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CALIFORNIA SUPERIOR COURT
SAN DIEGO COUNTY

CITY OF SAN DIEGO,

 Petitioner,

v.

SAN DIEGO POLICE OFFICERS
ASSOCIATION INCORPORATED,

 Respondent.

Case No. 2009-86499-CTL

ORDER AFTER HEARING
June 25, 2009

Judge David B. Oberholtzer
Department C-67

The City of San Diego’s Petition for a Writ of Mandamus and Declaratory Relief, and the San Diego Police Officers Association’s Cross-Petition for a Writ of Mandamus and Preliminary Injunction were heard at 9:00 on June 25, 2009, by Judge David B. Oberholtzer in Department 67 of the San Diego Superior Court.

Daphne Anneet, Timothy Davis, and Melissa Cowan of Burke, Williams & Sorensen, LLP appeared as attorneys for Petitioner and Cross-Respondent, the City of San Diego. Michael Conger of the Law Offices of Michael A. Conger appeared as attorney for Respondent and Cross-Petitioner, the San Diego Police Officers Association.

The Court, having considered the exhibits, affidavits, memoranda of law and argument of counsel, granted the City’s petition for a writ of mandamus, denied the Police Officers’ petitions for a writ of mandamus and preliminary injunction, and made findings of fact where necessary. No one requested a statement of decision.

1 The court granted all requests for judicial notice, and ruled on objections to testimony in the
2 Rule 3.1354(b) formatted orders provided by counsel. The City objected to a reply brief filed by
3 the Police Officers, contrary to the court's instructions. The court did not receive that brief before
4 ruling, and has not considered it.

5 In making this order, the court finds DROP is in the nature of "wages, hours and other
6 terms and condition of employment" under the Meyers-Milias-Brown Act, and especially
7 Government Code §3504 and §3505, subdivision (a), but, pending a more complete record, has
8 reserved any finding on whether to apply an advantages/disadvantages analysis, and, if so, how
9 to apply it,.

10 NOW THEREFOR, THE COURT ORDERS AND DECREES:

11 Let writ of mandamus issue from this court commanding Respondent San Diego Police
12 Officers Association to meet and confer in good faith with the City of San Diego at a mutually
13 agreeable date to take place no later than January 8, 2010, regarding terms and conditions of
14 employment, including but not necessarily limited to the City's proposal to modify or eliminate the
15 Deferred Retirement Option Program.

16 IT IS FURTHER ORDERED:

- 17
- 18 • The Police Officers Association's Cross-Petition for a writ of mandamus is denied;
 - 19 • The Police Officers Association's petition for a preliminary injunction preventing
20 the City from increasing the DROP entry age from age 50 to age 55 is denied,
21 without prejudice;
 - 22 • The Police Officers Association's petition for a preliminary injunction to bar
23 adjustment to DROP interest rates is denied;
 - 24 • Sworn officers who were active participants in DROP and otherwise eligible as of
25 June 25, 2009, may elect to terminate their participation in DROP and retire from
26 City employment until close of business on July 27, 2009. Any such election shall
27 be deemed to have been made on or before June 29, 2009, *nunc pro tunc*.
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- The Court makes no findings regarding The Police Officers Association’s Cross-Petitions for declaratory relief.

The court finds parties have a good faith dispute regarding matters about which reasonable people could disagree. Therefore, each is to bear its own fees and costs.

The Court retains jurisdiction for enforcement and such other and further issues as may be presented.

DATED: September 11, 2009

David B. Oberholtzer
David B. Oberholtzer
Superior Court Judge