

EXHIBITS

Christine Monsen
 Agency Case No.: 2012-0289
 OAH Case No.: 2014010471

EXHIBIT		I.D.	EVID.
	JURISDICTIONAL DOCUMENTS		
1	Statement of Issues dated - January 9, 2014		
2	Notice of Hearing and Proof of Service dated - January 21, 2014		
3	Service Retirement Election Application dated – October 26, 2010		
4	Letter of denial from CASD/RASS to Member dated – October 28, 2011		
5	Letter of denial from Tomi Jimenez to Anees Azad of ACTIA dated – October 28, 2011		
6	Letter of Appeal from R. Zachary Wasserman on behalf of Christine Monsen dated – November 3, 2011		
	OTHER		

EXHIBIT 1

1 GINA M. RATTO, INTERIM GENERAL COUNSEL
CYNTHIA RODRIGUEZ, SENIOR STAFF COUNSEL, SBN 106575
2 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Lincoln Plaza North, 400 "Q" Street, Sacramento, CA 95811
3 P.O. Box 942707, Sacramento, CA 94229-2707
Telephone: (916) 795-3675
Facsimile: (916) 795-3659

4 Attorneys for Petitioner California
5 Public Employees' Retirement System

6
7 BOARD OF ADMINISTRATION
8 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

9	In the Matter of the Calculation of Final	)	AGENCY CASE NO. 2012-0289
10	Compensation of	)	OAH NO.
11	CHRISTINE MONSEN,	)	STATEMENT OF ISSUES
12	Respondent,	)	Hearing Date: March 5, 2014
13	and	)	Hearing Time: 9:30 a.m.
14	ALAMEDA COUNTY	)	Hearing Location: San Jose
15	TRANSPORTATION IMPROVEMENT	)	Prehearing Conf.: None Scheduled
16	AUTHORITY,	)	Settlement Conf.: None Scheduled
	Respondent.)	

17
18 Petitioner California Public Employees' Retirement System (CalPERS), states:

19 I

20 Petitioner makes and files this Statement of Issues in its official capacity as such
21 and not otherwise.

22 II

23 Respondent Christine Monsen (respondent Monsen) was employed by
24 respondent Alameda County Transportation Improvement Authority, as an Executive
25 Director.

CHRISTINE MONSEN
STATEMENT OF ISSUES

1 On or about October 26, 2010, respondent Monsen signed an application for
2 service retirement. Respondent Monsen retired for service effective December 31,
3 2010, with twenty six years (26.641) of service credit, and has been receiving her
4 retirement allowance from that date.

5 Respondent Alameda County Transportation Improvement Authority is a public
6 agency contracting with CalPERS for retirement benefits for its eligible employees.
7 The provisions of respondent Alameda County Transportation Improvement Authority's
8 contract with CalPERS are contained in the Public Employees' Retirement Law (the
9 PERL). (Cal. Gov. Code §§ 20000 et seq.)

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

17 III

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

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IV

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

Section 20630 provides in pertinent part:

"Compensation"

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

(1) Holidays.

(2) Sick leave.

(3) Industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code, Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the Education Code.

(4) Vacation.

(5) Compensatory time off.

(6) Leave of absence.

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

Section 20636 provides in pertinent part:

"Compensation Earnable"

(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.

(b) (1) "Payrate" means 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

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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 schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(c) (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).

V

Pursuant to Government Code section 20636(c)(6) the Board of Administration exclusively delineated all items which constitute "special compensation," in California Code of Regulations, Title 2, Division 1, Chapter 2, Subchapter 1, Article 4, Section 571. This regulation provides in pertinent part:

...

(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).

(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.

...

VI

CalPERS reviewed respondent Monsen's request to include deferred compensation and determined that deferred compensation is not eligible to be included in the calculation of final compensation.

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VII

By letter dated October 28, 2011, respondent Monsen was notified of CalPERS' determination and was advised of her appeal rights.

VIII

By letter dated November 28, 2011, respondent Monsen filed a timely appeal, and has requested an administrative hearing.

IX

This appeal is limited to the issue of whether deferred compensation can be included in the calculation of respondent Monsen's final compensation.

BOARD OF ADMINISTRATION, CALIFORNIA
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Dated: 1/9/14 BY Karen DeFrank
KAREN DEFRANK, Division Chief
Customer Account Services Division

EXHIBIT 2

1 GINA M. RATTO, INTERIM GENERAL COUNSEL
2 CYNTHIA A. RODRIGUEZ, SENIOR STAFF ATTORNEY, SBN 106575
3 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
4 Lincoln Plaza North, 400 "Q" Street, Sacramento, CA 95811
5 P. O. Box 942707, Sacramento, CA 94229-2707
6 Telephone: (916) 795-3675
7 Facsimile: (916) 795-3659

8 Attorneys for California Public
9 Employees' Retirement System

10 BOARD OF ADMINISTRATION
11 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

12	In the Matter of the Statement of Issues	)	CASE NO. 2012-0289
13	Against:	)	OAH NO. 2014010471
14	CHRISTINE MONSEN,	)	NOTICE OF HEARING
15	Respondent,	)	(Pursuant to Gov. Code, § 11509)
16	and	)	ALJ: To Be Assigned
17	ALAMEDA COUNTY	)	Hearing Date: March 5, 2014
18	TRANSPORTATION IMPROVEMENT	)	Hearing Time: 9:30 a.m.
19	AUTHORITY,	)	Hearing Location: San Jose
20	Respondent.	)	Prehearing Conf.: None Scheduled
21		)	Settlement Conf.: None Scheduled

22 TO THE RESPONDENT(S) above named: Christine Monsen by service on R.
23 ZACHARY WASSERMAN, her attorney of record; and Alameda County Transportation
24 Improvement Authority, by service on its Personnel Officer.

25 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the hearing of the
Statement of Issues in the above-entitled matter has been set and will be held before
an Administrative Law Judge of the Office of Administrative Hearings of the State of
California at: **Office of Administrative Hearings, Conference Room located at the:**
Central California Children's Residential Regional Office, 2580 North First Street,
Suite 304, San Jose, CA 95131, (408) 324-2112 for -1- day beginning on March 5,

1 **2014, at 9:30 a.m.**, upon the charges made in the Statement of Issues served upon
2 the respondent. If you object to the place of hearing, you must notify the presiding
3 officer within 10 days after this notice is served on you. Failure to notify the presiding
4 officer within 10 days will deprive you of a change in the place of the hearing. You
5 may contact: Cheryl Tompkin, Presiding Administrative Law Judge of the OAH
6 Oakland at (510) 622-2722.

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

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

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1 You are entitled to the issuance of subpoenas to compel the attendance of witnesses
2 and the production of books, documents, or other things by applying to said agency at:
3 Office of Administrative Hearings – Oakland, 1515 Clay Street, Suite 206, Oakland, CA
4 94612.

5 BOARD OF ADMINISTRATION, CALIFORNIA
6 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

7 Dated: January 21, 2014

8  FOR
9 CYNTHIA A. RODRIGUEZ,
10 SENIOR STAFF ATTORNEY

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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 January 21, 2014, 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 Calculation of Final Compensation of CHRISTINE MONSEN, Respondent, and ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY, Respondent, CalPERS #2012-0289 / OAH #2014010471.

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

**R. Zachary Wasserman, Esq.
Wendel, Rosen, Black & Dean, LLP
Post Office Box 2047
Oakland, CA 94604-2047**

**Office of Administrative Hearings - Oakland
1515 Clay Street, Suite 206
Oakland, CA 94612**

***Via e-Filed @ oakfilings@dqs.ca.gov**

***Via Certified Return Receipt Mail**

**Alameda County Transportation
Improvement Authority
Attn: Personnel Officer
1333 Broadway, Suite 300
Oakland, CA 94612**

Christine Monsen
[REDACTED]
[REDACTED]

***Via Certified Return Receipt Mail**

***Via Certified Return Receipt Mail**

[XXX] **BY CERTIFIED 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; **and**

[XXX] **BY e-FILING SERVICE** -- I caused such documents to be e-FILED to the office of the addressee at the email address indicated above.

Executed on January 21, 2014, at Sacramento, California.

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

Christy Bodily
NAME



SIGNATURE

EXHIBIT 3



Service Retirement Election Application

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

Please do not mail or deliver your application to CalPERS more than 90 days before your retirement date

Section 1

Information About You

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

CHRISTINE E MONSEN
Name (First Name Middle Initial Last Name) Social Security Number

[Redacted]
Address

[Redacted] [Redacted] [Redacted] [Redacted] [Redacted]
City State ZIP Country

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

[Redacted] [Redacted] [Redacted] [Redacted]
Birth Date (mm/dd/yyyy) Gender Male Female Home Phone Work Phone

Section 2

Information About Your Retirement

Please do not abbreviate your employer or position

Please refer to the detailed instructions in this booklet

12/31/2010
Retirement Date (mm/dd/yyyy)

ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT AUTHORITY / Executive Director
Employer Position Title

The Temporary Annuity benefit for which you are eligible is based on your CalPERS membership date

Temporary Annuity - If you select this benefit, you must also fill out Section 3d, Option 1 Balance of Contributions and/or Temporary Annuity Balance beneficiary(ies)

To provide for an additional Temporary Annuity Allowance, you elect to reduce your monthly allowance for life No Yes

If you first became a member on January 1, 2002, or later, you elect to receive Temporary Annuity until age _____ in the amount of \$ _____ Dollars
(62 to 70)

The amount of your Temporary Annuity cannot exceed the estimated amount of your Social Security benefit at the age designated in this election

OR

If you first became a member prior to January 1, 2002, you elect to receive Temporary Annuity until age _____ in the amount of \$ _____ Dollars per month
(59½ or whole age 60 to 68)

Final Compensation Period

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)

Other California Public Retirement Systems

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

Name of System

Retirement Date (mm/dd/yyyy) Beginning Service Credit Date (mm/dd/yyyy) Ending Service Credit Date (mm/dd/yyyy)

RECEIVED/SACRAMENTO
CALPERS
2010 OCT 27 PM 12 43
DDC - 3

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

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

CHRISTINE E. MONSEN
Your Name

Social Security Number

Section 3

Select Your Retirement Payment Option and Beneficiary

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 3a-3d. If you choose the Unmodified Allowance Option, you do not need to specify a beneficiary. Please refer to the detailed instructions in this booklet for more information.

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.

- Option 1 - To complete this option choice, you must also fill out Section 3d, *Balance of Contributions Beneficiary*
- Option 2 - To complete this option choice, you must also fill out Section 3a, *Individual Lifetime Beneficiary*
- Option 2W - To complete this option choice, you must also fill out Section 3a, *Individual Lifetime Beneficiary*
- Option 3 - To complete this option choice, you must also fill out Section 3a, *Individual Lifetime Beneficiary*
- Option 3W - To complete this option choice, you must also fill out Section 3a, *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 3a, *Individual Lifetime Beneficiary* and Section 3d, *Balance of Contributions Beneficiary*
 - Option 3W & Option 1 Combined - To complete this option choice, you must also fill out Section 3a, *Individual Lifetime Beneficiary* and Section 3d, *Balance of Contributions Beneficiary*
 - Specific Dollar Amount to Beneficiary \$ _____ Dollars - To complete this option choice, you must also fill out Section 3a, *Individual Lifetime Beneficiary*
 - Specific Percentage to Beneficiary _____ % - To complete this option choice, you must also fill out Section 3a, *Individual Lifetime Beneficiary*
 - Reduced Allowance for Fixed Period of Time _____ through _____
Percent or Dollars Date (month/year)
 - 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 3a, *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 3b, *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 3c, *Court Ordered C/P Beneficiary* and select one of the following Court Ordered 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 3d, *Balance of Contributions Beneficiary*
 - Option 4/2W - To complete this option, you must also fill out Section 3a, *Individual Lifetime Beneficiary*
 - Option 4/3W - To complete this option, you must also fill out Section 3a, *Individual Lifetime Beneficiary*

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

CHRISTIE MOENSEN
Your Name Social Security Number

Section 3a

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

Name (First Name Middle Initial Last Name) Social Security Number
[Redacted] [Redacted]
Birth Date (mm/dd/yyyy) Male Female Relationship to You
[Redacted] [Redacted]
Address
[Redacted]
City State ZIP Country

Section 3b

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
[Redacted] [Redacted]
Birth Date (mm/dd/yyyy) Male Female Relationship to You Dollar/Percent of Benefit
[Redacted] [Redacted]
Address
[Redacted]
City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number
[Redacted] [Redacted]
Birth Date (mm/dd/yyyy) Male Female Relationship to You Dollar/Percent of Benefit
[Redacted] [Redacted]
Address
[Redacted]
City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number
[Redacted] [Redacted]
Birth Date (mm/dd/yyyy) Male Female Relationship to You Dollar/Percent of Benefit
[Redacted] [Redacted]
Address
[Redacted]
City State ZIP Country

Section 3c

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
[Redacted] [Redacted]
Birth Date (mm/dd/yyyy) Male Female Relationship to You
[Redacted] [Redacted]
Address
[Redacted]
City State ZIP Country

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

CHRISTINE E MONSEN
Your Name
Social Security Number

Section 3d

Designate up to 3
beneficiaries here. If you
want to designate more
than 3 beneficiaries
or name different
beneficiaries for the
Option 1 balance and
the Temporary Annuity
balance, see information
in this booklet on
completing the Lump
Sum Beneficiary
Designation form

Option 1 Balance of Contributions and/or Temporary Annuity Balance Beneficiary(ies)

Complete this section only if you selected Option 1, Option 4-2W/1 or 3W/1 combined or the Temporary Annuity allowance. 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 booklet for more information.

Christine E Mosen Living Trust, dated September-12, 2007
Name (First Name Middle Initial Last Name) Social Security Number

Male Female
Birth Date (mm/dd/yyyy) Gender Relationship to you
Address
City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number
 Male Female
Birth Date (mm/dd/yyyy) Gender Relationship to you

Address
City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number
 Male Female
Birth Date (mm/dd/yyyy) Gender Relationship to you

Address
City State ZIP Country

Section 4

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 booklet for more information.

[Redacted]
Name (First Name Middle Initial Last Name) Social Security Number

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

Address
City State ZIP Country

Name (First Name Middle Initial Last Name) Social Security Number
 Male Female
Birth Date (mm/dd/yyyy) Gender Relationship to you

Address
City State ZIP Country

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

CHRISTINE E MONSEN
Your Name

Social Security Number

Section 9

Member Signature and Notary

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.

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 booklet.

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

Widowed Or Termination of Domestic Partnership

[Signature]
Your Signature

10/26/2010
Date (mm/dd/yyyy)

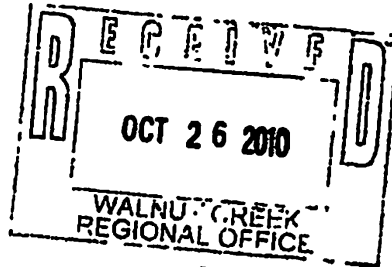
Your Spouse's or Domestic Partner's Signature

Date (mm/dd/yyyy)

State of California, County of _____

On _____ before me, _____
Date Name of Notary/Witness

personally appeared _____, 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

[Signature]
Signature of Notary or CalPERS Representative

RB II
Position Title

10/26/2010
Date (mm/dd/yyyy)

Tonya Keese
Print Name

WCRO
CalPERS Code (if applicable)

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

EXHIBIT 4



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) 795-4166 fax
www.calpers.ca.gov

October 28, 2011

Christine Monsen
[REDACTED]
[REDACTED]

Dear Ms. Monsen:

The California Public Employees' Retirement System (CalPERS) Compensation Review Unit has reviewed the results of the Public Agency Review completed for the Alameda County Transportation Improvement Authority (ACTIA) dated March 2010. ACTIA is not in compliance with Review Risk #1: The Authority may not accurately report compensation to CalPERS.

The Public Agency Review Risk #1 showed that ACTIA increased the base pay rate and regular earnings on your behalf by including employer paid deferred compensation in the amount of \$854.17 per semi-monthly pay period or \$20,500 per year effective October 1, 2007.

Deferred compensation does not meet the definition of reportable compensation under California Government Code (GC) § 20636. All compensation reported must meet the definition as defined in GC § 20630 and 20636 in order to qualify as reportable compensation for retirement purposes.

GC § 20630 and 20636 define compensation earnable, pay rate and special compensation as follows:

GC § 20630 states in part:

" 'Compensation' means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of any of the following:

- (1) Holidays.
- (2) Sick leave.
- (3) Industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor Code, Article 4 (commencing with Section

Christine Monsen
October 28, 2011
Page 2

19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the Education Code.

(4) Vacation.

(5) Compensatory time off.

(6) Leave of absence.

(b) When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid."

GC § 20636 (b)(1) and (c)(2) states in part:

(b)(1) " 'Pay rate' means 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."

(c)(2) "Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement ... to similarly situated members of a group or class of employment that is in addition to pay rate."

Special compensation is delineated specifically and exclusively in the California Code of Regulations (CCR) Section 571 (a). Subsection 'b' specifies the standards that all special compensation items must meet. Subsections 'c' and 'd' further define special compensation.

"(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)."

"(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."

Compensation reported to CalPERS and information from the approved ACTIA salary schedule shows that in October of 2007, ACTIA increased the compensation for the Executive Director by adding deferred compensation in the amount of \$20,500 annually to your salary and reporting a monthly pay rate of \$17,104.92 which included \$1,708.34 for deferred compensation.

ACTIA needs to correct and adjust the compensation reported to CalPERS on your behalf by removing any amounts paid for deferred compensation and only reporting \$15,396.58 monthly base salary for the pay periods from October 2007 to October 2008, \$15,781.52 monthly base salary for the pay periods in November 2008 and \$15,894.04

Christine Monsen
October 28, 2011
Page 3

monthly base salary for the pay periods January 2009 to your retirement of December 31, 2010.

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.

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:

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

Christine Monsen
October 28, 2011
Page 4

If you have any questions or concerns regarding this matter, please contact
Nicole Horning, Compensation Review manager at (888) CalPERS (225-7377).

Sincerely,



TOMI JIMENEZ, Manager
Compensation & Employer Review
Customer Account Services Division

Enclosure

cc: Anees Azad
Karen DeFrank

EXHIBIT 5



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) 795-4166 fax
www.calpers.ca.gov

October 28, 2011

Anees Azad, Finance & Administration Manager
Alameda County Transportation Improvement Authority (ACTIA)
1333 Broadway, Suite 300
Oakland, California 94612

Dear Mr. Azad:

The California Public Employees' Retirement System (CalPERS) Compensation Review Unit has reviewed the results of the Public Agency Review completed for the Alameda County Transportation Improvement Authority (ACTIA) dated March 2010. ACTIA is not in compliance with Review Risks #1: The Authority may not accurately report compensation to CalPERS and #3: The Authority may not accurately report payroll information to CalPERS.

ACTIA needs to be in compliance with Circular Letter No. 200-049-08 dated October 3, 2008 and Public Agency Review Risk #3. ACTIA needs to have a resolution for implementing Internal Revenue Code (IRC) 414 (h) (2) provisions. A resolution is required to be in compliance with Revenue Ruling 2006-43. The Public Agency Review Risk #3 found that ACTIA reported 8% miscellaneous employee contributions as tax deferred. The payroll register reflects that employees are paying 1% of the employee contributions. ACTIA does not have an Internal Revenue Code (IRC) 414(h)(2) resolution on file with CalPERS to report the 1% miscellaneous member paid contributions as tax deferred. Alameda County Transportation Improvement Authority needs to have a resolution, separate and distinctive from the Alameda County Transportation Authority.

Please provide the 414 (h) (2) resolution for the reporting of 1% miscellaneous member paid contributions as tax deferred or please discontinue reporting these contributions as tax deferred.

The Public Agency Review Risk #1 showed that ACTIA increased the base payrate and regular earnings for Christine Monsen by including deferred compensation in the amount of \$854.16 per semi-monthly pay period or \$20,500 per year. Deferred compensation does not meet the definition of reportable compensation under GC § 20636.

Anees Azad
October 28, 2011
Page 2

All compensation reported must meet the definition as defined in California Government Code (GC) § 20630 and 20636 in order to qualify as reportable compensation for retirement purposes. GC § 20630 and 20636 define compensation earnable, pay rate and special compensation as follows:

GC § 20630 states in part:

" 'Compensation' means the remuneration paid out of funds controlled by the employer in payment for the member's services performed during normal working hours or for time during which the member is excused from work because of any of the following:

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

(b) When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid."

GC § 20636 (b)(1) and (c)(2)

(b)(1) " 'Payrate' means 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."

(c)(2) "Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement ... to similarly situated members of a group or class of employment that is in addition to payrate."

Special compensation is delineated specifically and exclusively in the California Code of Regulations (CCR) Section 571 (a). Subsection 'b' specifies the standards that all special compensation items must meet. Subsections 'c' and 'd' further define special compensation.

"(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)."

Anees Azad
October 28, 2011
Page 3

"(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."

Compensation reported to CalPERS and information from the approved salary schedule shows that in October of 2007, ACTIA increased the compensation for the Executive Director Christine Monsen, by adding deferred compensation in the amount of \$20,500 annually to her salary and reporting a monthly pay rate of \$17,104.92 which included \$1,708.34 for deferred compensation.

ACTIA needs to correct and adjust the compensation reported to CalPERS for the Executive Director by removing any amounts paid for deferred compensation and only reporting \$15,396.58 monthly base salary for the pay periods from October 2007 to October 2008, \$15,781.52 monthly base salary for the pay periods in November 2008 and \$15,894.04 monthly base salary for the pay periods January 2009 to Christine Monsen's retirement of December 31, 2010.

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.

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

Anees Azad
October 28, 2011
Page 4

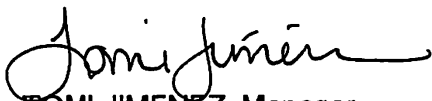
rejects the Proposed Decision, they will hold a Full Board Hearing in order to review the entire hearing record again before finalizing their decision.

Your appeal should be mailed to the following address:

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

If you have any questions or concerns regarding this matter, please contact Nicole Horning, Compensation Review manager at (888) CalPERS (225-7377).

Sincerely,



TOMI JIMENEZ, Manager
Compensation & Employer Review
Customer Account Services Division

Enclosure

cc: Christine Monsen
Karen DeFrank

EXHIBIT 6

11/28/2011 14:00 FAX

002/008



1111 Broadway, 24th Floor
Oakland, CA 94607-4036

Post Office Box 2047
Oakland, CA 94604-2047

T: 510-834-6600
F: 510-808-4691
zwasserman@wendel.com

November 28, 2011

**BY FAX AND CERTIFIED MAIL,
RETURN RECEIPT REQUESTED**

Karen DeFrank, Chief
Customer Account Services Division
California Public Employees' Retirement System
PO Box 942709
Sacramento, CA 94229

Re: Appeal re Christine Monsen's CalPERS Compensation Review

Dear Ms. DeFrank:

We are general counsel for the Alameda County Transportation Improvement Authority ("ACTIA") and we represent Ms. Christine Monsen in the appeal of the CalPERS decision in your October 28, 2011 letter stating that the compensation reported to CalPERS for Ms. Monsen, the Executive Director of ACTIA, for purposes of calculating her retirement benefits was misreported. Your letter stated that the reported compensation required correction by reducing any amounts of deferred compensation paid to Ms. Monsen between October 2007 through Ms. Monsen's retirement on December 31, 2010. The rationale provided to us was that ACTIA increased the base payrate and regular earnings for Ms. Monsen by including deferred compensation in the amount of \$854.16 per semi-monthly pay period or \$20,500 per year, but that her deferred compensation does not meet the definition of reportable compensation under Government Code section 20636. On behalf of Ms. Monsen, we appeal the CalPERS decision.

Government Code section 20636 defines "Payrate" to determine compensable earnings that are calculated for retirement benefits. Section 20636 (b)(2) provides:

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

(A) Participation in a deferred compensation plan."

Ms. Monsen's deferred compensation amounts for 2007 through 2010 were clearly deducted from her salary and therefore in simple interpretation should be included by CalPERS as part of her payrate.

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003/008

Karen DeFrank, Chief
November 28, 2011
Page 2

WENDEL, ROSEN, BLACK & DEAN LLP

We are informed that CalPERS only includes deferred compensation where the employee elects to have part of his or her salary placed in a 457 deferred compensation account - as opposed to compensation where the employer makes the decision to place compensation into such an account. While we have not found any source of law for this distinction, it was Ms. Monsen's decision beginning in 2007 to have the maximum amount allowed under IRS rules contributed to her 457 account as deferred compensation and therefore deducted from her taxable salary.

In 2007, Ms. Monsen made the choice to take the maximum compensation allowable under section 457, which ACTIA had been making in addition to her salary, as part of her salary in place of receiving a raise (beyond a cost of living equivalent increase in her salary). *See* Declaration of R. Zachary Wasserman in support of Ms. Monsen's Appeal to CalPERS October 28, 2011 letter ("Wasserman Decl.").

The minutes of the July 26, 2007 ACTIA Board meeting reflecting the above changes are broad, possibly overly so, in providing clarity as to the nature of Ms. Monsen's salary and 457 contribution increase. The minutes state that the Board approves a 3% salary increase and maximum allowable contribution to her 457 Plan. However, a subsequent Memorandum from Lei Lam, Senior Accountant at ACTIA to Anees Azad regarding Ms. Monsen's Salary adjustments and an attached October 10, 2007 Memorandum from Jeanine DeBacker, attorney for ACTIA, demonstrate that the \$20,500 increased annual deferred compensation was in fact intended to be a part of Ms. Monsen's "payrate" and allocated as deferred compensation by her choice, not by the choice or determination of ACTIA. *See* Wasserman Decl., Exhibit A. Ms. Lam's Memorandum specifically requests to include the \$20,500 annual amount "as part of the gross salary" and that Ms. Monsen's revised annual salary would be the 3% increased amount (\$184,759.34) plus the \$20,500. Accordingly, the deferred compensation was in fact included in Ms. Monsen's stated base salary as of October 2007. More importantly, Ms. Lam's Memorandum adds that "[s]eparate payments for Christine's 457 Plan should stop after this change." *Id.* Ms. Lam's Memorandum attaches and references Ms. DeBacker's Memorandum which adds that "[r]eporting Ms. Monsen's deferred compensation as part of her payrate is also consistent with the ACTIA Board's comments and actions at the meetings of July 26, 2007 and September 27, 2007." *Id.*

Accordingly, Ms. Monsen's base payrate as reported by ACTIA accurately reflects her base salary, including the deferred compensation amount as articulated in Government Code 20636. It is reportable compensation that was deferred to Ms. Monsen's 457 Plan at her request and therefore should be included in the calculation of her retirement payments.

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Karen DeFrank, Chief
November 28, 2011
Page 3

WENDEL, ROSEN, BLACK & DEAN LLP

Please do not hesitate to contact me if you have further questions.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN LLP



R. Zachary Wasserman

RZW/ADC
Enclosures

cc: Patricia Reavey
Christine Monsen

11/28/2011 14:31 FAX

006/008

EXHIBIT A

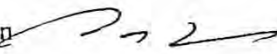
11/28/2011 14:31 FAX

007/008



Memo

To: Lei Lam, Senior Accountant

From: Anees Azad, Manager Finance and Administration 

Subject: Christine Monsen's Salary Adjustments, 2007

Date: October 11, 2007

This is to memorialize the changes to Christine Monsen's salary rate in 2007.

On July 26th, 2007, Christine Monsen was granted a 3% rate increase from her previous base of \$179,378. This puts her annual salary effective 7/26/07 at \$184,759.34. This change is documented in the board minutes for July 2007.

Secondly, effective October 1, 2007 please include the "457" amount of \$20,500 annually as part of the gross salary reported to PERS and the IRS. After this change Christine's revised annual salary will be \$205,259.34 (\$184,759.34 plus \$20,500) and the semi-monthly gross salary will be \$8,552.47 (\$205,259.34 divided by 24 pay periods). Subsequent to this change, the 457 deduction of \$854.17 (\$20,500 divided by 24) will be deducted as the salary deferral on each pay check. Separate payments for Christine's 457 plan should stop after this change.

This change is based on the attached letter from Jeanine DeBacker. This change will make the full \$205,259.34 annual gross salary as reportable PERS amount. This will also result in slightly higher PERS retirement premiums and other percentage based salary deductions.

If you have any questions please see me,

Thanks

CC Christine Monsen
Zack Wasserman
Jeanine DeBacker

Attachment October 10, 2007 Memorandum from Jeanine DeBacker

11/28/2011 14:31 FAX

008/008



JEANINE DEBACKER

510-834-6600 (phone)
510-588-4946 (fax)

jdebacker@wendel.com
www.wendel.com

MEMORANDUM

October 10, 2007

TO: Anees Azad
Alameda County Transportation Improvement Authority (ACTIA)

FROM: Jeanine DeBacker

RE: CalPERS Reportable Compensation

ACTIA employees are participants in the CalPERS retirement program. CalPERS provides a retirement benefit after an individual reaches retirement age and leaves employment. An employee's benefit is calculated using a formula that includes years of service, age and retirement and final compensation.

Final compensation is the highest average full-time monthly pay rate for the final year of employment. (Gov. Code §20042). Compensation is broadly defined as payment to employees for services performed during normal working hours or for time during which the employee is excused from work because of holidays, sick leave, industrial disability, vacation, compensatory time off or leave of absence. (Gov. Code §20630). The reportable compensation is the employee's payrate, and this amount specifically includes amounts deducted from an employee's salary for participation in a deferred compensation plan. (Gov. Cod §20636). CalPERS also refers to an employee's payrate as his or her "PERSable income."

Based on the foregoing, it is appropriate for ACTIA to report to CalPERS the amount deferred by Christine Monsen to the §457 plan as part of her payrate (or "PERSable income"), effective as of October 1, 2007. Reporting Ms. Monsen's deferred compensation as part of her payrate is also consistent with the ACTIA Board's comments and actions at the meetings of July 26, 2007 and September 27, 2007.