

1 titled Assistant Chief Administrative Officer.

2 III

3 Bell is a public agency contracting with CalPERS for retirement benefits for its
4 eligible employees. The provisions of respondent Bell's contract with CalPERS are
5 contained in the Public Employees' Retirement Law (the PERL). (Cal. Gov. Code §§
6 20000 et seq.)

7 IV

8 CalPERS is a defined benefit plan. Benefits for its members are funded by
9 member and employer contributions, and by interest and other earnings on those
10 contributions. The amount of a member's contributions is determined by applying a
11 fixed percentage to the member's compensation. A public agency's contribution is
12 determined by applying a rate to the payroll of the agency. Using certain actuarial
13 assumptions specified by law, the CalPERS Board of Administration sets the
14 employer contribution rate on an annual basis.

15 V

16 The amount of a member's service retirement allowance is calculated by
17 applying a percentage figure, based upon the member's age on the date of
18 retirement, to the member's years of service and the member's "final compensation."
19 In computing a member's retirement allowance, CalPERS staff may review the
20 salary reported by the employer for the member to ensure that only those items
21 allowed under the PERL will be included in the member's "final compensation" for
22 purposes of calculating the retirement allowance.

23 VI

24 Commencing July 1, 2003, Spaccia was paid pursuant to purported
25 employment agreements and addenda with Bell. Bell reported to CalPERS the
following as Spaccia's compensation during the following :

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Month/Yr	Percent Increase	Monthly Reported Payrate	Employer paid deferred comp.	Position Title/ Classification
Jul-03		\$ 8,525.83		Assistant to CAO Management
Jul-04	27.06%	\$10,833.33		Assistant to CAO Management
Jul-05	42.31%	\$15,416.70		Assistant to CAO Management
Jul-06	10.81%	\$17,083.41		Assistant to CAO Executive Management
Jul-06	2.54%	\$17,516.74		Assistant to CAO Executive Management
Dec-06			\$43,000.00	Assistant to CAO Executive Management
Jan -07			\$44,000.00	Assistant to CAO Executive Management
Jul-07	11.89%	\$19,600.01		Assistant to CAO Executive Management
Jan-08			\$45,000.00	Assistant to CAO Executive Management
Jul-08	8.50%	\$21,266.70		Assistant to CAO Executive Management
Sep-08	20.00%	\$25,520.04		Assistant CAO Executive Management
Jan-09			\$48,000.00	Assistant CAO Executive

				Management
Jul-09	12.00%	\$28,582.45		Assistant CAO
Jan-10			\$48,000.00	Assistant CAO Executive Management

In addition, on or about August 31, 2004, Bell purchased five (5) years of Additional Retirement Service Credit (ARSC) for the benefit of Spaccia. Bell directly paid a lump sum of \$71,085.39 as the cost for ARSC.

VII

On October 1, 2010, Spaccia submitted a request for service retirement pending determination of her application for Industrial Disability Retirement. Respondent application requests CalPERS to use the highest average consecutive months of compensation immediately preceding her retirement from Bell as final compensation for the purpose of calculating any retirement allowance.

VIII

The following provisions of the Government Code, which were in effect at all times pertinent to this appeal, are relevant to this matter:

Section 20120 provides:

The management and control of this system is vested in the board.

Section 20121 provides:

The board may make such rules as it deems proper.

Section 20122 provides:

Each member and each person retired is subject to this part and the rules adopted by the board.

Section 20123 provides:

Subject to this part and its rules, the board shall determine and may modify benefits for service and disability.

Section 20125 provides:

The board shall determine who are employees and is the sole judge of the

1 conditions under which persons may be admitted to and continue to receive
2 benefits under this system.

3 Section 20128 provides:

4 Notwithstanding any other provision of law, the board may require a
5 member or beneficiary to provide information it deems necessary to
6 determine this system's liability with respect to, and an individual's entitlement
7 to, benefits prescribed by this part.

8 Section 20151:

9 The board and its officers and employees shall discharge their duties with
10 respect to this system solely in the interest of the participants and
11 beneficiaries:

12 (a) For the exclusive purpose of both of the following:

13 (1) Providing benefits to members, retired members, and their survivors
14 and beneficiaries.

15 (2) Defraying reasonable expenses of administering this system.

16 (b) Minimizing the employers' costs of providing benefits under this part.

17 (c) By investing with the care, skill, prudence, and diligence under the
18 circumstances then prevailing that a prudent person acting in a like capacity
19 and familiar with those matters would use in the conduct of an enterprise of a
20 like character and with like aims.

21 Section 20160 provides in pertinent part:

22 (a) Subject to subdivisions (c) and (d), the board may, in its discretion and
23 upon any terms it deems just, correct the errors or omissions of any active or
24 retired member, or any beneficiary of an active or retired member, provided
25 that all of the following facts exist:

...

(b) Subject to subdivisions (c) and (d), the board shall correct all actions
taken as a result of errors or omissions of the university, any contracting
agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in
this section, shall terminate upon the expiration of obligations of this system
to the party seeking correction of the error or omission, as those obligations
are defined by Section 20164.

...

Reciprocity between CalPERS and other pension plans is governed by

Government Code sections 20351 which provides:

The provisions of this part extending rights to a member of this system, or
subjecting him or her to any limitation by reason of his or her membership in a
county retirement system, shall apply in like manner and under like conditions
to a member of this system by reason of his or her membership in any
retirement system established under Chapter 2 (commencing with Section
45300) of Division 5 of Title 4 with respect to which an ordinance complying
with Section 45310.5 has been filed with and accepted by the board or by
reason of his or her membership in a retirement system established by or
pursuant to the charter of a city or city and county or by any other public

1 agency of this state and that system, in the opinion of the board, provides a
2 similar modification of rights and benefits because of membership in this
3 system and with respect to which the governing body of the city, city and
4 county or public agency and the board have entered into agreement pursuant
5 to this section. An agreement under this section shall provide that the
6 governing body shall modify its retirement system to conform to any
7 amendments to this part affecting a member's right because of membership in
8 a county retirement system, and may contain other provisions consistent with
9 this section as the board deems appropriate. This section shall apply only to a
10 member whose termination and entry into employment resulting in a change
11 in membership from this system to the other system or from the other system
12 to this system occurred after the acceptance by the board or after the
13 effective date specified in the agreement. However, provisions relating to
14 computation of final compensation shall apply to any other member if the
15 provision would have applied had the termination and entry into employment
16 occurred after the acceptance or determination by the board.

8 Section 20353 provides:

9 Any public agency that has pursuant to the provisions of Section 20351
10 entered into an agreement to establish a reciprocal retirement system with
11 this system shall be deemed to have obtained the same rights and limitations
12 with respect to all other public agencies who have entered into those
13 agreements and established reciprocity as well as with respect to county
14 retirement systems and under Chapter 2 (commencing with Section 45300) of
15 Division 5 of Title 4 that have established reciprocity with this system
16 pursuant to Section 20351.

13 Section 20630 provides:

14 (a) As used in this part, "compensation" means the remuneration paid out of
15 funds controlled by the employer in payment for the member's services
16 performed during normal working hours or for time during which the member
17 is excused from work because of any of the following:

- 16 (1) Holidays.
- 17 (2) Sick leave.
- 18 (3) Industrial disability leave, during which, benefits are payable pursuant
19 to Sections 4800 and 4850 of the Labor Code, Article 4 (commencing with
20 Section 19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the
21 Education Code.
- 22 (4) Vacation.
- 23 (5) Compensatory time off.
- 24 (6) Leave of absence.

20 (b) When compensation is reported to the board, the employer shall
21 identify the pay period in which the compensation was earned regardless of
22 when reported or paid. Compensation shall be reported in accordance with
23 Section 20636 and shall not exceed compensation earnable, as defined in
24 Section 20636.

22 Section 20635 provides:

23 When the compensation of a member is a factor in any computation to be
24 made under this part, there shall be excluded from those computations any
25 compensation based on overtime put in by a member whose service
retirement allowance is a fixed percentage of final compensation for each
year of credited service. For the purposes of this part, overtime is the

1 aggregate service performed by an employee as a member for all employers
2 and in all categories of employment in excess of the hours of work considered
normal for employees on a full-time basis, and for which monetary
compensation is paid.

3 If a member concurrently renders service in two or more positions, one or
4 more of which is full time, service in the part-time position shall constitute
overtime. If two or more positions are permanent and full time, the position
5 with the highest payrate or base pay shall be reported to this system. This
provision shall apply only to service rendered on or after July 1, 1994.

6 Section 20636 provides in pertinent part:

7 (a) "Compensation earnable" by a member means the payrate and
special compensation of the member, as defined by subdivisions (b), (c), and
(g), and as limited by Section 21752.5.

8 (b) (1) "Payrate" means the normal monthly rate of pay or base pay of the
9 member paid in cash to similarly situated members of the same group or
class of employment for services rendered on a full-time basis during normal
10 working hours, pursuant to publicly available pay schedules. "Payrate," for a
member who is not in a group or class, means the monthly rate of pay or
base pay of the member, paid in cash and pursuant to publicly available pay
11 schedules, for services rendered on a full-time basis during normal working
hours, subject to the limitations of paragraph (2) of subdivision (e).

12 (2) "Payrate" shall include an amount deducted from a member's salary for
any of the following:

13 (A) Participation in a deferred compensation plan.

14 (B) Payment for participation in a retirement plan that meets the
requirements of Section 401(k) of Title 26 of the United States Code.

15 (C) Payment into a money purchase pension plan and trust that meets the
requirements of Section 401(a) of Title 26 of the United States Code.

16 (D) Participation in a flexible benefits program.

17 (3) The computation for a leave without pay of a member shall be based on
the compensation earnable by him or her at the beginning of the absence.

18 (4) The computation for time prior to entering state service shall be based on
the compensation earnable by him or her in the position first held by him or
her in state service.

19 (c) (1) Special compensation of a member includes any payment received
for special skills, knowledge, abilities, work assignment, workdays or hours, or
other work conditions.

20 (2) Special compensation shall be limited to that which is received by a
member pursuant to a labor policy or agreement or as otherwise required by
state or federal law, to similarly situated members of a group or class of
employment that is in addition to payrate. If an individual is not part of a
group or class, special compensation shall be limited to that which the board
determines is received by similarly situated members in the closest related
group or class that is in addition to payrate, subject to the limitations of
paragraph (2) of subdivision (e).

21 (3) Special compensation shall be for services rendered during normal
working hours and, when reported to the board, the employer shall identify
the pay period in which the special compensation was earned.

22 (4) Special compensation may include the full monetary value of normal
contributions paid to the board by the employer, on behalf of the member and
pursuant to Section 20691, if the employer's labor policy or agreement
specifically provides for the inclusion of the normal contribution payment in
23 compensation earnable.
24
25

1 (5) The monetary value of a service or noncash advantage furnished by
2 the employer to the member, except as expressly and specifically provided in
3 this part, is not special compensation unless regulations promulgated by the
4 board specifically determine that value to be "special compensation."

5 (6) The board shall promulgate regulations that delineate more specifically
6 and exclusively what constitutes "special compensation" as used in this
7 section. A uniform allowance, the monetary value of employer-provided
8 uniforms, holiday pay, and premium pay for hours worked within the normally
9 scheduled or regular working hours that are in excess of the statutory
10 maximum workweek or work period applicable to the employee under Section
11 201 et seq. of Title 29 of the United States Code shall be included as special
12 compensation and appropriately defined in those regulations.

13 (7) Special compensation does not include any of the following:

14 (A) Final settlement pay.

15 (B) Payments made for additional services rendered outside of normal
16 working hours, whether paid in lump sum or otherwise.

17 (C) Other payments the board has not affirmatively determined to be
18 special compensation.

19 (d) Notwithstanding any other provision of law, payrate and special
20 compensation schedules, ordinances, or similar documents shall be public
21 records available for public scrutiny.

22 (e) (1) As used in this part, "group or class of employment" means a
23 number of employees considered together because they share similarities in
24 job duties, work location, collective bargaining unit, or other logical work-
25 related grouping. One employee may not be considered a group or class.

(2) Increases in compensation earnable granted to an employee who is
not in a group or class shall be limited during the final compensation period
applicable to the employees, as well as the two years immediately preceding
the final compensation period, to the average increase in compensation
earnable during the same period reported by the employer for all employees
who are in the same membership classification, except as may otherwise be
determined pursuant to regulations adopted by the board that establish
reasonable standards for granting exceptions.

(f) As used in this part, "final settlement pay" means any pay or cash
conversions of employee benefits that are in excess of compensation
earnable, that are granted or awarded to a member in connection with, or in
anticipation of, a separation from employment. The board shall promulgate
regulations that delineate more specifically what constitutes final settlement
pay.

...

Section 20909 provides:

(a) A member who has at least five years of credited state service, may elect,
by written notice filed with the board, to make contributions pursuant to this
section and receive not less than one year, nor more than five years, in one-
year increments, of additional retirement service credit in the retirement
system.

(b) A member may elect to receive this additional retirement service credit at
any time prior to retirement by making the contributions as specified in
Sections 21050 and 21052. A member may not elect additional retirement
service credit under this section more than once.

(c) For purposes of this section, "additional retirement service credit" means
time that does not qualify as public service, military service, leave of absence,
or any other time recognized for service credit by the retirement system.

1 (d) Additional retirement service credit elected pursuant to this section may
2 not be counted to meet the minimum qualifications for service or disability
retirement or for health care benefits, or any other benefits based upon years
of service credited to the member.

3 (e) This section only applies to the following members:

4 (1) A member while he or she is employed in state service at the time of the
additional retirement service credit election.

5 (2) A member of the system defined in Section 20324.

(f) For purposes of this section, "state service" means service as defined in
Section 20069.

6 VIII A

*amendment
8/27/2012 ahler, AJT*

A "publicly available pay schedule" is defined by California Code of

7 Regulations, Title 2, Division 1, Chapter 2, Subchapter 1, Article 4, ("CCR") Section
8 570.5 which provides:

9 (a) For purposes of determining the amount of "compensation earnable"
10 pursuant to Government Code Sections 20630, 20636, and 20636.1, payrate
shall be limited to the amount listed on a pay schedule that meets all of the
following requirements:

11 (1) Has been duly approved and adopted by the employer's governing body in
accordance with requirements of applicable public meetings laws;

12 (2) Identifies the position title for every employee position;

13 (3) Shows the payrate for each identified position, which may be stated as a
single amount or as multiple amounts within a range;

14 (4) Indicates the time base, including, but not limited to, whether the time
base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually;

15 (5) Is posted at the office of the employer or immediately accessible and
available for public review from the employer during normal business hours or
posted on the employer's internet website;

16 (6) Indicates an effective date and date of any revisions;

(7) Is retained by the employer and available for public inspection for not less
than five years; and

17 (8) Does not reference another document in lieu of disclosing the payrate.

18 (b) Whenever an employer fails to meet the requirements of subdivision (a)
above, the Board, in its sole discretion, may determine an amount that will be
considered to be payrate taking into consideration all information it deems
relevant including, but not limited to, the following:

19 (1) Documents approved by the employer's governing body in accordance
with requirements of public meetings laws and maintained by the employer;

20 (2) Last payrate listed on a pay schedule that conforms to the requirements of
subdivision (a) with the same employer for the position at issue;

21 (3) Last payrate for the member that is listed on a pay schedule that conforms
with the requirements of subdivision (a) with the same employer for a different
position;

22 (4) Last payrate for the member in a position that was held by the member
and that is listed on a pay schedule that conforms with the requirements of
subdivision (a) of a former CalPERS employer.

23 "Special compensation" is exclusively delineated in CCR, Section 571, in
24 pertinent part as follows:
25

1 (a) The following list exclusively identifies and defines special compensation
2 items for members employed by contracting agency and school employers
3 that must be reported to CalPERS if they are contained in a written labor
policy or agreement:

...

4 (b) The Board has determined that all items of special compensation listed in
subsection (a) are:

5 (1) Contained in a written labor policy or agreement as defined in Government
Code section 20049, provided that the document:

6 (A) Has been duly approved and adopted by the employer's governing body
in accordance with requirements of applicable public meetings laws;

7 (B) Indicates the conditions for payment of the item of special compensation,
including, but not limited to, eligibility for, and amount of, the special
compensation;

8 (C) Is posted at the office of the employer or immediately accessible and
available for public review from the employer during normal business hours or
posted on the employer's internet website;

9 (D) Indicates an effective date and date of any revisions;

10 (E) Is retained by the employer and available for public inspection for not less
than five years; and

11 (F) Does not reference another document in lieu of disclosing the item of
special compensation;

12 (2) Available to all members in the group or class;

13 (3) Part of normally required duties;

14 (4) Performed during normal hours of employment;

15 (5) Paid periodically as earned;

16 (6) Historically consistent with prior payments for the job classification;

17 (7) Not paid exclusively in the final compensation period;

18 (8) Not final settlement pay; and,

19 (9) Not creating an unfunded liability over and above PERS' actuarial
assumptions.

20 (c) Only items listed in subsection (a) have been affirmatively determined to
be special compensation. All items of special compensation reported to PERS
will be subject to review for continued conformity with all of the standards
listed in subsection (b).

21 (d) If an item of special compensation is not listed in subsection (a), or is out
of compliance with any of the standards in subsection (b) as reported for an
individual, then it shall not be used to calculate final compensation for that
individual.

22 Compensation earnable for an employee who is not in a group or class of
23 employment is addressed by CCR, Section 572 as follows:

24 An employee who is not in a "group or class of employment" within the
25 meaning of the Public Employees' Retirement Law, may request an exception
from the "average increase" procedure set forth in Sections 20636 and
20636.1. The local employer may request this exception on the employees
behalf.

The request must be submitted in writing, no later than 30 days after the
employee first received PERS' estimate of benefits payable. If the estimate is
mailed, the 30-day deadline is thirty-five calendar days after the postmark
date. The request must be submitted to the:

1 CUSTOMER ACCOUNT SERVICES DIVISION
2 PUBLIC EMPLOYEES' RETIREMENT SYSTEM
3 P.O. BOX 942704
4 SACRAMENTO, CA 94229-2704

5 PERS will acknowledge the request in writing, within 15 calendar days of its
6 receipt. PERS will grant or deny the request, and specify its reasons in
7 writing, within 45 days from the date of acknowledgement. PERS' decision to
8 grant or deny the request will be based on a comparison between increased
9 compensation earnable, as reported for the employee during his or her period
10 of final compensation and compensation earnable reported for the group or
11 class of employees in his or her same membership classification.

12 PERS will review the full history of payroll reporting for the employee, and all
13 relevant payroll reporting for the membership classification, as to both payrate
14 and special compensation. In no case will an exception be granted if PERS
15 determines that the comparative increase in compensation earnable by the
16 employee fails to conform with the following standards set forth in subsections
17 (a) and (b) below as well as other applicable provisions of the law.

18 (a) If reported in payrate, the increased compensation must be:

- 19 (1) Contained in a written labor agreement;
20 (2) Part of normally-required duties;
21 (3) Performed during normal hours of employment;
22 (4) Paid periodically as earned;
23 (5) Historically consistent with prior payments for the membership
24 classification; and
25 (6) Not final settlement pay.

(b) If reported in special compensation, the increased compensation must be:

- (1) Contained in a written labor agreement;
(2) Part of normally-required duties;
(3) Performed during normal hours of employment;
(4) Paid periodically as earned;
(5) Historically consistent with prior payments for the membership
classification;
(6) Listed as special compensation in Section 571; and
(7) Not final settlement pay.

(c) Reported increased compensation must not constitute "final settlement
pay" within the meaning of Section 570 and Section 20636 and 20636.1 of the
Government Code. It must conform with federal Internal Revenue Code
standards in Section 415 for maintaining "qualified plan status" of the System,
and in Section 401, including the "non-discrimination testing". If the request is
denied, the employee or employer may appeal PERS' decision to the Board
by the procedure set forth in Sections 555.1-555.4, and Section 20134 of the
Government Code.

IX

CalPERS reviewed the compensation reported paid to Spaccia by Bell and
concluded that neither the report payrate or special compensation qualified as
"compensation earnable" and therefore could not be used as such in the calculation
of Spaccia's retirement benefit. CalPERS specifically determined that the

1 compensation reported was not set forth in a publicly available pay schedule.
2 Accordingly, CalPERS based Spaccia's retirement allowance on her compensation
3 earnable paid by other (non-Bell) agencies contracting with CalPERS and reciprocal
4 agencies. CalPERS subsequently also determined that the ARSC purchase was
5 unlawful and must be rescinded.

6 **X**

7 By letter dated December 2, 2010, Spaccia was notified of CalPERS'
8 determination and was advised of her appeal rights. CalPERS notified Spaccia that
9 it considered the ARSC purchase to also be invalid, and would issue a subsequent
10 final determination pertaining to that purchase. By letter dated June 6, 2012,
11 CalPERS issued a final determination that the purchase of the ARSC was unlawful
12 and would be rescinded.

13 **XI**

14 By letter dated December 27, 2010, Spaccia filed a timely appeal, and has
15 requested an administrative hearing.

16 **XII**

17 The issues in this appeal are limited to whether:

18 (1) CalPERS has incorrectly determined Spaccia's retirement benefits
19 pursuant to the applicable provisions of the Government Code and Regulations.

20 (2) CalPERS incorrectly determined that the purchase of the ARSC by Bell for
21 Spaccia was unlawful and must be rescinded.

22 BOARD OF ADMINISTRATION, CALIFORNIA
23 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

24 Dated: July 9, 2012

25 BY



MARION MONTEZ, Assistant Division Chief
Customer Account Services Division

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4 Facsimile: (916) 795-3659

5 Attorneys for Petitioner California
Public Employees' Retirement System

6 BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

8	In the Matter of the Statement of Issues	)	CASE NO. 2011-0789
9	Against:	)	OAH NO. 2012020198
10	PIER'ANGELA SPACCIA,	)	NOTICE OF HEARING
11	Respondent,	)	(Pursuant to Gov. Code, § 11509)
12	and	)	ALJ: To Be Assigned
13	CITY OF BELL,	)	Hearing Date: August 27-29, 2012
14	Respondent.	)	Hearing Location: Orange
		)	Time: 10:00 a.m.
		)	Prehearing Conf.: None Scheduled
		)	Settlement Conf.: None Scheduled

15 TO THE RESPONDENT(S) above named: Pier'Angela Spaccia by service on
16 Pier'Angela Spaccia and HARLAND W. BRAUN, her attorney of record; City of Bell, by
17 service on ANTHONY TAYLOR, City of Bell's attorney of record and City of Bell's
18 Personnel Officer.

19 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the hearing of the
20 Statement of Issues in the above-entitled matter has been set and will be held before
21 an Administrative Law Judge of the Office of Administrative Hearings of the State of
22 California at: CalPERS Regional Office Orange, 500 North State College Boulevard,
23 Suite 750, Orange, CA 92868; for three days on August 27, 28 and 29, at 10:00 a.m.
24 upon the charges made in the Statement of Issues served upon the respondent. If you
25 object to the place of hearing, you must notify the presiding officer within 10 days after

1 this notice is served on you. Failure to notify the presiding officer within 10 days will
2 deprive you of a change in the place of the hearing. You may contact Alan R. Alvord,
3 Presiding Administrative Law Judge of the OAH San Diego at (619) 525-4475.

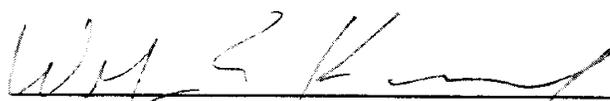
4 You may be present at the hearing. You have a right to be represented by an
5 attorney at your own expense. You are not entitled to the appointment of an attorney
6 to represent you at public expense. You are entitled to represent yourself without legal
7 counsel. You may present any relevant evidence and will be given full opportunity to
8 cross-examine all witnesses testifying against you. You are expected to be ready to
9 proceed with your case at the time of hearing. Failure to appear at the hearing, either
10 through an attorney or personally, if you do not have an attorney, may result in a
11 default. This means that CalPERS' decision will be upheld irrespective of any
12 evidence that may or may not be introduced in your absence.

13 You have a right to an interpreter if you do not proficiently speak or understand
14 English. If you need an interpreter, you must notify CalPERS immediately so that
15 appropriate arrangements can be made.

16 You are entitled to the issuance of subpoenas to compel the attendance of
17 witnesses and the production of books, documents, or other things by applying to said
18 agency at: Office of Administrative Hearings San Diego, 1350 Front Street, Suite
19 3005, San Diego, CA 92101.

20 BOARD OF ADMINISTRATION, CALIFORNIA
21 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

22 Dated: July 13, 2012

23 
24 WESLEY E. KENNEDY, SENIOR STAFF COUNSEL
25

PROOF OF SERVICE

I am employed in the County of Sacramento, State of California. I am over the age of 18 and not a party to the within action; my business address is: California Public Employees' Retirement System, Lincoln Plaza North, 400 "Q" Street, Sacramento, CA 95811 (P.O. Box 942707, Sacramento, CA 94229-2707).

On July 13, 2012, I served the foregoing document described as:

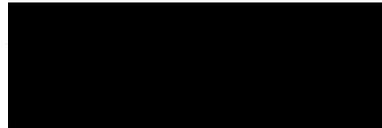
STATEMENT OF ISSUES, NOTICE OF HEARING, and Government Code §§ 11507.5, 11507.6 and 11507.7 (relating to discovery under the Administrative Procedure Act) – In the Matter of the Final Compensation Calculation of PIER'ANGELA SPACCIA, Respondent, and CITY OF BELL, Respondent

on interested parties in this action by placing ___ the original XX a true copy thereof enclosed in sealed envelopes addressed as follows:

Harland W. Braun
1880 Century Park East
Suite 710
Los Angeles, CA 90067
By Certified Mail

Office of Administrative Hearings
1350 Front Street, Suite 3005
San Diego, CA 92101
By U.S. Mail Only

Anthony Taylor, Esq.
Aleshire & Wynder LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 92612
By Certified Mail



Personnel Officer
City of Bell
6330 Pine Avenue
Bell, CA 90201-1291
By Certified Mail

[x] BY CERTIFIED MAIL/MAIL -- As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

Executed on July 13, 2012, at Sacramento, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Barbara Moseman
NAME

SIGNATURE



Employer Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
Telecommunications Device for the Deaf - (916) 795-3240
888 CalPERS (or **888-225-7377**) FAX (916) 795-4166

CERTIFIED MAIL---RETURN RECEIPT REQUESTED

December 2, 2010



Dear Ms. Spaccia:

This letter is in regard to the compensation that the City of Bell (City) reported in its payroll reports to the California Public Employees' Retirement System (CalPERS) on your behalf as Assistant to the Chief Administrative Officer and Assistant Chief Administrative Officer (hereafter referred to as Assistant CAO).

Under the Public Employees' Retirement Law the amount of "compensation earnable" that an employer reports to CalPERS is used to determine member contributions and to calculate retirement benefit allowances. Compensation earnable consists of "payrate" and "special compensation." If an employer reports compensation in excess of compensation earnable, member contribution amounts will be incorrect and any excess compensation will not be considered in calculating your retirement benefit.

"Payrate" is defined in Government Code Section 20636, subdivision (b)(1) in part, as:

...the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

...

"Special compensation" is defined in Government Code section 20636, subdivision (c), in part, as:

...(1) Special compensation ...includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

...

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation"

...

(7) Special Compensation does not include

Pier/Angela Spaccia

-2-

December 2, 2010

(C) Other payments the board has not affirmatively determined to be special compensation.

The Board has promulgated an exclusive list of special compensation items at Title 2, California Code of Regulations, section 571.

CalPERS' Office of Audit Services completed a review of the City's payroll reporting and member enrollment processes (OAS Report) on November 12, 2010. The OAS Report notes that the California Attorney General filed a complaint with the Superior Court of California, County of Los Angeles (Complaint)¹ against various persons, including the City, the Assistant CAO and others, which alleges, among other facts, receipt of excessive and wasteful compensation which could wrongfully increase retirement benefits (Civil Action). In light of the Complaint, no adjustment of payroll by City will be required at this time for amounts that may have been erroneously reported as compensation earnable because the proper amount of compensation earnable may be affected by a ruling in the Civil Action. Thereafter adjustments to compensation earnable may be required. If any City officer or employee should apply for retirement before conclusion of the Civil Action, CalPERS' calculation of retirement benefits will take into account only compensation paid that it determines was proper and authorized, pursuant to properly approved and publicly available valid contracts entered into prior to 2005, or pursuant to publicly available pay schedules that can be substantiated as meeting the definition of compensation earnable.

The OAS Report found that the payrate for the Assistant CAO position was over-reported and recommends that the payrate of the Assistant CAO be based upon the City's most recent publicly available pay schedule for the position. Therefore, for final compensation purposes, CalPERS will consider the compensation that was reported on your behalf by your former CalPERS and reciprocal public agency employers.² Based on information received from former CalPERS public agency employers and from the reciprocal public

¹ The Complaint seeks a judgment to, among other things, (i) require the Assistant CAO to make restitution to CalPERS for any amount of pension benefits received that was in excess of what was reasonable and appropriate, in an amount to be determined at trial; (ii) require the Assistant CAO to make restitution to the City for compensation approved and/or accepted and which was in excess of what was reasonable and appropriate, in an amount to be proven at trial; (iii) declare that all employment contracts and addenda of the Assistant CAO executed in and after 2005 are null and void *ab initio*; (iv) declare that compensation paid to each defendant by the City in excess of what was reasonable, in an amount to be proven at trial, is not to be considered for determination of CalPERS pensions; and (v) enjoin the City from reporting to CalPERS any salaries in excess of what is reasonable and appropriate, in an amount to be proven at trial. The Complaint seeks a judgment that the employment contracts of the Assistant CAO are void from the date of their execution and seeks to have the Court determine the level of salaries that are reasonable and appropriate.

² CalPERS will calculate your retirement benefit based on compensation with your former CalPERS and Ventura County employers for the 15.010 years of service in which reciprocity was established between CalPERS and the Ventura County Employees' Retirement System. For the 7.092 years of service earned with the City of Bell, your benefit will be based only on compensation with CalPERS employers.

[former]

Pier'Angela Spaccia

-3-

December 2, 2010

agency under the Ventura County Employees' Retirement System, \$7,952.88 will be applied to your service with Public Transportation Services Corporation; \$9,265.34 will be applied to your service with North County Transit District and the City of San Buenaventura; and \$7,802.07 will be applied to your service with the City of Bell. The monthly amount paid to you for flex elect and car allowance, while employed under the reciprocal public agency, will not be used in the calculation at this time. Upon receipt of additional information, these amounts may be adjusted by CalPERS.

In addition, the OAS Report found that the City incorrectly reported a non-reportable special compensation item to CalPERS which was paid on your behalf as Assistant CAO. Specifically, the City reported employer payments to a deferred compensation plan. Government Code section 20636, subdivision (c)(7)(C) excludes from special compensation any "other payments the board has not affirmatively determined to be special compensation." The board has not affirmatively found employer payments to a deferred compensation plan to be special compensation. CalPERS has requested that the City immediately stop reporting employer paid deferred compensation for all employees and reverse the compensation out of CalPERS payroll system.

Finally, in 2005, you elected to purchase and were credited with five years of Additional Retirement Service Credit (ARSC). Whether the purchase of the ARSC was as the result of excessive and wasteful compensation which could wrongfully increase retirement benefits as alleged in the Complaint has not yet finally been determined. Therefore, the ARSC in question will not be included in retirement benefit calculations, if any, until after conclusion of the Civil Action, and until a final determination on this issue has been made by CalPERS.

It should also be noted that depending on the outcome of the Civil Action or upon the discovery of additional information, CalPERS reserves the right to raise additional issues relating to the determination of compensation earnable and service credit, including but not limited to further consideration of part-time employment, concurrent service in multiple positions, and eligibility for retirement and health plan membership.

You have the right to appeal the decision referred to in this letter if you desire to do so, by filing a written appeal with CalPERS, in Sacramento, within **thirty days of the date of the mailing of this letter**, in accordance with Government Code section 20134 and sections 555-555.4, Title 2, California Code of Regulations.

An appeal, if filed, should set forth the factual basis and legal authorities for such appeal. A copy of the applicable statute and Code of Regulations sections are included for your reference. If you file an appeal, the Legal Office will contact you and handle all requests for information.

Your appeal will be set for hearing with the Office of Administrative Hearings (OAH). The assigned CalPERS attorney will contact you to coordinate a hearing date. Depending on the current caseload of the OAH and the assigned attorney, the hearing date may be set several months after the case is opened. The OAH will typically offer its earliest available hearing date that meets the schedule of both parties.

Pier'Angela Spaccia

-4-

December 2, 2010

If you choose not to be represented by an attorney, the assigned CalPERS lawyer will be in direct communication with you during the appeal process. If you do hire an attorney, please let CalPERS know immediately so our attorney can work directly with him or her. Enclosed is an informational brochure on the General Procedures for Administrative Hearings.

After the hearing is completed, the Administrative Law Judge will issue a Proposed Decision in approximately 30 days. The CalPERS Board of Administration will then make a determination whether to accept or reject that Proposed Decision. If the Board rejects the Proposed Decision, they will hold a Full Board Hearing in order to review the entire hearing record again before finalizing their decision.

Your appeal should be mailed to the following address:

Lori McGartland, Division Chief
Employer Services Division
P.O. Box 942709
Sacramento, CA 94229-2709

If you have any questions or concerns regarding this matter, please contact me at (888) 225-7377.

Sincerely,



Tomi Jimenez, Section Manager
Compensation & Employer Review Unit

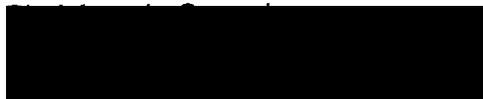
Enclosures

cc: Pedro Carrillo, City of Bell
Lori McGartland, Chief, Employer Services Division



California Public Employees' Retirement System
Customer Account Services Division
Retirement Account Services Section
P. O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-1224 fax
www.calpers.ca.gov

June 06, 2012



Dear Ms. Spaccia:

This letter serves to supplement the determination letter sent to you dated December 2, 2010. The California Public Employees' Retirement System (CalPERS) has finalized its review of your purchase of five years of Additional Retirement Service Credit (ARSC) that was paid for using funds from the City of Bell (City) and has determined that the payment was not lawful under the Public Employees' Retirement Law (PERL). As a result, CalPERS must rescind the purchase and is required to make the appropriate corrections to your account and to the City's account. In order to make this correction, the five years of ARSC previously credited to your account must be deleted and the contributions paid by the City must be credited back to the City's account. This correction will reduce the total service credit that can be used to calculate your retirement allowance. Previously, CalPERS notified you that it would not be including the 5 years of ARSC service in the calculation of your retirement benefit until CalPERS finalized a decision on this issue. However, it was later discovered that the 5 years of service credit had been included in the calculation of the benefit amount that you are currently receiving. CalPERS final determination on the ARSC issue is outlined below and necessitates a downward adjustment to the amount of your service credit and to your retirement benefit. The conclusions discussed in this letter are based upon the information presently available to CalPERS and CalPERS reserves the right to amend this determination should new or different information be located and/or developed.

Formal Determination

CalPERS conducted a review of the five years of ARSC that you purchased with City funds on June 15, 2005. The conclusions discussed in this letter are based upon all information presently available to CalPERS.

Government Code section 20909(a) provides:

"A member who has at least five years of credited state service, may elect, by written notice filed with the board, to make contributions pursuant to this section and receive not less than one year, nor more than five years, in one-year increments, of additional retirement service credit in the retirement system."¹

¹ All further references are to the Government Code unless otherwise specified.

Pier Angela Spaccia
June 06, 2012
Page 2

Subdivision (b) provides, in pertinent part: "A member may elect to receive this additional retirement service credit at any time prior to retirement by making the contributions as specified in sections 21050 and 21052." Section 21052 also provides in pertinent part, "A member or retired former employee who elects to receive service credit subject to this section shall contribute, in accordance with section 21050, an amount equal to the increase in employer liability, using the payrate and other factors affecting liability on the date of the request for costing of the service credit." These provisions authorize a member, not an employer, to pay for ARSC. This reading of the statute is supported by the legislative history.² Moreover, CalPERS has not located any documentation to show that the City's payment was ever authorized by the City Council.

Accordingly, based upon the information available to date, CalPERS has determined that your ARSC purchase failed to comply with the PERL and appears to be unlawful. Therefore, the City erred in sending the payment and CalPERS should not have accepted the City's payment. For the reasons detailed below, CalPERS has concluded it must correct the error and make a downward adjustment to your service credit balance. This correction will also cause a decrease to the amount of your retirement benefit.

Duty to Correct Mistakes

CalPERS was established by statute, the PERL, which grants it certain authority. The California Constitution also grants the CalPERS Board of Administration, as the Board of a public retirement system, certain powers. CalPERS has no authority other than those granted by the PERL and the Constitution and has the authority to pay benefits to a member only when authorized and only in amounts authorized.³ CalPERS has no authority to include ARSC purchased time in a retirement benefit where that purchase was unlawful. Generally, a government agency has no authority to pay a benefit not authorized by law.⁴ Given CalPERS has now concluded that your ARSC transaction must be rescinded, such service cannot be used to calculate any retirement benefit.

The management and control of this system is vested in board pursuant to section 20120. Section 20123 provides that "the board shall determine and may modify benefits for service and disability" and section 20125 provides that the board shall determine who are employees and is the sole judge of the conditions under which a person may be admitted to and continue to receive benefits under this system. CalPERS is required to correct the amount of your retirement allowance. Section 20160 requires CalPERS to correct errors made by an employer or by this System. Once an error is discovered, CalPERS is required to take action to correct it and is permitted to pay only those benefits authorized under the PERL. Further, section 20164(b) states that where the System has made an erroneous payment to a member,

² For example, the Senate Floor Analysis accompanying Assembly Bill 719 (the bill that implemented section 20909 in 2003) explained: "[T]he cost of [ARSC] will be fully paid by the member, with no employer contribution permitted."

³ See CalPERS Precedential *Decision In re the Matter of the Appeal of Decreased Level of Retirement Allowance of Harvey H. Henderson* (1998) Precedential Board Decision No. 98-02 and California Constitution, Art. XVI, section 17.

⁴ *Longshore v. County of Ventura* (1979) 25 Cal.3d 14, 22-23, 28-29.

Pier' Angela Spaccia
June 06, 2012
Page 3

the right to collect expires three years from the date of payment except where the payment is a result of fraudulent reports for compensation made.⁵ This also serves to confirm that CalPERS will seek to collect back all overpayments authorized by statute. Therefore, at a minimum, CalPERS will seek to collect back all overpayments made on or after October 1, 2010. At present, the amount overpaid during this timeframe approximates \$15,987.96 (21 months x \$757.91 per month + 3 months x \$23.95 2012 COLA effective April 1, 2012).

Conclusion

As a result of reviewing all information available to date, and for the reasons outlined above as well as those outlined in our December 2, 2010 correspondence, CalPERS has concluded that it must make a reduction to your service credit due to the rescission of the ARSC transaction and must return the City's contributions by crediting the City's account. Accordingly, your corrected service credit total as of June 30, 2012 will be 22.056 years. The reduction in your total service credit will result in a decrease to your retirement allowance in the approximate amount of \$757.91 per month. This determination will impact the current amount of your retirement benefit since your current retirement benefit included the 5 years of ARSC credit. Accordingly, the corrected retirement benefit that you should be receiving based on all determinations made to date is \$2,862.17 per month. CalPERS will continue to pay the current amount of your benefit between now and the time of your administrative hearing currently scheduled for August 27, 2012. However, should a decision be reached to cut back your allowance in the administrative process, CalPERS will seek to recover all overpayments made to you allowable under the law.

Right to Appeal

You have the right to appeal the final decision referred to in this letter if you desire to do so, by filing a written appeal with CalPERS, in Sacramento, within thirty days of the date of the mailing of this letter, in accordance with Government Code section 20134 and sections 555-555.4, Title 2, California Code of Regulations. An appeal, if filed, should set forth the factual basis and legal authorities for such appeal.

We note you already filed an appeal to the original determination letter and CalPERS will deem that appeal as including an appeal for the ARSC issue as well. Accordingly, you need not file an additional appeal in response to this letter, unless you desire to do so. CalPERS will consolidate all compensation and ARSC issues into one administrative hearing. Should you choose to file any additional information for your appeal related to the ARSC issue, it should be mailed to the following address:

KAREN DEFRANK, Chief
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709

⁵ See Gov. Code section 20164(d).

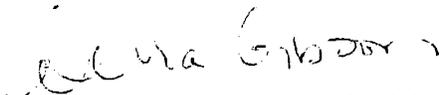
Pier Angela Spaccia
June 06, 2012
Page 4

As noted above, we note that an administrative hearing has already been scheduled in your case with the Office of Administrative Hearings. Our Legal Office will work directly with your counsel in the existing appeal and hearing process to address all issues relative to the determination discussed above as well as for all issues discussed in our prior determination letter.

After the hearing is completed, the Administrative Law Judge will issue a Proposed Decision in approximately 30 days. The CalPERS Board of Administration will then make a determination whether to accept or reject that Proposed Decision. If the Board rejects the Proposed Decision, they will hold a Full Board Hearing in order to review the entire hearing record again before finalizing their decision.

If you have any questions or concerns regarding this matter, please contact Nova Horton, manager, at (916) 795-0828.

Sincerely,



Debra Gibson, Assistant Division Chief
Member Account Management
Customer Account Services Division

cc: Arne Croce, City of Bell
City Council Members, City of Bell
Karen DeFrank, Chief CASD
Mary Lynn Fisher, Chief CASD
Gina Ratto, Deputy General Counsel
Marguerite Seabourn, Assistant Chief Counsel
Harland W. Braun, Counsel for Ms. Spaccia

Russell G. Petti

The Law Offices of Russell G. Petti

E-mail: RPetti@petti-legal.com & www.petti-legal.com

RECEIVED SACRAMENTO
CALPERS

2011 JAN -5 AM 9:51

DDC - 7

December 27, 2010

Via Facsimile and Certified U.S. Mail, Return Receipt Requested

Lori McGartland, Division Chief
Employer Services Division
P. O. Box 942709
Sacramento, CA 94229-2709
Facsimile: (916) 795-4166

Re: Angela Spaccia's Appeal from CalPERS' Decision of December 2, 2010

Dear Ms. McGartland:

I am representing Ms. Angela Spaccia. Ms. Spaccia is appealing CalPERS December 2, 2010 decision with respect to her pension. Please treat this letter as her Notice of Appeal, in accordance with Government Code section 20134 and 2 CA ADC § 555.1. Ms. Spaccia requests a hearing in Los Angeles.

The basis for the appeal is that Ms. Spaccia's compensation was properly earned, awarded and reported. CalPERS' proposed monthly pay rates grossly understate Ms. Spaccia's lawful entitlement. The retirement benefit calculations are incorrect, unfair, and discriminatory.

This is especially obvious with respect to Ms. Spaccia's purchase of an additional five years of Additional Retirement Service Credit ("ARSC"). CalPERS declines to utilize this five years in its calculation of Ms. Spaccia's pension because "[w]hether the purchase of the ARSC was as the result of excessive and wasteful compensation which could wrongfully increase retirement benefits as alleged in the Complaint has not yet been finally determined." However, the Attorney General's First Amended Complaint ("FAC") does not even mention the ARSC purchase; it certainly does not suggest there was anything improper about it. As such, even treating the allegations of the FAC as facts—which they are certainly not—there is no support for CalPERS' refusal to include the ARSC in Ms. Spaccia's benefit calculation.

Another glaring example of CalPERS' improper calculation of Ms. Spaccia's benefits is the use of \$7,952.88 as the compensation rate for Ms.

Lori McGartland
December 27, 2010
Page 2

Spaccia's service with Ventura County. CalPERS' letter of December 2nd provides no justification for this number, and in fact the proper number is \$11,729.26 (I will be happy to provide you with back-up for this upon request). In addition, CalPERS' failure to utilize Ms. Spaccia's single highest year of compensation violated its contract with the City of Bell.

Moreover, CalPERS' treatment of Ms. Spaccia is discriminatory. The determinations that CalPERS is making with respect to Ms. Spaccia are not being applied to other City of Bell employees who have recently retired.

As to CalPERS' heavy reliance on the Attorney General's FAC, this complaint is entirely without legal merit. This is not just my opinion; comments from the bench made by Judge Dau indicate that he shares this perspective. Ms. Spaccia, as well as the other defendants, have demurred to the FAC. If, upon the granting of these demurrers, CalPERS fails to revise its position and instead seizes upon some other reason to delay a final decision, its actions will be shown to be as politically motivated as those of the Attorney General.

As for this delay, Ms. Spaccia has a right to a prompt determination of her benefits. CalPERS' refusal to adjudicate her benefits for an undefined period is a violation of those rights, as well as a violation of due process.

Finally, given that the December 2nd letter states an intention to make future determinations and adjustments, Ms. Spaccia reserved the right to supplement this appeal and to challenge any future adjustments and determinations.

Sincerely yours,



RUSSELL G. PETTI

cc: Angela Spaccia (via email)

01021041 07 9



Disability Retirement Election Application

888 CalPERS (or 888-225-7377) • TTY for Speech and Hearing Impaired (916) 795-3240

CLIVED/SACR/ HENTU
CALPERS 8602
010 OCT -1 AM 10-28
DDC - 3

Employer Information

Check if this is an employer-originated application
Employer must fill out and sign Section 12 on the last page of this application

Application Type

Disability Retirement
 Industrial Disability Retirement
 Service Pending Disability Retirement
 Service Pending Industrial Disability Retirement

Section 1

Information About You

Please provide your name as it appears on the Social Security card

Pier Angela Spaccia
Name of Member (First Name, Middle Initial, Last Name) Social Security Number

Please display all dates in this order: month/day/year

[Redacted Address]
City State ZIP Country
09/19/1958 Male Female
Birth Date (mm/dd/yyyy) Gender Home Phone Work Phone
cell

Section 2

Retirement Information

Please do not abbreviate your employer or position

10/01/2010
Retirement Date (mm/dd/yyyy)
City of Bell Assistant Chief Administrative Officer
Employer Position Title

Do not list Social Security, military or railroad retirement as a California public retirement system

Do you have any final compensation period higher than the last consecutive 12 or 36 months?
 No Yes, from _____ to _____
Beginning Date (mm/dd/yyyy) Ending Date (mm/dd/yyyy)

Are you a member of a California public retirement system other than CalPERS? No Yes, provide

Ventura County Employees Retirement System
Name of System
02/27/2001 08/1/2001
Date of Retirement (mm/dd/yyyy) Beginning Service Credit Date (mm/dd/yyyy) Ending Service Credit Date (mm/dd/yyyy)

Section 3

Workers' Compensation Information

Local safety members should not complete Sections 3 & 4

Adminsure
Workers Compensation Carrier
Arcie Cano (909) 612-5633
Name of Adjuster Phone Number
1470 South Valley Vista Drive, Suite 230
Address
Diamond Bar CA 91765
City State ZIP
10-108909 7/1/2003 - continuous
Claim Number(s) Relating to Alleged Disability Date of Injury (mm/dd/yyyy)

5 28 1

Put your name and Social Security number at the top of every page.

PierAngela Spaccia
Your Name

Social Security Number

Section 4

Disability Information

Please complete all the questions below if you need additional space, attach separate sheets and be sure to include your name and Social Security number on all sheets.

What is your specific disability, when and how did it occur?

back, shoulder, anxiety disorder, autoimmune disease, depression, agoraphobia
7/1/2003 - continues

What is the complete name and address of your treating physician(s)?

Timothy C. Reynolds, M.D.
Name of Treating Physician

59950
Medical Record Number

11645 Wilshire Blvd #1090
Address

Los Angeles
City

CA
State

90025 (319) 478-1188
ZIP Phone Number

What are your limitations/preclusions due to your injury or illness?

on permanent disability since July 2010

How has your injury or illness affected your ability to perform your job?

on permanent disability since July 2010
limited ability to sit, cannot focus, concentrate, panic disorder prohibits me tremendously, agoraphobic, Hashimoto's disease exacerbated w/it

Are you currently working in any capacity (full-time, part-time, or modified work)? If yes, please explain

on medical leave

Other information you would like to provide

Did a third party cause your injury? No Yes (If yes, CalPERS has a potential "right of subrogation")

Put your name and Social Security number at the top of every page

Pier Angela Spocia
Your Name

Social Security Number

Section 5

Select Your Retirement Payment Option and Beneficiary

Select only one payment option
Option 1, Option 2, Option 2W, Option 3, Option 3W, the Unmodified Allowance Option, or one of the Option 4 types

By filling out this section, you are electing your Retirement Payment Option and designating your beneficiary. Once you select a payment option, you cannot change to another option. Along with your option selection, you must complete at least one of the beneficiary designations in Sections 5a-5d. If you choose the Unmodified Allowance Option, you do not need to specify a beneficiary. Please refer to the detailed instructions in this publication for more information.

Option 1 - To complete this option choice, you must also fill out Section 5d *Balance of Contributions Beneficiary(ies)*

Option 2 - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary*

Option 2W - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary*

Option 3 - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary*

Option 3W - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary*

Unmodified Allowance Option - If you select this option there is no return of your member contributions and no monthly benefits payable upon your death - except the Survivor Continuance benefit, if applicable. There is no beneficiary designation for this option.

These options apply to Option 4 Individual Lifetime Beneficiary only

Option 4, Individual Lifetime Beneficiary - If you select this option, you must also select one of the following Individual Lifetime Beneficiary options below:

Option 2W & Option 1 Combined - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary* and Section 5d *Balance of Contributions Beneficiary(ies)*

Option 3W & Option 1 Combined - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary* and Section 5d *Balance of Contributions Beneficiary(ies)*

Specific Dollar Amount to Beneficiary \$ _____ - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary* Dollars

Specific Percentage to Beneficiary _____ % - To complete this option choice, you must also fill out Section 5a *Individual Lifetime Beneficiary* Percent

Reduced Allowance for Fixed Period of Time _____ through _____
Percent or Dollars Date (mm/yyyy)

Reduced Allowance upon death of retiree or beneficiary \$ _____ reduction amount
Dollars

If you are naming a beneficiary under this option, you must also fill out Section 5a *Individual Lifetime Beneficiary*

This option applies to Option 4 Multiple Lifetime Beneficiaries only

Option 4, Multiple Lifetime Beneficiaries - To complete this option choice, you must also fill out Section 5b *Option 4 Multiple Lifetime Beneficiaries*

These options apply to Option 4, Court Ordered Community Property only

Option 4, Court Ordered Community Property - If you select this option, you must also complete Section 5c *Court Ordered C.P. Beneficiary* and select one of the following Court Ordered Option 4 Community Property options:

Option 4/Unmodified - There is no additional beneficiary designation for this option

Option 4/1 - To complete this option choice, you must also fill out Section 5d *Balance of Contributions Beneficiary(ies)*

Option 4/2W - To complete this option, you must also fill out Section 5a *Individual Lifetime Beneficiary*

Option 4/3W - To complete this option, you must also fill out Section 5a *Individual Lifetime Beneficiary*

Put your name and Social Security number at the top of every page

Fier Angela Spacia
Your Name Social Security Number

Section 5a

Option 2, 2W, 3, 3W or 4 Individual Lifetime Beneficiary

Designate one beneficiary and provide all of that person's information including full name

Complete this section only if you chose either Option 2, 2W, 3, 3W or Option 4 Individual Lifetime Beneficiary or Option 4/2W or 4/3W Court Ordered Community Property

Seca Thomas Francesco Spacia Sheffield
Name (First Name Middle Initial Last Name) Social Security Number

01/15/1983 Male Female 1 son
Birth Date (mm/dd/yyyy) Gender Relationship to You

Address [Redacted]

City State ZIP Country

Section 5b

Option 4 Multiple Lifetime Beneficiaries

If you want your beneficiaries to receive an equal share of your benefits, do not specify a dollar or percentage of benefit

Complete this section only if you selected Option 4 Multiple Lifetime Beneficiaries

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Relationship to You Dollar/Percent of Benefit

Address

City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Relationship to You Dollar/Percent of Benefit

Address

City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Relationship to You Dollar/Percent of Benefit

Address

City State ZIP Country

Section 5c

Court Ordered Option 4 Community Property Beneficiary

List only the Option 4 beneficiary that is required by your court order

Complete this section only if you selected Option 4 Court Ordered Community Property

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Relationship to You

Address

City State ZIP Country

1017

3
2
0
1

Put your name and Social Security number at the top of every page.

Pier Angela Spacca
Your Name Social Security Number

Section 5d

Designate up to three beneficiaries here. If you want to designate more than three beneficiaries. See page 23 for information on completing the Lump Sum Beneficiary Designation form

Option 1 Balance of Contributions Beneficiary(ies)

Complete this section only if you selected Option 1, Option 4-2W/1 or 3W/1 combined. You may change this beneficiary(ies) at any time. This designation automatically revokes when there is a change in your marital status, domestic partnership status, or when there is a birth or adoption of a child. Please refer to the detailed instructions in this publication for more information.

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Male Female Relationship to You

Address

City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Male Female Relationship to You

Address

City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Male Female Relationship to You

Address

City State ZIP Country

Section 6

All Applicants must complete this section. Designate your beneficiary to receive your lump sum Retired Death Benefit.

Retired Death Benefit

This section designates the person who will receive your lump sum Retired Death Benefit. You may change this beneficiary(ies) at any time. This designation automatically revokes when there is a change in your marital status, domestic partnership status, or when there is a birth or adoption of a child. Please refer to the detailed instructions in this publication for more information.

Sean Thomas F. Spaccia Sheffield
Name (First Name Middle Initial Last Name) Social Security Number

01/15/1983 Male Female Relationship to You Son

Address

City State ZIP Country

Section 6 continues on page 6

Put your name and Social Security number at the top of every page

Free Angela Spaccia
Your Name Social Security Number

Section 6, continued

Retired Death Benefit

All Applicants must complete this section

Designate your beneficiary to receive your lump sum Retired Death Benefit

2103

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Male Female Relationship to You

Address

City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Male Female Relationship to You

Address

City State ZIP Country

Section 7

Survivor Continuance

Please answer all five questions and complete the information in each section where you answered "Yes"

Please refer to the detailed instructions in this publication for more information

1 Will you be married on or before your disability retirement date? No Yes, provide

Name of Spouse (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Male Female Date of Marriage

2 Will you be registered with the California Secretary of State as being in a domestic partnership on or before your disability retirement date? No Yes, provide

Name of Domestic Partner (First Name Middle Initial Last Name) Social Security Number

Birth Date (mm/dd/yyyy) Gender Male Female Date of Registered Partnership (mm/dd/yyyy)

3 Do you have any natural or adopted children under age 18 who have never been married? No Yes provide

Name of Child (First Name Middle Initial Last Name) Social Security Number Birth Date (mm/dd/yyyy)

Name of Child (First Name Middle Initial Last Name) Social Security Number Birth Date (mm/dd/yyyy)

4 Do you have any children who have never been married and were disabled prior to their 18th birthday and who are still disabled? No Yes, provide

Name of Child (First Name Middle Initial Last Name) Social Security Number Birth Date (mm/dd/yyyy)

Name of Child (First Name Middle Initial Last Name) Social Security Number Birth Date (mm/dd/yyyy)

5 Are your parents dependent upon you for one-half of their support? No Yes, provide

Name of Parent (First Name Middle Initial Last Name) Social Security Number Birth Date (mm/dd/yyyy)

Name of Parent (First Name Middle Initial Last Name) Social Security Number Birth Date (mm/dd/yyyy)

Put your name and Social Security number at the top of every page

Rice Angela Spaccia
Your Name Social Security Number

Section 8

Last Day on Payroll

Please enter the last day you received compensation _____
Last Day on Payroll (mm/dd/yyyy)

Section 9

Employer Certification (For service pending applications only)

Have your employer complete this section

Please refer to the detailed instructions in this publication for more information

Do not detach from application

Employee's Last Day on Payroll (mm/dd/yyyy) _____ Employee's Separation Date (mm/dd/yyyy) _____

Balance of unused sick leave hours on employee's date of separation _____ Hours - 8 = _____ Days

Balance of educational leave hours on employee's date of separation _____ Hours - 8 = _____ Days

This certification is not required if you were separated from employment more than four months ago

By signing below, you hereby certify, under the penalty of perjury, that the above information is true, complete, and correct to the best of your knowledge. Any changes to this information must be submitted on an *Amended Employer Certification* form

Signature of Employer _____ Print Name (First Name Middle Initial Last Name)

Position Title of Employer _____ Phone Number of Employer _____ Date (mm/dd/yyyy)

Section 10

Tax Withholding Election

Do not complete for industrial disability retirement
Please choose one only

Federal Income Tax information Please refer to the detailed instructions in this publication for more information

- Do not withhold federal income tax
- Withhold federal income tax in the amount of \$ _____ per month
Dollars
- Withhold federal income tax based on the tax tables for
 - A married individual with _____ tax withholding exemptions
Number
 - A single individual with _____ tax withholding exemptions
Number
 in addition to the amount withheld based on the tax tables withhold \$ _____ per month
Dollars

State withholding is optional for out-of-state residents

State Income Tax information Please refer to the detailed instructions in this publication for more information

- Do not withhold State of California income tax
- Withhold State of California income tax in the amount of \$ _____ per month
Dollars
- Withhold State of California income tax based on the tax tables for
 - A married individual with _____ tax withholding exemptions
Number
 - A single individual with _____ tax withholding exemptions
Number
 In addition to the amount withheld based on the tax tables, withhold \$ _____ per month
Dollars
- Withhold State of California income tax in the amount of 10 percent of the federal income tax withholding amount

13 28 110 210

Put your name and Social Security number at the top of every page.

Pier Angela Spacia
Your Name Social Security Number

Section 11

This section must be completed or your application will be returned
If your spouse's or domestic partner's signature is not available, See instructions in this booklet on completing the Justification for Absence of Signature form. Your signature and your spouse's or domestic partner's signature must be notarized by a notary public or witnessed by a CalPERS representative.

Member Signature and Notary

I certify, under the penalty of perjury, that the information submitted hereon is true and correct to the best of my knowledge I understand to cancel this application or to change the elected option or beneficiary I must notify CalPERS before the mailing of my first full monthly retirement allowance check

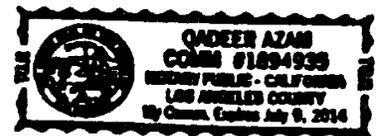
I understand that if I am married or in a registered domestic partnership, but do not name my spouse or partner as beneficiary, they may still be entitled to a community property share of the Option 1 lump sum return of contributions benefit or a share of the monthly option death benefit allowance. Their community property interest is 50% of the benefit based on the contributions or service credit earned for the period of CalPERS service during which we were married or in a registered partnership. My non-spouse or non-partner designated beneficiary will receive the portion of the lump sum Option 1 benefit or monthly option allowance that is not payable to my spouse or domestic partner. I understand that my spouse or domestic partner will have the right to disclaim entitlement to their community property interest in the death benefit at the time the benefit becomes payable, if they so desire.

More detailed information on this section is available in this publication

Are you legally married or do you have a legal domestic partner? Yes No
If yes, your spouse or domestic partner must sign this election
If no, please indicate Never Married/or in Partnership Divorced/Annulled 8/2000
 Widowed Or Termination of Domestic Partnership

Pier Angela Spacia 09/28/2010
Your Signature Date (mm/dd/yyyy)
Your Spouse's or Domestic Partner's Signature Date (mm/dd/yyyy)

State of California, County of Los Angeles
On 9/28/2010 before me, Qadeer Azam Notary Public
Date Name of Notary/Witness
personally appeared PIERANGELA SPACCIA, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.



Notary Seal

Witness my hand and official seal or authorized CalPERS representative signature
Qadeer Azam
Signature of Notary or CalPERS representative Position Title Date (mm/dd/yyyy)
Print Name CalPERS Office (if applicable)

Section 12

To be completed if the employer is submitting the application on behalf of the member

Employer-Originated Application

Signature of Employer
Print Name of Employer
Position Title of Employer Phone Number Date (mm/dd/yyyy)

Mail to: CalPERS Benefit Services Division • P O Box 942711, Sacramento, California 94229-2711

AGREEMENT

THIS AGREEMENT FOR EMPLOYMENT, ("Agreement") is made this 1st day of July, 2003, by and between the CITY OF BELL, a general law city (the "City") and Pierangela Spaccia, an individual (the "Employee") pursuant to the following terms and conditions:

RECITALS

- A. The City is a general law city located in the County of Los Angeles, State of California; and
- B. The City desires the employment for services of Employee as the Assistant to the Chief Administrative Officer of City; and
- C. City and Employee desire to provide for certain procedures, benefits and requirements regarding the employment of the Assistant to the Chief Administrative Officer; and
- D. Employee is willing to work as Assistant to the Chief Administrative Officer of City under the terms and conditions recited herein,

NOW, THEREFORE, CITY AND EMPLOYEE agree to the following:

Section 1. Novation

The parties hereto intend by the execution of this Agreement to terminate and replace all prior and written agreement existing by and between the parties, through and including the effective date of this Agreement.

Section 2. Conditions of Employment

It is the intention of the parties that from and after the effective date of this Agreement that the terms and conditions of Employee's employment as Assistant to the Chief Administrative Officer shall be governed exclusively by the provisions of this Agreement and applicable provisions of law.

Section 3. Duties

City agrees to retain Employee as the Assistant to the Chief Administrative Officer of City to have and exercise all of the powers, duties and responsibilities as Assistant to the Chief Administrative Officer as set forth in the Bell Municipal Code and other applicable laws and regulations, and to perform such other proper duties as assigned by the Chief Administrative Officer (CAO) of the City.

Section 4. Termination

The parties hereto may terminate this Agreement prior to the end of the Term, or any renewal period thereafter, in one of the following ways:

- a. By mutual agreement of the parties; or
- b. By the death or retirement of Employee; or
- c. Employee is terminated for cause as a result of a conviction of a felony or for a crime involving moral turpitude. For purposes of this Agreement, the City shall have the burden of establishing by a preponderance of evidence that Employee was convicted of a felony or a crime of moral turpitude.
- d. By the City without cause upon giving thirty (30) days written notice to Employee of the termination of this Agreement. In the event of such termination, Employee shall be entitled to receive a payment in the sum calculated at three times the then monthly salary of Employee.

Upon termination by either party for whatever reason, Employee shall be entitled to receive an amount equal to all accrued and unused sick and vacation leave to which Employee is entitled pursuant to the terms of this Agreement, which shall be calculated in accordance with the adopted and approved policies of the City as of the date of termination and at the applicable rate of pay as earned and accrued.

Section 5. Basic Salary

Employee shall be paid a basic salary of \$3,935.00 per pay period (hereinafter the "Basic Salary"). The Basic Salary may be adjusted by the City Council, in its sole discretion, on or before each anniversary date of this Agreement.

Section 6. Employment Fringe Benefits

Employee shall be entitled to the following Fringe Benefits in accordance with this Agreement:

- a. City agrees at its sole expense to provide Employee and her dependents with the opportunity to obtain all insurance benefits provided to the City's unrepresented management employees, including but not limited to, dental, medical, and vision plans; and
- b. Employee shall be maintained by the City as a member of PERS pursuant to the contract between PERS and the City, as it now exists or may hereafter be amended, provided all Employee's costs to maintain such membership in said PERS shall be paid by the City; and
- c. Employee shall, as of the effective date of this Agreement, accrue vacation leave and sick leave in such amounts as a new unrepresented employee.

- d. City may pay annual professional dues and fees on behalf of employee approved annually in the City budget by the City Council commencing July 1, 2003.

Section 7. Expense Reimbursement

Employee shall be entitled to reimbursement for actual expenses incurred by her in the performance of her duties as Assistant to the Chief Administrative Officer of City. All such expenses shall be reviewed and approved by the CAO or shall be paid pursuant to policies and or directives heretofore or hereafter issued by the City Council relating to such reimbursement.

Section 8. Indemnification

City shall defend, hold harmless and indemnify Employee against any claim, demand, judgment or action, of any type or kind, arising out of any act or failure to act, by Employee, if such act or failure to act was within the course and scope of Employee's employment. City may compromise and settle any such claim or suit provided City shall bear the entire cost of any such settlement.

Section 9. No Reduction of Benefits

City shall not at any time during the Term of this Agreement reduce Employee's Basic Salary or Fringe Benefits package to which Employee is entitled as provided in accordance with this Agreement, unless an identical across-the-board reduction in compensation and benefits is ordered for all other employees of City.

Section 10. Effect of Agreement

The execution of this Agreement shall not operate as a waiver of any claims either party hereto may have against the other party arising out of their prior relationship of employer-employee.

Section 11. Employee Evaluation

Subject to the CAO providing a recommendation and draft performance evaluation of Assistant to the Chief Administrative Officer to the City Council on or before August 1 of each year (commencing August 1, 2003) of the Term, the City Council shall annually conduct an evaluation of the performance of Employee as Assistant to the Chief Administrative Officer. Employee shall be fully informed of the details of such evaluation and shall have a reasonable opportunity to present his views, with reference to such evaluation, to the City Council. All materials and comments made as part of the evaluation process shall be and remain confidential.

Section 12. Outside Employment

- a. During the Term of this Agreement, Employee shall not engage in any outside employment of any kind without the prior written consent of the CAO, and approval of the City Council. This shall be at the sole discretion of the City Council whether to grant or deny such consent, provided there is no conflict of interest of Employee due to such outside employment.
- b. Employee, after the termination of her employment or term of office, shall not for compensation during a period of two (2) years from the date of termination of employment, represent, aid, advise, counsel, consult or assist in representing any other person (other than City), before any court or public agency or any officer or employee thereof by making any formal or informal appearance, or by making any oral or written communication with the intent to influence, in connection with any proceeding if both of the following apply:
 - 1) The City of Bell or affiliated public entity, is a party or has a direct and substantial interest.
 - 2) The proceeding is one in which Employee formerly participated.

Section 13. Notices

Any notice required or permitted by this Agreement shall be in writing and shall be personally served upon the party to be notified, or shall be deposited in the custody of the United States Postal Service, or its successor, postage prepaid, and addressed as follows:

To City: City of Bell
 6330 Pine Avenue
 Bell, California 90201
 Attn: CAO

To Employee: Pierangela Spaccia
 At her home address, which shall be
 maintained on file with the City Clerk.

Notices shall be deemed given as of the date of personal service of five (5) consecutive calendar days following deposit of the same in the custody of the United States Postal Service.

Section 14. Binding Effect

The provisions of this Agreement shall be binding upon the parties hereto and their respective successors in interest.

Section 15. Section Headings

The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents of the sections to which they relate.

Section 16. No Presumption Re: Drafter

The parties hereto acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

Section 17. Assistance of Legal Counsel

Each party to this Agreement warrants to each other party, as follows:

- a. That each party either had the assistance of legal counsel or had legal counsel available to it, in the negotiation for and execution of this Agreement and all related documents; and
- b. That each party has lawfully authorized the execution or has executed this Agreement.

Section 18. Severability

This Agreement is severable, and if any provision or part hereof is judicially declared invalid, the remaining provisions shall remain in force and effect.

Section 19. Modification

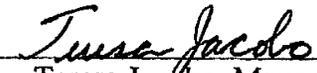
This Agreement shall not be modified except by written agreement of the parties.

Section 20. Effective Date

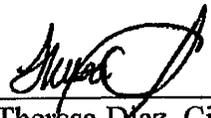
This Agreement shall be effective as of the day and year first above written.

IN WITNESS WHEREOF, the parties have caused this Agreement for Employment to be executed as follows:

("City")
CITY OF BELL, CALIFORNIA

By: 
Teresa Jacobo, Mayor

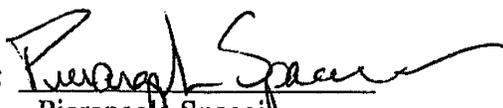
Attest:

By: 
Theresa Diaz, City Clerk

Approved as to Form:
City Attorney

By: 

"Employee"

By: 
Pierangela Spaccia

ADDENDUM NUMBER ONE TO AGREEMENT

THIS FIRST ADDENDUM TO AGREEMENT FOR EMPLOYMENT, ("Agreement") is made this 1st day of July, 2004, by and between the CITY OF BELL, a general law city (the "City") and Pierangela Spaccia, an individual (the "Employee") pursuant to the following terms and conditions:

RECITALS

- A. The City is a general law city located in the County of Los Angeles, State of California; and
- B. The City desires the employment for services of Employee as the Assistant to the Chief Administrative Officer of City; and
- C. City desires to adjust the Agreement as provided in Section 5 of this Agreement.

NOW, THEREFORE, CITY AND EMPLOYEE agree to the following:

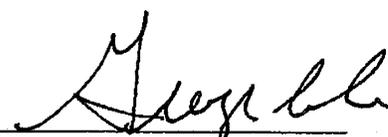
1. Basic Salary. Section 5 of the Agreement is hereby modified as follows:

Employee salary shall increase \$1,065.00 per pay period commencing from the effective date of the Addendum as written above, subject to the condition that the City's Audited Statement of the General Fund Balance for the immediate past fiscal year prior to the adjustment evidences a positive cash position. In the event said Fund Balance for such fiscal year results in a negative cash position, the salary adjustment provided herein may be rescinded by the City Council in its sole discretion, and Employee shall receive the previous amount of Basic Salary in effect prior to the adjustment as provided in the Agreement.

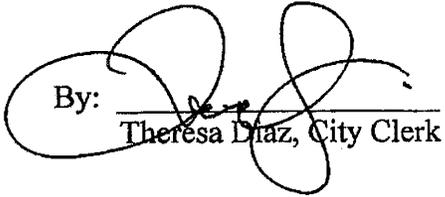
2. City and Employee hereby acknowledge and agree that except as expressly modified by this First Addendum, the Agreement is in full force and effect. All capitalized terms not specifically defined herein, shall have the same meaning ascribed to them in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement for Employment to be executed as follows:

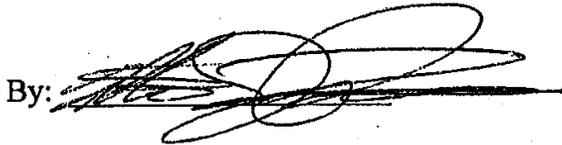
("City")
CITY OF BELL, CALIFORNIA

By: 
George Cole, Mayor

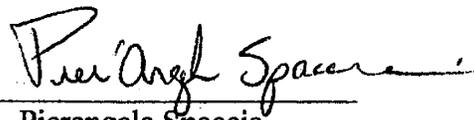
Attest:

By: 
Theresa Diaz, City Clerk

Approved as to Form:
City Attorney

By: 

"Employee"

By: 
Pierangela Spaccia

ADDENDUM NUMBER TWO TO AGREEMENT

THIS SECOND ADDENDUM TO AGREEMENT FOR EMPLOYMENT, ("Agreement") is made this 1st day of July, 2005, by and between the CITY OF BELL, a general law city (the "City") and Pierangela Spaccia, an individual (the "Employee") pursuant to the following terms and conditions:

RECITALS

- A. The City is a general law city located in the County of Los Angeles, State of California; and
- B. The City desires the employment for services of Employee as the Assistant to the Chief Administrative Officer of City; and
- C. City desires to adjust the Agreement as provided in Section 5 of this Agreement.
- D. City desires to adjust the Agreement as provided in Section 6 of this Agreement.

NOW, THEREFORE, CITY AND EMPLOYEE agree to the following:

1. Basic Salary. Section 5 is hereby modified to provide that the Basic Salary of Employee shall be adjusted as follows:

- a. Effective July 1, 2005, \$7,115.40 per pay period.
- b. Effective July 1, 2006, \$7,884.65 per pay period.
- c. Effective July 1, 2007, \$8,846.16 per pay period.
- d. Effective July 1, 2008, \$9,615.40 per pay period.

Each adjustment to the Basic Salary as provided in this Section shall be subject to the condition that the City's Audited Statement of the General Fund Balance for the immediate past fiscal year prior to the adjustment evidences a positive cash position. In the event said Fund Balance for such fiscal year results in a negative cash position, the salary adjustment provided herein shall not take effect and Employee shall receive the previous amount of Basic Salary in effect prior to the adjustment as provided in the Agreement.

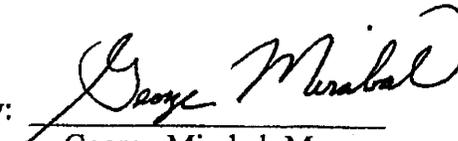
2. Employment Fringe Benefits. Section 6 is hereby modified to provide that the Employment Fringe Benefits of Employee shall be adjusted as follows:

- a. Employee shall, as of the effective date of this Agreement, accrue vacation leave as an unrepresented employee, in such amounts commensurate with the Employee's PERS service credit.

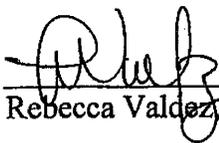
3. City and Employee hereby acknowledge and agree that except as expressly modified by this Second Addendum, the Agreement is in full force and effect. All capitalized terms not specifically defined herein, shall have the same meaning ascribed to them in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement for Employment to be executed as follows:

("City")
CITY OF BELL, CALIFORNIA

By: 
George Mirabal, Mayor

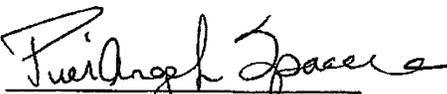
Attest:

By: 
Rebecca Valdez, City Clerk

Approved as to Form:
City Attorney

By: 

"Employee"

By: 
Pierangela Spaccia

ADDENDUM NUMBER THREE TO AGREEMENT

THIS THIRD ADDENDUM TO AGREEMENT FOR EMPLOYMENT, ("Agreement") is made this 1st day of July, 2006, by and between the CITY OF BELL, a charter city (the "City") and Pierangela Spaccia, an individual (the "Employee") pursuant to the following terms and conditions:

RECITALS

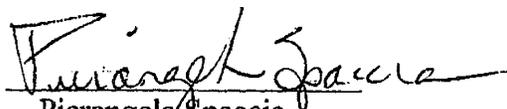
- A. The City is a charter city located in the County of Los Angeles, State of California; and
- B. The City desires the employment for services of Employee as the Assistant to the Chief Administrative Officer of City; and
- C. City desires to adjust the Agreement as provided in Sections 4 and 5 of this Agreement.

NOW, THEREFORE, CITY AND EMPLOYEE agree to the following:

1. Section 4 is hereby modified to replace 4(d) with the following:
 - d. By the City without cause upon giving thirty (30) days written notice to Employee of the termination of this Agreement. In the event of such termination, Employee shall receive a payment equal to the maximum severance allowance under California Government Code, Sections 53260 – 53264.
2. Section 5 is hereby modified to provide that the basic salary shall include an additional \$200.00 per pay period, and is hereby modified to include her funding of the Governmental Money Purchase Plan (401a).
3. City and Employee hereby acknowledge and agree that except as expressly modified by this Third Addendum, the Agreement is in full force and effect. All capitalized terms not specifically defined herein, shall have the same meaning ascribed to them in the Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement for Employment to be executed as follows:

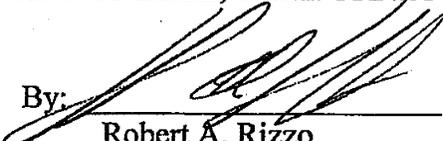
"Employee"

By: 
Pierangela Spaccia

Attest:

By: 
Rebecca Valdez, City Clerk

("City")
CITY OF BELL, CALIFORNIA

By: 
Robert A. Rizzo
Chief Administrative Officer