



## THE CITY OF SAN DIEGO

April 10, 2011

Mark A. Hovey, Chief Executive Officer  
SDCERS  
401 West A Street, Suite 400  
San Diego, CA 92101

Dear Mark:

This letter supersedes my March 7, 2011 letter to you regarding the same subject and is in response to your February 3, 2011 letter to Mayor Sanders regarding corrections to Purchase of Service Credits (PSC) for employees currently in DROP and impacted by the appellate court's ruling in *City of San Diego v. San Diego City Employees Retirement System*, 186 Cal.App.4<sup>th</sup> 69 (2010). In your letter you ask the Mayor to "advise SDCERS whether or not the City will allow approximately 220 Active DROP participants the option to rescind or reform their DROP contracts by converting some or all of their DROP service back to active Creditable Service, in order to provide these employees the full range of available PSC correction options."

You cite as authority for this request a January 25, 2011 memorandum from the City Attorney that states "...for those City employees who entered DROP after November 20, 2007 and who are currently still in DROP, SDCERS has discretion, in limited circumstances constrained by case law, to allow the employee to rescind or reform his or her DROP contract. SDCERS does not, however, have the authority to allow an employee to work outside of their DROP period." The City Attorney further states "that the decision to allow an employee to work outside of DROP rests with the executive branch of City government" or, in other words, this Office.

After further consideration, this Office authorizes SDCERS to void any current DROP contract and/or to allow any employee to work outside of their DROP period in order to for an impacted employee to rectify his or her PSC situation. NO DROP CONTRACT shall be modified or cancelled for any DROP employee not impacted by the above referenced court decision.

Hopefully this provides you with clear direction from this Office. Please feel free to contact me should you have any further questions or require further clarification.

Sincerely,

Jay M. Goldstone  
Chief Operating Officer