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NEWS RELEASE

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COURT OF APPEAL TAKES FIRST STEP IN DECIDING WHETHER TO REVIEW PENSION CASE RULING

San Diego, CA: The Fourth District Court of Appeal has taken the first step in determining whether it will review Superior Court Judge Jeffrey B. Barton's ruling in which he denied the Motion for Summary Judgment filed by City Attorney Michael Aguirre to void pension benefits that were illegally created by the City Council in 1996 and 2002. The appellate court has asked for further briefing as it considers a Writ filed by the City of San Diego. The Motion for Summary Judgment seeks a ruling that the pension benefits are void because they were created in violation of California's conflict-of-interest laws.

"While this is not an unprecedented action by the court, it certainly is not routine for the Court of Appeal to ask for more briefs in response to a Writ," said City Attorney Michael Aguirre.

The Court of Appeal is requesting all other parties to file a response before August 28, 2006: San Diego City Employees' Retirement System; San Diego Municipal Employees Association; Local 127 American Federation of State County and Municipal Employees AFL-CIO; San Diego City Firefighters Local 145; and Plaintiff Chuck Abdelnour.

On July 28, 2006, the City filed a peremptory writ of mandate with the Court of Appeal, after Judge Barton ruled July 10 that there were disputed facts regarding allegations that the City's massive pension debt was unlawfully contracted by City Officials.

The following court action was sought based on violations of California Government Code Section 1090's conflict of interest laws; the California Constitution Article XVI, section 18, which requires a City to seek approval of voters before creating certain financial liabilities; and the San Diego City Charter's section 99 Liability Limit Law, which establishes the "pay as you go" principle as a cardinal rule of municipal finance:

- A. Rescind new pension benefits that were granted under the 1996 Manager's Proposal I, which include an increase in the retirement factor used to determine retirement benefits; purchase of service credits up to five years which were purchased below market value; and the Deferred Retirement Option Plan (DROP) that allowed a member to "retire" from the City and begin earning his or her retirement benefits while remaining employed by the City.

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- B. Rescind new pension benefits that were granted under the 2002 Manager's Proposal II, which increased pension benefits without a funding source; and created the so-called "Presidential Benefit" whereby Presidents of the City's four recognized labor unions could have their Union Presidents earnings counted as though they were City salaries for the purposes of retirement.

A jury trial is set for October 2006.

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