Fund and to contract with SDCERS to provide the retirement benefits of their employees and retirees; and

WHEREAS, on January 7, 2003, the Council adopted Ordinance 0-191490, which enacted Division 18 of Chapter 11, Article 4 of the San Diego Municipal Code [SDMC] entitled "Contracting Public Agencies"; and

WHEREAS, SDMC section 24.1806, which is contained in Division 18, states that "no assets of any Public Agency's retirement plan may be used to pay the benefits or costs of administering any other retirement plan administered by the Board"; and

WHEREAS, the Board has been advised by tax counsel that in order to carry out the intent of Charter section 149 and SDMC section 24.1806 and prevent the use of any contracting agency's plan assets to pay the liabilities associated with another contracting agency's plan, it would be prudent to establish a Group Trust, within which SDCERS would administer each public agency's plan as a separate trust; and

WHEREAS, on March 16, 2007, the Board unanimously approved a "Declaration of Trust: SDCERS Group Trust," establishing a SDCERS Group Trust effective July 1, 2007, and

WHEREAS, on March 16, 2007, the Board also unanimously approved the three attached Participation and Administration Agreements between SDCERS and the City, the Unified Port District and the Airport Authority, respectively; and

WHEREAS, on April 10, 2007, the Board of Port Commissioners unanimously approved the attached Participation and Administration Agreement between SDCERS and the Port; and

WHEREAS, on May 3, 2007, the Airport Authority's Board unanimously approved the attached Participation and Administration Agreement between SDCERS and the Airport Authority; and

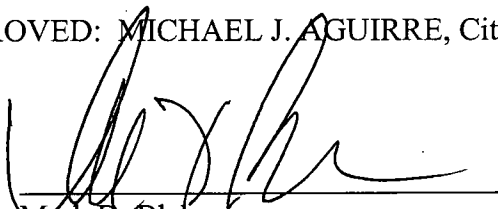
WHEREAS, the Participation and Administration Agreements between SDCERS and each contracting public agency must be approved by the Council by Resolution pursuant to Charter section 149 and SDMC section 24.1802(i); NOW, THEREFORE,

BE IT RESOLVED, that City Council approves the attached Participation and Administration Agreement between SDCERS and the Unified Port District.

BE IT FURTHER RESOLVED, that City Council approves the attached Participation and Administration Agreement between SDCERS and the Airport Authority.

BE IT FURTHER RESOLVED, that City Council approves the attached Participation and Administration Agreement between SDCERS and the City of San Diego; provided however that the Mayor or his designee shall not be authorized to execute the City's Participation and Administration Agreement until the City shall have approved the valuation of assets to be attributed to the City in the SDCERS Trust Fund, and that the Independent Budget Analyst shall have reported to the Council regarding the progress made with respect to the issues identified in the letter of Foley and Larnder LLP, dated as of September 24, 2007.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Mark D. Blake
Chief Deputy City Attorney

MDB:jdf
09/27/07
Or.Dept:City Attorney
R-2008-280

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 25 2007.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Please note that the Mayor did not sign this resolution within the specified time limit. (See San Diego City Charter Section 280)