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NEWS RELEASE

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September 28, 2011

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CITY PREVAILS IN LATEST PENSION APPEAL

San Diego, CA: The City of San Diego has prevailed in another “presidential leave” ruling. Three former presidents of the San Diego Police Officers Association (SDPOA) were not entitled to accrue City pension benefits and utilize their union chief salaries while on leave from the City to serve as union presidents, according to a ruling from the Court of Appeal, Fourth Appellate District handed down Friday, Sept. 23, 2011 (attached).

The SDPOA, Garry Collins, Harry Eastus and William Farrar had sued the City and the San Diego City Employees Retirement System (SDCERS) contending that the City had agreed to pay the higher pensions to labor union presidents. But, the City argued that those agreements violated the City Charter and no “estoppel” could be used to circumvent the Charter. The appellate court upheld the City’s legal position. The ruling is the latest in a series of wins by the City in pension cases where the courts have strictly enforced the City Charter.

The City had argued that decisions in 2002 and 2003 to allow both employee pay and union pay in the calculation of benefits were void because the City Charter decrees that benefits can only be granted through ordinance. Neither of those decisions was made through ordinances.

“Through this and other recent decisions, both trial judges and appellate justices have been consistent in enforcing the terms of the San Diego City Charter on pension matters,” said City Attorney Jan Goldsmith. “The message is clear that our City Charter must be followed.”

The City also argued that the IRS had determined that the 2002 and 2003 decisions were unlawful. In a settlement with the IRS, the City agreed to return all pension contributions made by Collins, Eastus and Farrar during their terms with the SDPOA.

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