SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM
STAFF REPORT
COMPLIANCE DIVISION

DATE: February 5, 2007

TO: The Board of Administration

FROM: Roxanne Story Parks, Chief Compliance Officer

SUBJECT: Recommended Approval of Preservation of Benefit Plans and Trusts for the City, Port and Airport Authority

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Recommendation:

Approve the following documents, establishing Preservation of Benefit Plans and Trusts for our three plan sponsors:

1. Preservation of Benefit Plan and Trust for the City of San Diego.

2. Preservation of Benefit Plan and Trust for the San Diego Unified Port District.

3. Preservation of Benefit Plan and Trust for the San Diego County Regional Airport Authority.

The Board should take a separate vote to establish each Preservation of Benefit Plan and Trust.

Executive Summary:

In order to remain a tax-qualified plan, SDCERS must, among other things, comply with the annual benefit limit in Internal Revenue Code (IRC) section 415(b). Where a member or beneficiary's benefits due under the Plan will exceed this annual limit, the benefits in excess of the limit cannot be paid from the SDCERS Trust Fund. They may, however, be paid from a Qualified Excess Benefit Arrangement (QEBA) under IRC section 415(m).

The authorization for a "Preservation of Benefit Plan," which is intended to operate as a QEBA, exists in the plans for all three plan sponsors. In the City's plan, it is in Chapter 2, Article 4, Division 16 of the Municipal Code. The authorization for a QEBA for the Port and Airport Authority appears in Division 14 of their plans.

On November 3, 2006, SDCERS filed a request for a Private Letter Ruling, seeking IRS approval of the Preservation of Benefit Plan and Trust prepared for each plan sponsor. Drafts of the POB Plans were provided to the City, Port and Airport Authority for their review. In addition, Bob Wilson and I have met with all three plan sponsors to explain a how their POB Plans will operate. The final documents are now before the SDCERS Board for approval.

The SDCERS Board will be the sole administrator of the POB Plans. Under the terms of the POB plan documents, each year, the Board will determine the amount each plan sponsor must pay into its POB Plan for that calendar year. This amount will include the: (1) projected excess benefits that will be due to the existing payees for that calendar year, (2) projected excess benefits for the anticipated retirements in that year, and (3) necessary and reasonable expense of administering the employer's POB Plan. On or before February 28 of each year, the Retirement Administrator will provide an estimate of the necessary contribution to each plan sponsor.

Any contributions not used to pay benefits or expenses in a given year will be used to pay benefits or expenses in a later year.