

**ATTACHMENT C**  
**RESPONDENT(S) ARGUMENT(S)**

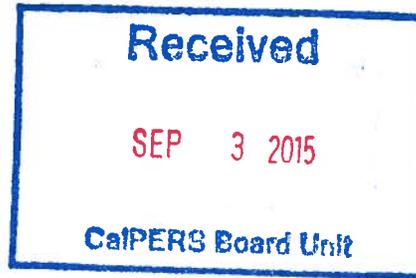
## Law Offices of John Michael Jensen

11500 West Olympic Blvd Suite 550, Los Angeles CA 90064-1524  
johnjensen@johnmjensen.com tel. 310.312.1100

August 31, 2015

BY FAX AND BY MAIL

Cheree Swedensky,  
Assistant to the Board  
CalPERS Executive Office  
P.O. Box 942701  
Sacramento, CA 94229-2701



Re: Bruce V. Malkenhorst, Sr. and City of Vernon, Respondents  
CalPERS Case No. 2012-0671, OAH Case No. 2013080917

Dear Ms. Swedensky:

Bruce V. Malkenhorst, Sr. submits his Respondent's Argument for consideration by the Board of Administration at its September 17, 2015 meeting regarding the *Proposed Decision in In the Matter of the Calculation of Final Compensation of Bruce Malkenhorst, Sr* OAH Case No. 2013080917. The *Proposed Decision* makes various findings of fact and conclusions of law, granting Mr. Malkenhorst's appeal in part and denying it in part.

Significantly, the *Proposed Decision* finds that CalPERS' current method of calculating Bruce Malkenhorst's reduced final compensation is "arbitrary", "without sufficient legal authority", and "constitutes an abuse of discretion".

Specifically, Administrative Law Judge Howard Cohen found that although CalPERS has authority to recalculate Mr. Malkenhorst's pension allowance, its calculation of his final compensation was arbitrary and constitutes an abuse of discretion. The ALJ has directed CalPERS to recalculate his final compensation in a manner that appropriately credits Mr. Malkenhorst for duties performed as City Administrator/City Clerk, excluding only the compensation associated with performing "additional" titles and responsibilities, if any.

This six (6) page Respondent's Argument (with eight (8) exhibits attached) addresses the Proposal and matter in the ALJ's *Proposed Decision*, while reserving all rights of every kind to contest all issues. Mr. Malkenhorst does not concede any issue, factual or legal, associated with the *Proposed Decision* or his case, however his counsel herein makes a good faith attempt to address the concerns raised by ALJ Cohen and pending before the Board. This letter addresses the analysis the ALJ calls for: considering an "appropriate" final compensation amount. However, if these discussions are not fruitful, Mr. Malkenhorst reserves all rights of any kind, including to litigate and dispute every matter, and the efforts in this letter are not a concession, admission, or other representation that can be held against him. Mr. Malkenhorst does not concede the correctness of some of the ALJ's findings and conclusions, and he reserves all rights to challenge CalPERS' ultimate decision in this administrative proceeding and seek all relief of every kind, including attorney fees, should that prove necessary, including by Writ of Administrative Mandamus or other appropriate filing.

### **Amount of Final Compensation**

The *Proposed Decision* does not make findings about the amount of “final compensation” that should be used in the pension calculation.

However, the *Proposed Decision* is clear that Malkenhorst is entitled to a pension based on the compensation for the work performed as the City Administrator.

### **Findings**

As the *Proposed Decision* notes, Malkenhorst worked for most of his 30-year career as City Administrator/City Clerk (hereafter “City Administrator”) for the City of Vernon. The *Proposed Decision* finds that although the City Council tasked the City Administrator position with “additional” titles and duties over the course of his nearly 30 years (Factual Findings 9-13), Malkenhorst worked a single full-time schedule throughout his career, did not work overtime, and the “additional” duties assigned to him as City Administrator did not constitute part-time positions. (Factual Finding 17). As City Administrator, he performed duties greatly in excess of those of a city clerk. Vernon’s City Administrator position is highly complex and highly paid.

The *Proposed Decision* makes factual findings in Malkenhorst’s favor including that: (i) Malkenhorst was a full time employee who did not work overtime and did not work part-time. (ii) The duties did not require Malkenhorst to work overtime and they were not part-time positions. (iii) Many of the assigned non-routine tasks (or “titles”) took only a nominal amount of time or work. (iv) Malkenhorst did not work fewer than 40 hours nor more than 45 hours per week. (v) Vernon paid Malkenhorst a high salary for his work as City Administrator. (vi) The salary for City Administrator was reviewed, determined independently, and approved by Vernon’s Finance Committee and the City Council. (vii) The resolutions were adopted in open session, made publicly available, and posted in public places. (viii) Vernon paid contributions to CalPERS based on the salary paid, and (ix) Vernon fully funded its pension liability to CalPERS at that time.

The *Proposed Decision* found that although there were times when Mr. Malkenhorst's workload increased on a temporary basis, there was no evidence that he worked fewer than 40 hours or more than 45 hours per week. (Factual Findings 17-18.) Although at times pressing tasks consumed time, Mr. Malkenhorst typically spent only nominal amounts of time on those tasks over the years, despite retaining formal “titles” associated with those projects. (Factual Finding 20.) The *Proposed Decision* found that Mr. Malkenhorst was able to delegate many day-to-day duties to other city personnel while retaining overall responsibility. (Factual Finding 20.) The *Proposed Decision* also found that regardless of the nature and extent of the “additional” duties assigned to him by the City Council, Mr. Malkenhorst was still expected to perform all of the City Administrator/City Clerk duties. (Factual finding 19.) In short, evidence demonstrated that Mr. Malkenhorst's “full time” employment was as City Administrator/ City Clerk.

The *Proposed Decision* correctly points out that CalPERS stipulated before the hearing, and the ALJ ordered, that CalPERS bore the burden of proof. The *Proposed Decision* finds that CalPERS *did not* meet its burden of proof concerning several key elements of CalPERS' arguments at hearing, including: (1) alleged overtime (the *Proposed Decision* finds that Mr. Malkenhorst did not work overtime, but rather maintained a consistent work week of 40-45

hours, well within CalPERS' requirements), (2) alleged multiple positions (the *Proposed Decision* finds that any “additional” duties or titles performed or held by Mr. Malkenhorst did not constitute multiple positions), and (3) Mr. Malkenhorst's high salary does not in itself justify CalPERS' challenge to his final compensation and pension calculations (the *Proposed Decision* says that the pay increases cannot be found to constitute the basis for CalPERS' claims that Mr. Malkenhorst's final compensation included payments not in compliance with the PERL).

**No Direct Pay Attributable for “Additional” Duties, Titles, Tasks**

The *Proposed Decision* correctly finds that Malkenhorst held the position of Vernon's City Administrator /City Clerk from 1978 to 2005. Mr. Malkenhorst believes the ALJ incorrectly found that at least a portion of Mr. Malkenhorst's salary increases over the course of his career were attributable to being assigned new responsibilities and titles by the Vernon City Council. In fact, Vernon's actual resolutions that assigned the City Administrator position with various “additional” duties and responsibilities (and at times, with one or more “titles”) make clear that Vernon's City Council required the City Administrator to perform those duties as a component part of the over-all responsibilities of the City Administrator position, for no additional compensation, and as part of the position's ultimate responsibility for the City's performance.

More importantly, the *Proposed Decision* finds that Malkenhorst received no increase in salary directly attributable to any new title, task, or duty given to the City Administrator position by Vernon's City Council. However, the *Proposed Decision* finds that at his annual review by the Vernon Finance Committee, Malkenhorst was rewarded for successfully performing the tasks that were required within his City Administrator position. As a result of Malkenhorst receiving significant raises in the City Administrator salary for performing the duties given to that position, the ALJ finds that Malkenhorst was compensated for performing those “additional” titles, duties, or responsibilities.

This result arises from various assumptions. One assumption is that the City Administrator position itself could not be “worth” the very high compensation. (i.e. the salary is so high, it must be multiple jobs...) However, CalPERS is not allowed to reduce a base salary simply because some people find it too high. *City of Pleasanton v. Bd. of Ad. of the Cal. Pub. Empl. Ret. Sys.*, (2012) 211 Cal.App.4th 522, 527. CalPERS is not allowed to divide a single position into multiple jobs simply because it thinks that the salary of the single position is too high.

More specifically, the *Proposed Decision* correctly notes that increases in Malkenhorst's salary over his last 15 years "do not constitute the basis for CalPERS' claim that respondent Malkenhorst's 'final compensation' included payments that do not comply with the PERL." In short, the *total amount* of Malkenhorst's salary is not grounds for a reduction. The amount of compensation should play no role in deciding *what portion* is attributable to work as City Administrator/City Clerk.

Nevertheless, even if one were to adopt the ALJ's findings about a portion of the salary increases being attributed to Mr. Malkenhorst's performance concerning the “additional” responsibilities or titles, the ALJ clearly found that vast majority of Malkenhorst's work was performing City Administrator/City Clerk duties. Any "additional compensation" associated with “other” duties or titles would constitute only a very small amount, if any, of the salary Mr. Malkenhorst earned. For example, the *Proposed Decision* notes that positions such as CEO of

the Light & Power Department or CEO of the Gas Municipal Utility Company took only a nominal amount of Mr. Malkenhorst's time after the projects were initiated.

More fundamentally, the ALJ also incorrectly assumed that multiple tasks or titles could not be assigned to be performed within a single position paid one salary. This assumption is contrary to law and established practice. *City of Long Beach v. Allen* (1956) 143 Cal. App. 2d 24, 30. Typically, the City as employer determines the duties, title(s), and salary of each position. For example, state law for general law cities establishes bare minimum duties that cities, especially charter cities, are encouraged to expand on. (Vernon resolutions show that the City Council assigned various tasks and titles to the position of City Administrator, not to Malkenhorst directly. Expert witness testified that it is common for city councils to assign multiple task or titles to a municipal executive to perform within one position.). This assumption wrongly gives CalPERS the power to determine which tasks, titles, or duties should be performed within a specific position, which is also contrary to existing law.

### **Publicly Available Pay Schedules, Requirement's Thereof in 2005**

The ALJ felt CalPERS had met its burden that Vernon's publicly available pay schedules were not sufficiently "transparent" (Mr. Malkenhorst disagrees on and reserves all rights to contest all related to this). The ALJ apparently found that Vernon was not sufficiently "transparent" in its publicly available pay schedules because Vernon did not list the duties, titles, and responsibilities of the City Administrator position, as well as the compensation, even if zero compensation, associated with being tasked with those duties, titles, or responsibilities.

Factually, Vernon's publicly available pay schedules listed a single full time salary for the position of City Administrator/City Clerk that Malkenhorst held. It paid \$35,302 a month in 2005. *Ex 1 attached*. Vernon's pay schedules did not list the various titles, duties, or task assigned to the City Administrator position, or otherwise list the various titles, duties, or task separately. This is typical practice for California cities.

### **In 2006, Did Each Duty and Responsibility of a Position Have to be Listed and Detailed Separately on Publicly Available Pay Schedule?**

Because Malkenhorst retired in 2005, the laws and regulation that govern his pension are those that were in effect in 2005. In 2005 before *Prentice*, there was no requirement to list the separate duties. *See* FN 4 in *Prentice v. Bd. of Admin., California Pub. Employees' Ret. Sys.*, (2007) 157 Cal. App. 4th 983, 990. Vernon properly listed the salary of the City Administrator/City Clerk on publicly available pay schedules and satisfied the publicly available pay schedule "requirement" as it existed in 2005. *See Ex 1 attached*.

While CalPERS has subsequently formulated new regulations about publicly available pay schedules that may require listing additional information, the law and regulation applicable to 2005 did not required the pay schedules to detail each task, duty, or title assumed by a position. The law in 2005 did not require that the pay schedules list, create or delineate a separate salary associated with each duty, task, or title performed within a job. In Vernon, the titles were "organizational signposts" and most of the tasks or duties associated with them required intermittent or minimal time and little ongoing work. The resolutions explicitly indicated that there was no pay associated with performing the positions other than for City Administrator.

Contrary to the documents, CalPERS determined that Malkenhorst had multiple job duties and titles, and that there was not publicly available pay schedule for any of Malkenhorst's positions other than City Administrator/City Clerk. Because of these assumptions, CalPERS rejected using the salary for City Administrator /City Clerk as payrate.

Since it rejected the City Administrator pay rate, CalPERS argued that it could instead use the much lower paid and much less complicated position of City Clerk, which Malkenhorst last held before 1978. In the hearing, although Malkenhorst had been City Administrator since 1978, CalPERS proposed that Malkenhorst was only entitled to a final compensation based on an "acting" City Clerk's salary of about \$90,000 (even though he never held the acting City Clerk position).

The ALJ sharply criticized CalPERS' staff's cavalier and arbitrary method of revising Mr. Malkenhorst's final compensation.

The *Proposed Decision* points out that Mr. Malkenhorst was City Administrator for most of his career and the City Administrator/City Clerk responsibilities greatly exceeded the responsibilities he held as City Clerk. The *Proposed Decision* compares City Clerk duties (like placing items on the City Council agenda, keeping minutes of Council meetings and drafting ordinances) with the City Administrator duties which included having all department heads report to him, budget issues and significant matters brought before the City Council. (Factual Finding 33). The ALJ notes that City Administrator was ultimately responsibility for all City departments and programs under overall City Council authority, a role much larger than City Clerk. City Administrator was clearly a much more demanding position, deserving a much higher salary. (Factual Finding 34.)

The *Proposed Decision* then goes on to note that while CalPERS purportedly considered alternatives for determining Mr. Malkenhorst's final compensation during the audit and payrate review process (See Ex 2 attached), CalPERS decided against using them without explanation and contrary to the law that pension statutes must be liberally construed in favor of beneficiaries. CalPERS instead took each opportunity to construe the law and facts against Mr. Malkenhorst, instead of in his favor. As a benchmark for comparison about what should be his final compensation, the ALJ also suggests that CalPERS look at the compensation of Mr. Malkenhorst's successor as City Administrator. While CalPERS did not seek to include that information in the administrative record, it presumably has all such information as part of Vernon's regular reporting of member earnings and contributions.

### **ALJ's Proposal**

The *Proposed Decision* urges CalPERS to fairly identify a payrate for City Administrator that is consistent with the facts and law, if CalPERS refuses to use the actual salary as payrate for Mr. Malkenhorst.

In the effort to address in good faith the ALJ's proposal without conceding any issues and without waiving any rights, we assert here is a significant amount of data that CalPERS can review to ascertain an appropriate payrate such:

1) Actual Payrate. The documents are clear about the actual payrate for the City Administrator in 2005. See *Ex. 1 attached*.

2) Alternatives Considered in CalPERS Audit Process, such as the suggestion to look at the highest payrate of the new positions created after Malkenhorst's retirement. During CalPERS audit and review process, Terrance Rodgers, Compensation Review Unit ("CRU") *Staff Service Manager I* testified that he felt the City Council pay resolutions satisfy the pay schedule requirements and that a "payrate" for a comparable position in the Light & Power Department "may be more in alignment with the 'spirit' of SB 53 and the definition of payrate in GC 20636(b)(2)." (Attached as *Ex. 2* is his email, *Ex. "NNNNN"*.) Minimally this would qualify Malkenhorst for the \$24,000 monthly salary for Acting Director L&P position (attached as *Ex. 3*) *Exh.75-11*), a "position" CalPERS claims Mr. Malkenhorst held in his City Administrator position, (rather than the \$7,875 salary for Acting City Clerk) (*Exh. 75-22* attached as *Ex. 4*.)

2) Successor City Administrator's payrate. Sometime after Malkenhorst retired, Vernon hired a part time City Administrator at a salary of \$335,000 per year, plus longevity. In 2009, Vernon hired a different City Administrator and paid him a salary of \$384,000 a year, plus longevity. Attached as *Ex. 5* is Vernon's Resolution No. 9942, dated May 11, 2009, setting the salary for City Administrator at \$32,000 per month (\$384,000 per year). Attached as *Ex. 6* is Vernon's Resolution No. 10057, dated August 31, 2009, again setting the salary for City Administrator at \$32,000 per month. Attached as *Ex. 7* is Vernon's Resolution No. 2010-33, dated March 1, 2010, maintaining the salary for City Administrator at \$32,000 per month.

3) Payrate of Current City Administrator. Currently in 2015, Vernon pays its City Administrator a salary of \$293,436, plus longevity. See *Ex. 8* attached

Because he believes that he is entitled to a payrate based on the salary actually paid to him, Malkenhorst requests that the Board adopt the *Proposed Decision* with technical changes that restore the salary and payrate of \$35,302 plus longevity as previously accepted and determined by CalPERS in 2005, and paid until 2014. *Gov.C. § 11517(c)(2)(C)*.

Alternatively, the Board can reject the *Proposed Decision* and refer the case back to ALJ Howard W. Cohen to take additional evidence, including relevant to the amount of salary that Vernon paid others in the City Administrator position. *Gov.C. § 11517(c)(2)(D)*.

Lastly, the Board can reject the *Proposed Decision* and decide the case upon each Board member's independent examination of the extensive administrative record, including reading the transcript, and after taking additional evidence." *Gov.C. § 11517(c)(2)(E)*. In that case, Malkenhorst must be allowed to present evidence and oral argument to the Board. *Gov.C. § 11517(c)(2)(E)(ii)*.

### CONCLUSION

In this Respondent's Argument, we urge the Board to address in good faith the proposal of ALJ Cohen in the *Proposed Decision* to seek a fair "final compensation" amount with respect to the law and facts determined in the administrative process.

Sincerely,

  
John Michael Jensen

**Exhibits 1-8 attached to Respondent's Argument**

Bruce V. Malkenhorst, Sr. and City of Vernon, Respondents  
CalPERS Case No. 2012-0671, OAH Case No. 2013080917

**Exhibit 1** Salary Schedule in 2005

Publicly Available Salary Schedule for City Administrator in 2005

**Exhibit 2** Exhibit "NNNNN" CalPERS Staff email

Terrence Rodgers, Compensation Review Unit ("CRU") *Staff Service Manager I* email that he thought the City Council pay resolutions satisfy the pay schedule requirements and that a "payrate" for a comparable position in the Light & Power Department "may be more in alignment with the 'spirit' of SB 53 and the definition of payrate in GC 20636(b)(2)."

**Exhibit 3** Exh. 75-11 , City of Vernon Pay Schedule

\$24,000 monthly salary for Acting Director L&P position , a "position"  
CalPERS claims Mr. Malkenhorst held in his City Administrator position.

**Exhibit 4** Exh. 75-22, City of Vernon Pay Schedule

\$7,875 salary for Acting City Clerk

**Exhibit 5** City of Vernon *Resolution No. 9942*

City of Vernon *Resolution No. 9942*, dated May 11, 2009, setting the salary for City Administrator at \$32,000 per month (\$384,000 per year);

**Exhibit 6** City of Vernon *Resolution No. 10057*

City of Vernon *Resolution No. 10057*, dated August 31, 2009, again setting the salary for City Administrator at \$32,000 per month

**Exhibit 7** City of Vernon *Resolution No. 2010-33*

City of Vernon *Resolution No. 2010-33*, dated March 1, 2010, maintaining the salary for City Administrator at \$32,000 per month

**Exhibit 8** City Of Vernon, Current Salary of City Administrator

Currently in 2015, Vernon pays its City Administrator a salary of \$293,436, plus longevity.

# **Exhibit 1**

SCHEDULE II

0.03

CITY ADMINISTRATOR/CITY CLERK DEPARTMENT SALARY SCALE

		MONTHLY SALARY
CITY ADMINISTRATOR/CITY CLERK - 400X	STEP 1	35,302.00
DIRECTOR OF ENVIRONMENTAL HEALTH - 4310	STEP 1	10,986.00
	2	10,413.00
	3	9,870.00
	4	9,355.00
	5	8,867.00
	6	8,405.00
	7	7,967.00
CHIEF DEPUTY DIRECTOR ENVIRONMENTAL HEALTH - 4320	STEP 1	8,900.00
	2	8,436.00
	3	7,996.00
	4	7,579.00
	5	7,184.00
	6	6,809.00
	7	6,454.00
ASSISTANT TO THE CITY ADMINISTRATOR - 4100	STEP 1	8,580.00
	2	8,133.00
	3	7,709.00
	4	7,307.00
	5	6,926.00
	6	6,565.00
	7	6,223.00
SENIOR ENVIRONMENTAL SPECIALIST - 4440	STEP 1	7,996.00
	2	7,579.00
	3	7,184.00
	4	6,809.00
	5	6,454.00
	6	6,118.00
	7	5,799.00
SPECIAL ASST TO THE CITY ADMINISTRATOR - 4050	STEP 1	7,409.00
OFFICE MANAGER - 4120	STEP 1	6,655.00
RISK MANAGER/PERSONNEL ASSISTANT - 4260	STEP 1	6,308.00
BUDGET AUDITOR - 4330	2	5,979.00
	3	5,667.00
	4	5,372.00
	5	5,092.00
	6	4,827.00
	7	4,575.00
	8	4,336.00
LEGAL COUNSEL - 9700	STEP 1	25,000.00

# **Exhibit 2**

EX

NNNNN

From: Rodgers, Terrance  
Sent: Tuesday, May 08, 2012 02:21 PM  
To: Jimenez, Tom; Montez, Marlon; McGinity, Teresa; Lueras, Lolita; Ray, Angelina T.  
Subject: FW: Malikenhorst, Sr. Compensation

Good Afternoon,

Per Tom's request, I wanted to provide explanation and another option to determine the "compensation earnable" for Mr. Malikenhorst, Sr. The explanations are as follows:

1. Accept payrate as reported, but reduce Longevity to 20% as provided to the group or class, for a total F/C amount of \$42362.40 (#1 in attached)
2. Use \$4797 payrate and 20% Longevity for a total F/C amount of \$5756.40. This was the last verified, full-time payrate and allowable special compensation (e.g. Plotkin with CSBA)- (#2 in attached)
3. Using the \$4797 payrate, allow the actuarially assumed cost-of-living increase (for all miscellaneous members) of 3% per year since 1978. This would provide a monthly payrate of \$10656 plus a 20% Longevity payment of \$2131.20 for a total monthly F/C of \$12787.20. Because we use the actuarially assumed COLA increase, this may help mitigate any unfunded liability issues and, based on experience, is a relatively reasonable monthly F/C for an equivalent position at a comparable city/organization (#3 in attached)
4. Another possible course of action that has been discussed is as follows:

Because the member took on multiple positions and due to the lack of specific information to establish a full-time payrate, another option is to limit the member to an amount on an approved publicly available pay schedule for which a full-time payrate has been established in the next most closely related group or class. This approach potentially provides more consistent application for all affected members, it may be more in alignment with the "spirit" of SB 53 and the definition of payrate in GC 20636(b)(2). Also, this approach is provided as a possible solution in situations where reported compensation does not conform to GC 20636(b)(2) in CCR 570.5(b). For example, when one of the positions listed for the member is the "CEO of the Electrical Department," determine the most closely related group or class on the pay schedule that conforms to the publicly available requirements and for which we can determine was a full-time payrate (e.g. the position is not cited in any resolution for which one person is serving in multiple positions such as Generation Operations Manager which is a subordinate position to CEO of the Electrical Department). By taking this approach, we can establish a full-time rate of pay for the most closely related, similarly situated group or class for services rendered on a full-time basis and pursuant to a publicly available pay schedule.

I hope this makes sense, but please let me know if I need to elaborate.  
Regards,

**Terrance Rodgers**  
**Compensation Review**  
**916/795.9523**

# **Exhibit 3**

SCHEDULE II

LIGHT & POWER DEPARTMENT SALARY SCALE

		MONTHLY SALARY
ACTING DIRECTOR L&P	STEP 1	24,000.00
GENERATION OPERATIONS MANAGER - 5197	STEP 1	9,924.00
ENGINEERING OPERATIONS MANAGER - 2550	STEP 1	9,924.00
ELECTRICAL ENGINEER - 5301	STEP 1	8,437.00
OPERATIONS ENGINEER - 5400	2	7,997.00
	3	7,580.00
	4	7,185.00
	5	6,810.00
	6	6,455.00
	7	6,118.00
	8	5,799.00
ASSOCIATE ENGINEER - 5302	STEP 1	7,185.00
	2	6,810.00
	3	6,455.00
	4	6,118.00
	5	5,799.00
	6	5,497.00
	7	5,210.00
	8	4,938.00
	9	4,681.00
ELECTRIC SERVICE PLANNER - 5204	STEP 1	6,414.00
ASSISTANT ENGINEER - 5312	2	6,080.00
ASSOCIATE ENERGY MGMT REP - 5317	3	5,763.00
	4	5,463.00
	5	5,178.00
	6	4,908.00
	7	4,652.00
	8	4,409.00

SCHEDULE II  
EXHIBIT "B" PAGE 4

7/1/05

EX. 75 - 11

CalPERS143432

# **Exhibit 4**

SCHEDULE II

CITY ADMINISTRATOR/CITY CLERK DEPARTMENT SALARY SCALE

		MONTHLY SALARY
ACTING CITY CLERK - 9851	STEP 1	7,875.00
DIRECTOR OF ENVIRONMENTAL HEALTH - 4310	STEP 1	10,986.00
	2	10,413.00
	3	9,870.00
	4	9,355.00
	5	8,867.00
	6	8,405.00
	7	7,967.00
CHIEF DEPUTY DIRECTOR ENVIRONMENTAL HEALTH - 4320	STEP 1	8,900.00
	2	8,436.00
	3	7,996.00
	4	7,579.00
	5	7,184.00
	6	6,809.00
	7	6,454.00
SENIOR ENVIRONMENTAL SPECIALIST - 4440	STEP 1	7,996.00
	2	7,579.00
	3	7,184.00
	4	6,809.00
	5	6,454.00
	6	6,118.00
	7	5,799.00
SPECIAL ASST TO THE CITY ADMIN - 4050	STEP 1	7,409.00
SR PERSONNEL ASST/ PURCHASING AGENT - 4120	STEP 1	7,875.00
ACTING CITY TREASURER - 4330	STEP 1	7,875.00
BULK POWER MANAGER - 5304	STEP 1	9,793.00
	2	9,282.00
	3	8,798.00
	4	8,339.00
	5	7,904.00
	6	7,492.00
	7	7,101.00
POWER RESOURCE COORDINATOR - 5102	STEP 1	8,572.00
	2	8,125.00
	3	7,701.00
	4	7,300.00
	5	6,919.00
	6	6,558.00
	7	6,216.00
	8	5,892.00
LEGAL COUNSEL - 9700	STEP 1	25,000.00

# **Exhibit 5**



1           WHEREAS, the City Council of the City of Vernon wishes to  
2 amend Schedule Nos. III (Exhibit C) and XXIV (Exhibit X) of the Salary  
3 Resolution to implement the aforementioned changes.

4           NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
5 CITY OF VERNON AS FOLLOWS:

6           SECTION 1: The City Council of the City of Vernon  
7 hereby finds and determines that the recitals contained hereinabove  
8 are true and correct.

9           SECTION 2: Effective May 15, 2009, Schedule No. XXIV  
10 (Exhibit X) of the Salary Resolution is hereby amended as indicated on  
11 Exhibit A, which is attached hereto and made a part hereof by this  
12 reference to implement the elimination of the salary scales of the  
13 Director of Utilities & Government Infrastructure and Legal Counsel in  
14 the Utilities & Government Infrastructure Department.

15           SECTION 3: Effective May 15, 2009, Schedule No. III  
16 (Exhibit C) of the Salary Resolution is hereby amended as indicated on  
17 Exhibit B, which is attached hereto and made part hereof by this  
18 reference, to implement the creation of a salary scale for the position  
19 of City Administrator within the City Administration Department and the  
20 creation of the position and the appropriate salary scale for the  
21 position of Executive Secretary to the City Administrator in the City  
22 Administration Department.

23           SECTION 4: The provisions of Resolution Nos. 9639, as  
24 amended by Resolution Nos. 9664, 9672, 9678, 9728, 9815, 9888 and 9906,  
25 not consistent with or in conflict with this resolution are hereby  
26 repealed; in all other respects, Resolution Nos. 9369, 9664, 9672,  
27 9678, 9728, 9815, 9888 and 9906, shall remain in full force and effect.

28   / / /

1            SECTION 5: The City Clerk of the City of Vernon shall  
2 certify to the passage of this resolution, and thereupon and  
3 thereafter the same shall be in full force and effect.

4            APPROVED AND ADOPTED this 11<sup>th</sup> day of May, 2009.

5  
6            *Hilario Gonzales*

7            Name: Hilario Gonzales

8            Title: Mayor / ~~Mayor Pro-Tem~~

9            ATTEST:

10            *Manuela Giron*  
11            MANUELA GIRON, City Clerk

1 STATE OF CALIFORNIA )  
2 COUNTY OF LOS ANGELES ) ss

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4 I, MANUELA GIRON, City Clerk of the City of Vernon, do hereby  
5 certify that the foregoing Resolution, being Resolution No. 9942, was  
6 duly adopted by the City Council of the City of Vernon at a regular  
7 meeting of the City Council duly held on Monday, May 11, 2009, and  
8 thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of  
9 Vernon.

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12 MANUELA GIRON, City Clerk

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EX "B"

CITY ADMINISTRATION  
SALARY SCALE

		MONTHLY SALARY
CITY ADMINISTRATOR	STEP 1	32,000.00
EXECUTIVE SECRETARY TO THE CITY ADMINISTRATOR -	STEP 1	6,844.00
	2	6,487.00
	3	6,149.00
	4	5,828.00
	5	5,524.00
	6	5,236.00
	7	4,983.00
	8	4,704.00

SCHEDULE III  
EXHIBIT "C"

cityadministration

# **Exhibit 6**



1 fiscal year; and

2 WHEREAS, the City Council of the City of Vernon desires to  
3 amend Sections 12.b and 13.a(10) and Schedule XXII (Exhibit V) to  
4 provide for uniform allowances for the 2009-2010 fiscal year; and

5 WHEREAS, the City Council of the City of Vernon wishes to  
6 amend Sections 12.b and 13.a(10) and Schedule Nos. III (Exhibit C), XV  
7 (Exhibit O) and XXII (Exhibit V) of the Salary Resolution to implement  
8 the aforementioned changes.

9 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
10 CITY OF VERNON AS FOLLOWS:

11 SECTION 1: The City Council of the City of Vernon  
12 hereby finds and determines that the recitals contained hereinabove  
13 are true and correct.

14 SECTION 2: Effective August 30, 2009, Schedule Nos. III  
15 (Exhibit C) and XV (Exhibit O) of the Salary Resolution are hereby  
16 amended in their entirety as indicated on Exhibit A, which is attached  
17 hereto and made part hereof by this reference.

18 SECTION 3: Effective as of July 1, 2009, Sections 12.b and  
19 13.a(10) of the Salary Resolution are hereby amended to read as  
20 follows:

21 12.b. Uniform Allowance.

22 The City shall provide a uniform allowance as specified in  
23 Schedule XXII, Exhibit V, for the 2009-2010 fiscal year of the City,  
24 for the purchase of Uniforms and related equipment.

25 13.a(10) Uniform Allowance for Miscellaneous  
26 Personnel in the Police Department.

27 Vernon shall provide a uniform allowance as  
28 specified in Schedule XXII, Exhibit V, for the 2009-2010 fiscal year of

1 the City for the purchase of uniforms for dispatchers, Records  
2 Personnel, Department Secretary and Administrative Aide positions in  
3 the Police Department.

4           SECTION 4: Effective as of July 1, 2009, Schedule XXII  
5 (Exhibit V) of the Salary Resolution is hereby amended in its entirety  
6 as indicated on Exhibit B, which is attached hereto and made a part  
7 hereof by this reference. Any payment provided for in Schedule XXII  
8 that was to occur prior to September 1, 2009, and that has not yet been  
9 paid, shall be paid on the next payroll check following the adoption of  
10 this resolution, or as soon thereafter as is practicable.

11           SECTION 5: The provisions of Resolution Nos. 9639, as  
12 amended by Resolution Nos. 9664, 9672, 9678, 9728, 9815, 9888, 9906,  
13 9942, 10,001, 10,021, 10,029 and 10,053 not consistent with or in  
14 conflict with this resolution are hereby repealed; in all other  
15 respects, Resolution Nos. 9639, 9664, 9672, 9678, 9728, 9815, 9888,  
16 9906, 9942, 10,001, 10,021, 10,029 and 10,053 shall remain in full  
17 force and effect.

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SECTION 6: The City Clerk of the City of Vernon shall certify to the passage, approval and adoption of this resolution, and the City Clerk of the City of Vernon shall cause this resolution and her certification to be entered in the Book of Resolutions of the Council of this City.

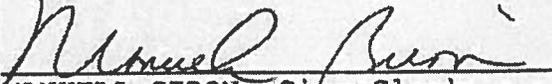
APPROVED AND ADOPTED this 31<sup>st</sup> day of August, 2009.



Name: Hilario Gonzales

Title: Mayor / ~~Mayor Pro-Tem~~

ATTEST:

  
MANUELA GIRON, City Clerk

1 STATE OF CALIFORNIA )  
2 ) ss  
3 COUNTY OF LOS ANGELES )

4 I, MANUELA GIRON, City Clerk of the City of Vernon, do hereby  
5 certify that the foregoing Resolution, being Resolution No. 10,057, was  
6 duly passed, approved and adopted by the City Council of the City of  
7 Vernon at a regular meeting of the City Council duly held on Monday,  
8 August 31, 2009, and thereafter was duly signed by the Mayor or Mayor  
9 Pro-Tem of the City of Vernon.

10 Executed this 31st day of August, 2009, at Vernon, California.

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13 MANUELA GIRON, City Clerk

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EX "A"

CITY ADMINISTRATION  
SALARY SCALE

		MONTHLY SALARY
CITY ADMINISTRATOR	STEP 1	32,000.00
BUDGET AUDITOR -	STEP 1	11,708.00
EXECUTIVE SECRETARY TO THE CITY ADMINISTRATOR -	STEP 1	6,844.00
	2	6,487.00
	3	6,149.00
	4	5,828.00
	5	5,524.00
	6	5,236.00
	7	4,963.00
	8	4,704.00

SCHEDULE III  
EXHIBIT "C"

cityadministration

# **Exhibit 7**

**RESOLUTION NO. 2010-33**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERNON AMENDING PREVIOUSLY AMENDED RESOLUTION NO. 9639 REGARDING THE COMPENSATION, COSTS AND BENEFITS OF ITS EMPLOYEES ("SALARY RESOLUTION"), BY AMENDING SECTION 4 AND SCHEDULE NOS. III, IV, XIII AND XIV OF THE SALARY RESOLUTION (AMENDMENT NO. 16)

WHEREAS, on June 16, 2008, the City Council of the City of Vernon adopted Resolution No. 9639 to be effective on July 6, 2008, regarding the compensation, costs and benefits of its employees, which has subsequently been amended by Resolution Nos. 9664; 9672; 9678; 9728; 9815; 9888; 9906; 9942; 10,001; 10,021; 10,029; 10,053; 10,057; 10,075 and 2010-06 (the "Salary Resolution"); and

WHEREAS, Section 4 of the Salary Resolution provides for contributions to be made to the California Public Employees' Retirement System (PERS); and

WHEREAS, the City Administrator has recommended that the City continue paying the employer's contribution to the PERS, but no longer pay the employees' contributions on behalf of City employees to the PERS; and

WHEREAS, Schedule No. III, Exhibit C, of the Salary Resolution provides for positions and salary scales of positions within the Office of City Administration; and

WHEREAS, by memo dated February 23, 2010, the Director of Personnel has recommended that the position and salary scale of Budget Auditor be eliminated in the Office of City Administration; and

WHEREAS, Schedule No. IV, Exhibit D, of the Salary Resolution provides for positions and salary scales of positions within the Office of City Clerk; and

WHEREAS, by memo dated February 24, 2010, the Director of Personnel has recommended that the salary scale for the position of City Clerk be eliminated; and

WHEREAS, the City Council of the City of Vernon desires to leave the salary scale for the City Clerk blank because when an employee serves in more than one position in more than one department some positions are indicated in schedules without a salary scale; and

WHEREAS, Schedule No. XIII, Exhibit M, of the Salary Resolution provides for positions and salary scales of positions within the Light & Power Department; and

WHEREAS, by memo dated February 23, 2010; the Director of Personnel has recommended the position and salary scale of Administrative Assistant to Engineering Manager be eliminated in the Light & Power Department; and

WHEREAS, Schedule No. XIV, Exhibit N, of the Salary Resolution provides for positions and salary scales of positions within the Office of the City Attorney/Public Prosecutor; and

WHEREAS, by memo dated February 23, 2010, the Director of Personnel has recommended the position and salary scale of Legal Services Administrative Secretary be eliminated in the Office of the City Attorney/Public Prosecutor; and

WHEREAS, the City Council of the City of Vernon wishes to amend Section 4; and Schedule Nos. III (Exhibit C), IV (Exhibit D), XIII (Exhibit M) and XIV (Exhibit N) of the Salary Resolution to implement the aforementioned changes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERNON AS FOLLOWS:

SECTION 1: The City Council of the City of Vernon

hereby finds and determines that the recitals contained hereinabove are true and correct.

SECTION 2: The City Council of the City of Vernon hereby amends Section 4 of the Salary Resolution to read as follows:

**"SECTION 4: PERS CONTRIBUTIONS**

The City shall make the required employer's contribution to PERS. Employees shall make the required employees' contribution to PERS."

SECTION 3: Effective March 1, 2010, Schedule Nos. III (Exhibit C), IV (Exhibit D), XIII (Exhibit M) and XIV (Exhibit N) of the Salary Resolution are hereby amended in their entirety, copies of which are attached hereto as Exhibit A.

SECTION 4: The provisions of Resolution Nos. 9639, as amended by Resolution Nos. 9664; 9672; 9678; 9728; 9815; 9888; 9906; 9942; 10,001; 10,021; 10,029; 10,053; 10,057; 10,075 and 2010-06, not consistent with or in conflict with this Resolution are hereby repealed; in all other respects, Resolution Nos. 9664; 9672; 9678; 9728; 9815; 9888; 9906; 9942; 10,001; 10,021; 10,029; 10,053; 10,057; 10,075 and 2010-06, shall remain in full force and effect.

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SECTION 5: The City Clerk of the City of Vernon shall certify to the passage, approval and adoption of this Resolution, and the City Clerk of the City of Vernon shall cause this Resolution and the City Clerk's certification to be entered in the File of Resolutions of the Council of this City.

APPROVED AND ADOPTED this 1<sup>st</sup> day of March 2010..

Hilario Gonzales

Name: Hilario Gonzales

Title: Mayor / ~~Mayor Pro Tem~~

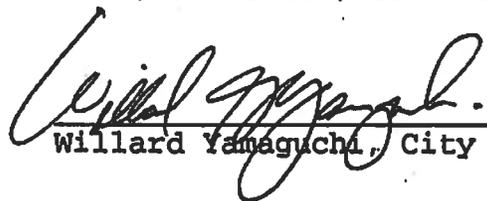
ATTEST:

Willard Yamaguchi  
Willard Yamaguchi, City Clerk

STATE OF CALIFORNIA        )  
                                  ) ss  
COUNTY OF LOS ANGELES    )

I, Willard Yamaguchi, City Clerk of the City of Vernon, do hereby certify that the foregoing Resolution, being Resolution No. 2010-33, was duly passed, approved and adopted by the City Council of the City of Vernon at a regular meeting of the City Council duly held on Monday, March 1, 2010, and thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon.

Executed this   1   day of March 2010, at Vernon, California.

  
\_\_\_\_\_  
Willard Yamaguchi, City Clerk

(SEAL)

EX "A"

CITY ADMINISTRATION  
SALARY SCALE

	MONTHLY SALARY	
CITY ADMINISTRATOR	STEP 1	32,000.00
EXECUTIVE SECRETARY TO THE CITY ADMINISTRATOR -	STEP 1	6,844.00
	2	6,487.00
	3	6,149.00
	4	5,828.00
	5	5,524.00
	6	5,236.00
	7	4,963.00
	8	4,704.00

SCHEDULE III  
EXHIBIT "C"

cityadministration

# **Exhibit 8**



Effective June 28, 2015

### City Council Monthly Compensation

The City Council receives the following compensation from the City of Vernon as authorized by California Law.

Name & Title	Monthly Council Compensation
W. Michael McCormick, Mayor	\$2,146
William Bill Davis, Mayor Pro-Tem	\$2,146
Luz Martinez	\$2,146
Yvette Woodruff-Perez	\$2,146
Melissa Ybarra	\$2,146

### Executive Management

#### City Administrator

Mark C. Whitworth, the current City Administrator receives a yearly compensation of \$293,436.

#### Top Executive Management

Job Title	Monthly Compensation (a)
City Attorney	\$21,120
City Clerk	\$11,203
Police Chief	\$20,117
Director of Public Works, Water & Dev. Services	\$20,117
Director of Health & Environmental Control	\$17,378
Director of Human Resources	\$16,333.34
Director of Gas & Electric	\$22,180
Director of Finance	\$17,500
Fire Chief*	\$18,379

(\*} Monthly compensation does not include premium pay

[To view the entire City of Vernon salary schedule please click here.](#)