



DENNIS J. HERRERA  
City Attorney

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June 14, 2010

Honorable Presiding Judge McBride  
Civil Grand Jury  
Superior Court of California, County of San Francisco  
400 McAllister Street, Dept. 206  
San Francisco, CA 94102

Re: *Civil Grand Jury Letter Dated June 8, 2010 Requesting Advice Regarding the City's Retirement System*

Dear Judge McBride:

I write in response to Craig Weber's letter dated June 8, 2010 requesting a City Attorney opinion about the cost sharing provisions of Charter section A8.595.11(e), which the voters adopted as Proposition H in November 2002. Mr. Weber made the request in his capacity as a committee chairperson of the San Francisco Civil Grand Jury. Mr. Weber is also the official proponent of a potential ballot measure addressing the very same issues that the Civil Grand Jury is investigating, and he is the treasurer of a political committee that he formed to support that ballot measure. While this Office remains committed to assisting the Civil Grand Jury in performing its state-mandated function to investigate and report on City government operations, I have serious concerns in this particular instance that Mr. Weber's dual roles create a conflict of interest, or at least the appearance of a conflict of interest, which could undermine the integrity of any Civil Grand Jury investigation into these issues.

#### Background

Mr. Weber contacted my Office on March 24, 2010 seeking advice regarding whether his service as a grand juror would preclude him from becoming a proponent of an initiative relating to the Retirement System. We advised Mr. Weber that no law precluded his becoming a proponent of a Charter amendment petition but that his role as a proponent might require him to recuse himself from participating in certain Civil Grand Jury matters to the extent they touched on the same issues as the subject of the initiative measure. We reminded him that the two activities would have to be kept separate, and he could not use the resources or the authority of the Civil Grand Jury to promote the ballot measure.

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On April 20, 2010, Mr. Weber filed with the San Francisco Department of Elections a notice of intent to circulate a petition proposing amendments to the San Francisco Charter. The measure would amend the Charter to require City employees to contribute more than current law requires to fund their retiree pension and medical costs (the "Retirement Initiative"). Mr. Weber is one of two official proponents of the Retirement Initiative and is the treasurer of a registered political committee whose primary purpose is to support the Retirement Initiative. As required by California Elections Code section 9203, this Office drafted a title and summary for the Retirement Initiative, and we understand that the measure's proponents are currently circulating a petition to place it on the November 2010 ballot.

In May 2010, Mr. Weber and other members of the Civil Grand Jury met with staff at the Retirement System on several occasions and with the Deputy City Attorney in my Office assigned to advise the Retirement System. During the meeting with our deputy, Mr. Weber presented written questions relating to the City's interpretation and implementation of Charter sections A8.595-11(d) and (e) as well as a range of other matters. Mr. Weber sent an additional letter to me on June 8, 2010 asking similar questions about Charter section A8.595-11(e). The questions that Mr. Weber asks in his June 8 letter seek confidential attorney-client privileged advice and relate directly to the proposed Retirement Initiative. For instance, in the findings, section 1 of the Retirement Initiative, says:

In 2002, voters approved a Charter Amendment which provided enhanced benefits for uniformed ranks of police and fire. The Amendment allowed police and fire employees to receive 90% of their highest year's compensation if they retire at age 55 with 30 years of service, *provided that* any increased pension costs of such benefits be shared by the employees and that the City implement cost-sharing arrangements with unions representing uniformed members of the police and fire departments to effectuate a material reduction of the employer contribution, subject to certain limits.

By this amendment, the voters find and declare that the City has failed to achieve a material reduction of the cost impact of employer contributions on the City's general fund as required by the 2002 Charter Amendment.

(emphasis added).

After learning that Mr. Weber was the proponent of the Retirement Initiative, my Office contacted the Chair of the Grand Jury and advised her of our concern regarding Mr. Weber's involvement in that investigation. She arranged a conference call between you, her and my Office. I understand that at that time, and before the most recent letter Mr. Weber sent to me, you informed my Office that you were not then convinced that Mr. Weber's involvement presented a conflict of interest.

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### Legal Analysis

In light of Mr. Weber's position in the campaign for the Retirement Initiative, his role in this Civil Grand Jury investigation raises concerns under the common law prohibition on conflicts of interest and the prohibition on using public resources for political activities.

First, the common law doctrine against conflicts of interest may prohibit Mr. Weber from participating in this investigation. The grand jury is a judicial body and grand jurors are officers of the court. *See Irwin v. Murphy* (1933) 129 Cal. App. 713; *accord* 66 Ops. Cal. Atty. Gen. 85 (1983); 81 Ops. Cal. Atty. Gen. 310, 311 (1998) (an officer is generally a person who exercises a portion of the sovereignty of the state). As officers of the state courts, grand jurors owe their duty of loyalty to the people of the State of California and are subject to the common law doctrine against conflicts of interests. The Court of Appeal summarized the doctrine in *Clark v. Hermosa Beach* (1996) 48 Cal. App. 4th 1152, 1170-1171:

A public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal, and diligence and primarily for the benefit of the public. . . . Actual injury is not the principle the law proceeds on. Fidelity in the agent is what is aimed at, and as a means of securing it the law will not permit him to place himself in a position in which he may be tempted by his own private interests to disregard those of his principal. . . . The common law doctrine against conflicts of interest . . . prohibits public officials from placing themselves in a position where their private, personal interests may conflict with their official duties.

(citations and quotations omitted). *See also* 40 Ops. Cal. Atty. Gen. 210, 212 (1962) ("Fidelity in the public officer must be maintained, and the law does not permit a public officer to place himself in a position in which he might be tempted by his own private interest to disregard the interests of the public.").

Here, there is a significant risk that Mr. Weber's loyalties are divided between his role as a member of the Civil Grand Jury and his role in the campaign to support the Retirement Initiative. As the official proponent of the Retirement Initiative, Mr. Weber is personally responsible for the effort to place the measure on the ballot. Among other duties, Mr. Weber must ensure that all petition circulators receive instructions regarding the requirements of the Elections Code. *See* Cal. Elec. Code § 9607. After completing signature collection, only the proponent or an authorized agent of the proponent may submit those signatures to the Department of Elections. *See id.* § 9265. And the proponent has the opportunity to submit the official argument in favor of the measure in the Voter Information Pamphlet. S.F. Mun. Elec. Code § 545.

Also, as treasurer of the committee formed to support the Retirement Initiative, Mr. Weber is responsible for authorizing all the committee's spending and approving the receipt of all contributions to the committee. Cal. Gov't Code § 84100. And he is responsible for

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maintaining detailed records regarding the committee and for verifying the accuracy of all required campaign finance disclosures. Cal. Gov't Code § 84101; C.C.R. § 18427. In short, he has a significant official role both in the circulation of the petition and the effort to raise funds to support the measure.

Because of Mr. Weber's official involvement in the campaign, his inquiries on behalf of the Civil Grand Jury are cause for concern. Mr. Weber's inquiries to the Retirement System and to my Office focus on the same issues that the Retirement Initiative addresses. Indeed, as illustrated above, Mr. Weber's proposed initiative includes an express finding that the City has violated Charter section A8.595-11(e). And Mr. Weber's questions as set forth in his June 8<sup>th</sup> letter to me demonstrate that he already has formulated his own interpretation of this Charter provision, consistent with the express finding in the Retirement Initiative mentioned above. For instance, he asks for an explanation about why the San Francisco Retirement System Board has ignored enforcement of section A8.595-11(e) and what legal remedy this Office will seek to address the lack of compliance.

Statements in the notice of intent for which Mr. Weber is responsible make it clear that Mr. Weber has already decided that a problem exists, what that problem is, and what the solution is. But, a grand juror has a duty to be open-minded about his or her investigations, to assess whether a problem really exists, to decide the extent to which the Civil Grand Jury is going to recommend responses, and to evaluate any number of potential solutions.

Mr. Weber's involvement in the Retirement Initiative and fundraising campaign creates at least the appearance of a conflict of interest, namely that he will consciously or unconsciously shape the investigation and report to support and be consistent with the ballot measure to which he is already committed and with which he is publicly identified. These appearances could undermine the credibility of the report and further reinforce the likelihood that his involvement violates the common law rule. Such appearances are particularly harmful for the Civil Grand Jury because it lacks specific enforcement powers. Therefore, the weight of the Grand Jury's conclusions depends largely on its reputation and credibility.

Second, even if the common law did not prohibit Mr. Weber's actions on behalf of the Grand Jury, we are concerned that his activities could run afoul of the spirit, if not the letter, of State laws regarding political activities. State law prohibits public officers from using public resources for campaign activity. *See, e.g.,* Cal. Penal Code § 424; Cal. Gov't Code § 8314; *Stanson v. Mott* (1970) 17 Cal.3d 206. Here, the content and tenor of Mr. Weber's communications with the City suggest that the purpose of his questions may be to advance the Retirement Initiative. Grand jurors must maintain the confidentiality of materials they obtain during their investigation. *See* Cal. Penal Code § 924.1 (making willful disclosure of evidence adduced before grand jury a misdemeanor); Cal. Penal Code § 924.2 (prohibiting disclosure of information about deliberations and discussions). We have no reason to conclude that Mr. Weber intends to disclose or make unlawful use the information and advice he obtains as a grand juror. Nevertheless it would be difficult to segregate the information he gains as a grand juror from the information he uses for political purposes. Therefore, a court could find that his

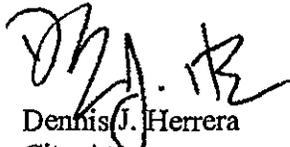
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role in the ballot measure campaign raises such serious questions about the improper use of Civil Grand Jury resources to serve political ends as to warrant his recusal from involvement in the investigation of the Retirement System.

Finally, the longstanding policy and practice of this Office has been to decline to give legal advice to our City clients about a local measure that will appear on the ballot. The premise of this policy is twofold. First, we do not want to have our legal opinion influence the outcome of the election or be used for campaign purposes. Second, my Office may have to defend the legality of the measure in court if the voters adopt it, and we do not want inadvertently to undermine the legal interests of the City by issuing an objective opinion evaluating legal issues associated with the measure. This policy applies not only to measures that the Mayor or the Board of Supervisors place on the ballot but also to voter initiative measures that receive a title and summary, such as the Retirement Initiative.

For all these reasons, we decline to answer the questions that Mr. Weber has submitted to our office. We also ask that you screen Mr. Weber from any involvement in the Civil Grand Jury's examination into these areas.

Very truly yours,



Dennis J. Herrera  
City Attorney

cc Leslie Koelsch, Chairperson, Civil Grand Jury  
Craig Weber, Committee Chairperson, Civil Grand Jury

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
**GRAND JURY**

OFFICE  
400 MCALLISTER ST., ROOM 008  
SAN FRANCISCO, CA 94102  
TELEPHONE (415) 551-3605

June 8, 2010

Mr. Dennis Herrera  
City Attorney  
Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682

Dear Mr. Herrera:

The San Francisco Civil Grand Jury (SFCGJ) requests your assistance in obtaining information related to the Jury's investigation of the City and County of San Francisco's employee retirement system.

We would like to discuss the following with you:

1. Prop H – request for the City Attorney's legal opinion as to the City's interpretation of Section A8.595.11(e).
2. Provide the Grand Jury with the dates and times that the city and the police and firefighters unions met to confer and to implement a cost-sharing arrangement between the city and the safety unions, as required under section A8.595.11(e) of the city charter.
3. Explanation as to why the city attorney who is legal counsel for the SFERS Board has ignored enforcement of section A8.595-11(e) of the city charter.
4. City Attorney, general counsel to SFERS, opinion regarding the fiduciary duties of the SFERS Board to comply with section A8.595-11(e).
5. City Attorney, general counsel to SFERS, opinion regarding SFERS duty to revise the safety employee contribution rate to comply with section A8.595-11(e).
6. What legal remedy will the City Attorney seek to address the lack of compliance with city charter section A8.595-11(e)?

On behalf of the members of the San Francisco Civil Grand Jury, we want to thank you and your staff in advance for your cooperation. Members of the committee would like to meet with you. We will call your office to schedule an interview.

If you have any questions, please feel free to contact me.

Sincerely,

Craig Weber,  
Committee Chairperson  
Telephone: (415) 641-9900  
Email: [cpatax@sbcglobal.net](mailto:cpatax@sbcglobal.net)  
Fax: (415) 538.3409

Robyn Wells (415) 585.1225

## **EMPLOYEE CONTRIBUTIONS TO RETIREMENT AND HEALTH PLANS**

The City's Retirement System and Health Service System provide benefits to City employees and are funded in part by employee contributions.

The Charter establishes retirement benefits for City, School District, Community College District and Superior Court employees. The Charter sets the amount employees must contribute to the Retirement System, and employers pay an additional amount to keep the system funded. Currently, almost all participating employees contribute 7.5% of their compensation to the Retirement System. Under collective bargaining agreements, employers sometimes agree to pay the Charter-required "employee contribution" to the Retirement System.

The Charter requires a ten-county survey to determine the City's and other participating employers' contribution per employee to the Health Service System. Under collective bargaining agreements, the City has agreed to pay additional costs above the ten-county survey amount for employee medical, vision and dental coverage.

The proposed Charter amendment would increase the required employee contributions to the City's Retirement System as follows:

- Active uniformed members of the police and fire departments would contribute up to 10% of their compensation to fund retirement benefits. The increase in employee contributions would not exceed the amount needed to pay for added costs resulting from a 2002 ballot measure that increased police and fire retirement benefits.
- All other employees in the City's Retirement System would contribute 9.0% of their compensation to fund retirement benefits.
- The City could not agree to pay any portion of the employee contribution.

The proposed Charter amendment would limit the City's contribution to the Health Service System as follows:

- For medical plans, the City would pay only the amount that the ten-county survey requires. The City could not agree to pay any additional costs for employee coverage.
- For dependent health care coverage, the City could not agree to pay more than 50% of the cost of the lowest cost plan offered by the Health Services System for that level of coverage.
- For dental plans, the City could not agree to pay more than 75% of the cost of employee coverage and 50% of the cost of dependent coverage.

The proposed Charter amendment would become operative on January 1, 2011. Some provisions could become operative later, upon expiration of collective bargaining agreements with City unions.

As to arbitration over terms and conditions of City employment, the proposed Charter amendment would require the arbitrator to make findings about the costs to the City of pension, health and retiree health benefits and take those costs into account in deciding compensation.

If a court were to invalidate application of the proposed Charter amendment to any group of employees, then the proposed Charter amendment would prohibit an increase in the costs of bargained compensation for those employees for a period of five years. If the City or an arbitrator nevertheless granted an increase in wages or benefits for those

employees, then the proposed Charter amendment would require that this increase be subject to voter approval before becoming effective.

**WORD COUNT: 498 [Maximum: 500 words]**

DEPARTMENT OF ELECTIONS  
City and County of San Francisco



JOHN ARNTZ  
Director

April 21, 2010

Dennis Herrera  
CITY ATTORNEY  
1 Dr. Carlton B. Goodlett Place, Rm. 234  
San Francisco, CA 94102

Dear Mr. Herrera:

Enclosed for re-submittal are the following documents for a proposed initiative charter, which has been given the unofficial title of "Sustainable City Employees Benefits Reform Act":

1. request for City Attorney title and summary
2. text
3. notice of intent to circulate petition

Please prepare a title and summary by Thursday, May 6, 2010. Our internal reference number for this initiative is 10-03 C. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rachel Gosiengfiac".

Rachel Gosiengfiac  
Campaign Services Manager

enclosures

April 20, 2010

John Arntz  
Director  
San Francisco Department of Elections  
City Hall, Room #48  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

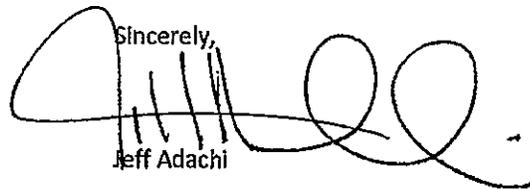
Dear Mr. Arntz:

Enclosed is the draft text of a proposed Charter Amendment to be submitted to the voters of the City and County of San Francisco. We request that a copy be forwarded to the City Attorney so that a ballot title and summary may be prepared.

Please send the title and summary to:

Jeff Adachi  
PO Box 77313  
San Francisco, CA 94107

If you have any questions, please call me at: (415) 810-6665.

Sincerely,  
  
Jeff Adachi

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2010 APR 21 AM 9:05  
DEPARTMENT OF ELECTIONS

**CHARTER AMENDMENT REQUIRING CITY EMPLOYEES TO CONTRIBUTE  
ADDITIONAL AMOUNTS TO FUND THEIR PENSIONS AND MEDICAL  
COSTS, TO PRESERVE VITAL CITY SERVICES AND TO SUSTAIN THE  
RETIREMENT AND HEALTH SERVICE SYSTEMS**

Note: Additions are *italics, Times New Roman, single underlined.*

Be it ordained by the People of the City and County of San Francisco that:

The People of the City and County of San Francisco hereby enact "The Sustainable City Employee Benefits Reform Act," to ensure that the City's retirement and health service systems are properly funded and that the City's annual costs are balanced with reasonable City employee contributions to their retirement and health plans.

**Section 1: FINDINGS**

The City's cost of pension fund contributions and health insurance for active and retired employees has increased by 85% over the past five years, from \$419 million in fiscal year 2004-2005 to a budgeted \$776 million for fiscal year 2009-2010. These costs come at a time when the City is facing substantial budget deficits. In 2010, the City faced a \$522 million budget shortfall, and is expected to face large deficits in coming years.

The City's cost of pension fund contributions and health insurance for active and retired employees is projected to exceed \$1.1 billion by fiscal year 2012-2013. These costs will significantly impair the City's ability to provide basic services to its residents such as police and fire services, street repair and cleaning, park and recreational facilities, and medical care for the indigent.

DEPARTMENT OF ELECTRICITY  
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At the same time, the City currently has an unfunded actuarially accrued liability for retiree health insurance reported at \$4 billion. The reported actual cost estimate for full funding of the liability was \$431 million for the year ending fiscal year 2008-2009, of which only \$120 million was actually paid in that year for premiums of current retirees. This means that the City's retiree health care liability grew by over \$300 million in that year, and is likely to grow by even larger amounts in the future.

The cost of the City's share of pension benefits for City employees is projected to rise from 5% of salary in fiscal year 2008-2009 to more than 19% of salary in fiscal year 2012-2013. Currently, City employees pay between 0 - 7.5% of their salaries into the pension fund. For fiscal year 2010-2011, the City contribution is 13.5% of wages, representing 64% of the total contributions when employees contribute the full 7.5% contribution. It is anticipated that by fiscal year 2012-2013, the City's contribution will further increase to a minimum of 72% of the contributions to the retirement fund.

In 2002, voters approved a Charter Amendment which provided enhanced benefits for uniformed ranks of police and fire. The Amendment allowed police and fire employees to receive 90% of their highest year's compensation if they retire at age 55 with 30 years of service, *provided that* any increased pension costs of such benefits be shared by the employees and that the City implement cost-sharing agreements with unions representing uniformed members of the police and fire departments to effectuate a material reduction of the employer contribution, subject to certain limits.

By this amendment, the voters find and declare that the City has failed to achieve a material reduction of the cost impact of employer contributions on the City's general fund as required by the 2002 Charter Amendment.

Further, equity requires police and fire employees to absorb the additional costs of providing retirement benefits.

In 2007, the voters enacted improvements in the City's retirement plan for miscellaneous employees that increased the City's cost of that plan by at least 3.5%. Although Charter section A8.525 authorizes City employees to pay up to 10% of salaries for pension benefits, miscellaneous employees pay between 0-7.5% of salary toward their own retirement benefits.

By this amendment, the voters find and declare that equity requires miscellaneous employees to absorb additional costs of providing retirement benefits.

These amendments are intended to strengthen the finances of the City and the retirement system to ensure their sustained ability to pay promised benefits upon retirement. These amendments do not to reduce the pension benefits paid to retirees, or promised to current employees upon retirement.

**Section 2.** The San Francisco City Charter is hereby amended by adding the following section:

A.8.490 EMPLOYEE CONTRIBUTIONS TO PENSION AND MEDICAL PLANS

(a) Notwithstanding any provision of this Charter, all active employees who are uniformed members of the police and fire departments shall contribute 10% of each payment of compensation from participating Retirement System employers to the Retirement System, to be credited to the individual account of the member.

(b) Notwithstanding any provision of this Charter, all active miscellaneous employees who are members of the Retirement System shall contribute 9% of each payment of compensation from participating Retirement System employers to the Retirement System to be credited to the individual account of the member.

(c) This section shall govern any memorandum of understanding (MOU) or collective bargaining agreement (CBA) between the City and County of San Francisco (City) and any employee organization representing actively employed members of the system reached after the November 2010 general election. The City may not pay or otherwise "pick up" any portion of the employee contribution to the Retirement System.

(d) The increase in pension contributions for uniformed ranks of police and fire departments from a current level of 7.5% shall not exceed the increase in cost (including amortization of increased actuarially accrued liability) resulting from the voters' enhancement of police and fire retirement benefits effective January 1, 2003. For the purpose of this paragraph, additional cost shall be calculated for uniformed police and fire employees separately from miscellaneous employees. The calculation shall include both "normal" costs and actuarially accrued liability.

(e) In addition, the voters declare that, with respect to employer contributions for employee medical care coverage, Charter sections A8.423, A8.428 (b)(2), and related

provisions concerning the "ten county survey" shall prevail over Charter sections A8.409 et seq. and A8.590 et seq., and that the employer contribution determined pursuant to section A8.423 shall constitute the sole contribution for medical care made by the City in the Health Service System for active employees who are members of the system. For dependents, in any MOU or CBA between the City and employee organizations representing members of the Health Service System reached after the November 2010 general election, or any arrangement with unrepresented officers or employees, the City is authorized to pay or otherwise "pick-up" no more than 50% of the cost at each level of dependent coverage. The maximum amount of coverage for dependents of active employees paid by the City in the Health Service System pursuant to this subsection shall be determined based upon the lowest cost plan offered by the Health Service System.

(f) In any MOU or CBA between the City and employee organizations representing City employees reached after the November 2010 general election, or any arrangement with unrepresented officers or employees, the City may contribute no more than 75% of the cost of employee dental coverage and 50% of dependent dental coverage.

(g) Except as specifically provided herein, this section shall become effective January 1, 2011. This section shall apply to all then current employee members of the Retirement and Health Service Systems, as well as to employees hired on or after passage; provided, however, that any adjustments to the medical plan rate charged to employees resulting from this provision shall be made in conjunction with a regularly scheduled open enrollment period. To the extent any provision of this section is contrary to the terms of a MOU or CBA executed on or before November 2, 2010 between a participating employer

and a recognized employee organization, any increased employee contribution to the retirement system or for medical care shall become effective for employees covered by such MOU or CBA immediately upon expiration of such MOU or CBA.

(h) In any arbitration involving employees of the City and County of San Francisco under Charter section A.8.409-4 or A8.590-5, the arbitrator shall be bound by the above provisions. In addition, the arbitrator shall make specific findings regarding the actual annual costs to the City of pension, health and retiree health benefits attributable to employees at issue for each year of the prior agreement and projected costs for each year of the successor agreement. In determining wages and other forms of compensation pursuant to this section, the arbitrator shall consider as increased compensation any increase in the cost of pension, health and retiree health contributions paid or projected to be paid by the City. Compliance with this provision shall be mandatory.

(i) It is the express intent of the voters that employers participating in the Health Service System and Retirement System, as well as active employees who are members of those systems, each pay an equitable share of pension and medical care costs. With respect to City employees, should a court of competent jurisdiction render a final judgment determining that any portion of this section cannot be enforced, then there shall be no increase in the cost of bargained compensation for a period of five years after the expiration of any memorandum of understanding in effect as of November 2, 2010 covering employees covered by such judgment. If, notwithstanding the voters' intent, an arbitrator awards an increase in wages or other economic benefits for employees under section A8.409-4 or A8.590-5, or the City is otherwise compelled to negotiate or arbitrate wage or benefit increases, such increases shall be presented to the voters for approval

before they may become effective, for a period of five years after the expiration of any memorandum of understanding in effect as of November 2, 2010 covering such employees.

**Section 3: Severability.** This Charter Amendment shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, or clause ("portion") of this Amendment is held to be invalid or unconstitutional by a final judgment of a court, such decision shall not affect the validity of the remaining portions of this Amendment. The voters hereby declare that this Amendment, and each portion of the Amendment, would have been adopted irrespective of whether any one or more portions of the Amendment are found invalid. If any portion of this Amendment is held invalid as applied to any person, circumstance, employee or category of employee, such invalidity shall not affect any application of this Amendment which can be given effect. If any portion of the Amendment is held invalid as to existing employees, it shall not affect its application to employees hired after the effective date of this measure. This Amendment shall be broadly construed to achieve its stated purposes. It is the intent of the voters that the provisions of this Amendment be interpreted or implemented in a manner that facilitates the purposes set forth herein.

**Section 4: Effective date.** Except as specifically set forth in the text, this Charter Amendment shall be effective January 1, 2011.

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City and County of San Francisco for the purpose of enacting "the Sustainable City Employee Benefits Reform Act," to ensure that the city's retirement and health service systems are properly funded and that the city's annual costs are balanced with city employee's contributions to their retirement and health plans. A statement of reasons of the proposed action as contemplated in the petition is as follows:

The City's cost of retiree pension fund contributions and health insurance for its employees has increased by \$419 million in 2004 to a budgeted \$776 million in 2009. These costs come at a time when the City is facing substantial budget deficits. In 2010, the City faced a \$522 million budget shortfall, and is expected to face large deficits in coming years.

The City's cost of pension fund contributions and health insurance for active and retired employees is projected to exceed \$1.4 billion by Fiscal Year 2012-2013. These costs will severely affect the city's ability to provide basic services to its residents.

At the same time, the City currently has an unfunded actuarial accrued liability for retiree health insurance reported at \$4 billion. The reported actual cost estimate for full funding of the liability was \$431 million for the year ending 2009, of which only \$120 million was actually paid in that year for premiums of current retirees. This means that the City's retiree health care liability grew by over \$300 million in that year, and is likely to grow by even larger amounts in the future.

The cost of the City's share of pension benefits for city employees is projected to rise from 5% of salary in 2008 to more than 19% of salary in 2013. Currently, city employees pay between 0-7.5% of their salaries into the pension fund.

By this amendment, the voters find and declare that it is appropriate for city employees to absorb additional costs of providing retirement benefits.

This Charter Amendment would increase employee contribution rates to 9-10% for all existing and future employees.

The Charter Amendment would also provide that in any agreement between the employers participating in the Health Service System and employee organizations representing members of the system reached after the November 2010 election, the participating employee is authorized to pay or otherwise "pick-up" no more than 50% of the cost at each level of dependent coverage under the lowest cost medical plan offered by the Health Service System.

These provisions shall become effective January 1, 2011, and shall apply to all then current employees of the City, as well as to employees hired on or after passage.

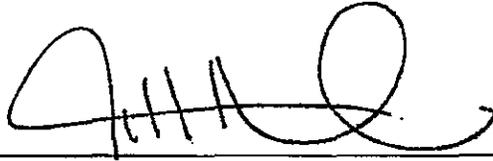
JEFF ADACHI  
JEFF ADACHI

Craig Weber

[Signature]  
SIGNATURE  
[Signature]  
April 19, 2010  
April 19, 2010

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DEPARTMENT OF ELECTIONS

I, Jeff Adachi, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

A handwritten signature in black ink, appearing to read 'Jeff Adachi', is written over a horizontal line.

Dated this 20<sup>th</sup> day of April, 2010

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2010 APR 21 AM 9:05  
DEPARTMENT OF ELECTIONS