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7 Attorneys for California Public Employees'
 Retirement System

9 UNITED STATES BANKRUPTCY COURT
 10 EASTERN DISTRICT OF CALIFORNIA
 11 SACRAMENTO DIVISION

12 In re
 13 CITY OF STOCKTON, CALIFORNIA,
 14 Debtor.

Case No. 2012-32118
 DC No. OHS-15
 Chapter 9

15 **NOTICE OF FILING OF MODIFIED**
 16 **EXHIBIT 8.1 TO DIRECT TESTIMONY**
 17 **DECLARATION OF DAVID**
 18 **LAMOUREUX IN SUPPORT OF**
 19 **CALPERS' RESPONSE TO FRANKLIN'S**
 20 **OBJECTION TO CONFIRMATION OF**
 21 **THE CITY OF STOCKTON'S FIRST**
 22 **AMENDED PLAN OF ADJUSTMENT**

20 Date: May 12, 2014
 21 Time: 9:30 a.m.
 22 Place: Robert T. Matsui U.S. Courthouse,
 501 I Street
 Department C, Fl. 6, Courtroom 35
 Sacramento, CA 95814
 23 Judge: Hon. Christopher M. Klein

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 25 **PLEASE TAKE NOTICE** that on April 29, 2014, the California Public Employees'
 26 Retirement System ("CalPERS") filed the Direct Testimony Declaration of David Lamoureux in
 27 Support of CalPERS' Response to Franklin's Objection to Confirmation of the City of Stockton's
 28

1 First Amended Plan of Adjustment (the “Declaration”) and its accompanying exhibits [Dkts. 1439-
2 1444].

3 **PLEASE TAKE FURTHER NOTICE** that pages 227 through 230 of Exhibit 8.1 to the
4 Declaration [Dkt. 1442] were copied in a manner that failed to reproduce the bottom portion of the
5 legal size pages. Complete copies of pages 227 through 230 of Exhibit 8.1 are attached hereto as
6 Exhibit A.¹

7
8 Respectfully submitted,

9 Michael J. Gearin
10 Michael B. Lubic
11 Michael K. Ryan
12 K&L GATES LLP

13 Dated: May 7, 2014

14 By: /s/ Michael J. Gearin
15 Michael J. Gearin

16 Attorneys for California Public Employees’
17 Retirement System

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28 ¹ CalPERS will provide a corrected, complete copy of Exhibit 8.1 to the Court and parties in interest.

EXHIBIT A

AMENDMENT TO CONTRACT BETWEEN THE
BOARD OF ADMINISTRATION
STATE EMPLOYEES' RETIREMENT SYSTEM
AND THE

CITY COUNCIL

OF THE

CITY OF STOCKTON

The Board of Administration, State Employees' Retirement System, hereinafter referred to as Board, and the CITY COUNCIL of the CITY OF STOCKTON, hereinafter referred to as Public Agency, having entered into a contract under date of September 1, 1944, effective September 1, 1944, and as amended effective July 1, 1948, July 1, 1950, February 1, 1952, February 1, 1954, and January 1, 1956, which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

A. Wherever in said agreement the word "City" appears, the term "Public Agency" is hereby substituted.

B. The following phrase is added to the sentence which constitutes Paragraph Number 1 of said agreement:

"except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except such as by express provision thereof apply only on the election of contracting agencies."

C. Paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 are hereby stricken from said contract as executed effective July 1, 1944, and as amended effective July 1, 1948, July 1, 1950, February 1, 1952, February 1, 1954, and January 1, 1956, and are hereby replaced by the following paragraphs numbered 3 through 9 inclusive:

3. Employees of Public Agency in the following classes and groups shall become members of said Retirement System except such in each such class and group as are excluded by law or this agreement:

- a. Local Firemen (herein referred to as local safety members);
- b. Local Policemen (herein referred to as local safety members);
- c. Employees other than local safety members whose positions are not subject to Federal Social Security coverage (herein referred to as miscellaneous Group A members);
- d. Employees other than local safety members whose positions are subject to Federal Social Security coverage (herein referred to as Group B members).

In addition to the employees excluded from membership by said Retirement Law, the following employees shall not become members of the Retirement System:

NO ADDITIONAL EXCLUSIONS

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4. All words and terms used herein which are defined in the State Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 60 for miscellaneous members in Group A, age 60 for miscellaneous members in Group B, and age 55 for local safety members. "OASDI" shall mean Old-Age, Survivors, and Disability Insurance provisions of the Social Security Act.
5. The following provisions shall apply to local safety and miscellaneous Group A members only:
- a. 1/60 shall be the fraction of final compensation to be provided for each year of credited current service as a miscellaneous Group A member upon retirement at normal retirement age.
 - b. Benefits on account of each year of prior service shall be 100 per cent of the fraction of final compensation provided under the Law and this contract for each year of current service upon retirement for service.
 - c. The following provisions of the State Employees' Retirement Law which apply only upon election of a contracting agency shall apply:
 - (1) Section 21251.1 (providing for a guaranteed percentage of final compensation for each year of current service as a miscellaneous Group A member).
 - (2) Section 21252.4 (providing for a guaranteed percentage of final compensation for each year of current service as a local safety member).
 - (3) Section 20024.01 (defining "final compensation" on the basis of a period of three consecutive years).
 - (4) Section 21258(b) (providing a minimum retirement allowance of \$720.00 per year subject to certain conditions).
 - (5) Section 21367.51 (providing a \$400.00 death benefit upon death after retirement).
 - (6) Section 20025 (providing for inclusion of compensation without limit in computations in which compensation is a factor).
 - (7) Section 20952.5 (providing for age 50 as the minimum voluntary retirement age for local firemen and local policemen).
 - (8) Section 21251.3 (providing for the recalculation of allowances to persons retired prior to January 1, 1954, for time commencing on January 1, 1954, in accordance with this contract as amended effective February 1, 1954, provided that no allowances are to be decreased by such recalculation. "Final compensation" for such recalculation shall be determined in accordance with Section 20024 instead of Section 20024.01).

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6. The following provisions shall apply to miscellaneous Group B members only:
- a. 1/60 shall be the fraction of final compensation to be provided upon retirement at normal retirement age for each credited year of current service subject to the modification set forth in subparagraph c. below.
 - b. Benefits on account of each year of prior service shall be 100 per cent of the fraction of final compensation provided under the Law and this contract for current service benefits earned by service at the date of membership.
 - c. The fraction of final compensation specified in subparagraph a. above shall be reduced as to service in any period after January 1, 1956, which was also covered under OASDI to 1/90 for application to that part of final compensation which does not exceed the monthly equivalent of the maximum annual amount included in "wages" under Section 209, Social Security Act during such period, it being recognized that such maximum may be changed from time to time by amendments to said Social Security Act and intended that any change shall not affect the amount of the retirement allowance based on service during any period prior to the date of such change.
 - d. Any miscellaneous member who, upon retirement for service before age 65, is fully insured under Federal Old-Age, Survivors, and Disability Insurance may elect to receive the actuarial equivalent of his unmodified service retirement allowance in the form of an increased monthly income until he reaches age 65, and a reduced income thereafter in accordance with Government Code, Section 21703.
 - e. The retirement benefits payable upon retirement for ordinary disability shall not be affected by paragraph 6.c. of this contract as amended and for the purposes of the limit on any such allowance imposed under Section 21297, Government Code, allowances for retirement for service shall be computed according to the formula set out in paragraph 6.a. of the contract as amended both as to service before and after the effectivity of membership in the Group B classification. All other provisions of this amendment shall be fully applicable to the computation of allowances upon retirement for disability.
 - f. Contributions to be made by miscellaneous Group B members with respect to service rendered after the effective date of this amendment shall be at two-thirds the rate provided pursuant to Section 20601, Government Code, as it relates to that part of his monthly compensation which does not exceed the monthly equivalent of the maximum annual amount included in "wages" under Section 209, Social Security Act, and 100 per cent of such rate as it applies to the remainder of his monthly compensation. Contributions of miscellaneous Group B members accumulated as of the effective date of this amendment shall be applied to retroactive payment of contributions for OASDI coverage as provided in Section 21706, Government Code.
 - g. The following provisions of the State Employees' Retirement Law which apply only upon election of a contracting agency shall apply:

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- (1) Section 21251.1 (providing for a guaranteed percentage of final compensation for each year of current service as a miscellaneous member).
 - (2) Section 20024.01 (defining "Final Compensation" on the basis of a period of three consecutive years).
 - (3) Section 21258(b) (providing a minimum retirement allowance of \$720.00 per year).
 - (4) Section 21367.51 (providing a \$400.00 death benefit upon death after retirement).
 - (5) Section 20025 (providing for inclusion of compensation without limit in computations in which compensation is a factor).
7. Public Agency shall contribute to said Retirement System as follows:
- a. 6.079 per cent of total salaries each month for 18 years less the years elapsed between July 1, 1955, and the effective date of this amendment, on account of the liability for prior service.
 - b. 7.364 per cent of total salaries paid by Public Agency each month to its employees who are and hereafter become members of said Retirement System, provided that only salary earned as members of said System shall be included in said total salaries.
 - c. A reasonable amount per annum, as fixed by Board to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodical investigation and valuation required by law, provided that said amount shall be determined on the basis of the number of employees of Public Agency who are members on July 1, of the respective fiscal years, or with respect to the first year of participation, on the effective date of said participation.
 - d. A reasonable amount as fixed by the Board, payable in one installment as the occasions arise, to cover costs of special valuations on account of employees of Public Agency, and costs of the periodical investigation and valuation required by law.
8. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the State Employees' Retirement Law, and on account of experience under the Retirement System, as determined by the periodical investigation and valuation required by said Retirement Law.
9. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within thirty days after the end of the period to which said contributions refer. If more or less than the correct amount of contribution is paid for any period, proper adjustment shall be made in connection with subsequent remittances, or adjustments on account of errors in contributions required of any employee may be made by direct cash payments between the employee and Board. Payments by Public Agency to Board may be made in the form of warrants, bank checks, bank drafts, certified checks, money orders, or cash.

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