ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Randy G. Adams (Respondent) was employed by Respondent City of Bell (City) as the Chief of Police commencing July 27, 2009. As the Chief of Police, Respondent was paid a salary by the City of approximately $38,000 per month. Respondent's last paid day of employment with the City was July 31, 2010. Respondent's previous highest salary was approximately $19,574.00 per month as the Chief of Police for the City of Glendale. Respondent submitted an application for service retirement dated December 6, 2010, requesting that the salary paid by the City be used as and for his final compensation for the purpose of calculating his retirement benefit.

CalPERS reviewed Respondent's request and determined that, among other reasons, the fact that the salary paid by the City was not paid pursuant to a publicly available pay schedule, the highest compensation it could use for the calculation of Respondent's retirement benefit is the highest average 12 consecutive months of compensation paid by the City of Glendale. On February 15, 2011, Respondent appealed CalPERS determination.

At a hearing held on September 19 and 20, 2012, Respondent was present and represented by legal counsel, as was the City of Bell and CalPERS. Evidence, both documentary and testimonial, was submitted and received by the Administrative Law Judge (ALJ).

The California Public Employees' Retirement Law (PERL) requires that compensation must be paid "pursuant to a publicly available pay schedule," in order to be used for calculating a member's retirement benefit. The ALJ concluded that the evidence introduced at the hearing did not establish that the employment agreement between Respondent and the City constituted a "publicly available pay schedule." Specifically, the ALJ held that the employment agreement did not conform with the legislative intent that a "publicly available pay schedule" reflect a normal payrate or rate of pay, or base pay that was "stable and predictable among all members of a group or class" and "publicly noticed by the government body."

The ALJ further concluded there was a deliberate attempt to conceal from the public the details of Respondent's employment agreement.

The ALJ concluded that Respondent's appeal should be denied. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

December 12, 2012

WESLEY E. KENNEDY
Senior Staff Attorney