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April 22, 2016

VIA U.S. AND ELECTRONIC MAIL

Lawrence "Larry" Schmitt, Chair
Police and Fire Pension Board of Trustees
1 West Adams Street
Jacksonville, Florida 32202

Re: Authority of Board of Trustees of Police and Fire Pension Fund to Establish the Jacksonville Police and Fire Pension Fund Senior Staff Voluntary Retirement Plan and Related Legal Issues

Dear Chairman Schmitt:

Per our discussion yesterday, attached are two General Counsel ("GC") Legal Opinions, GC Opinion 16-01, dated April 22, 2016, and GC Opinion 12-03, dated August 10, 2012, respectively. These binding legal opinions conclude, among other things, that the creation of the Jacksonville Police and Fire Pension Fund Senior Staff Voluntary Retirement Plan ("SSVRP") was unauthorized. The City, who is the taxing authority and who has the ultimate financial responsibility for all City retirement system defined benefit plans, has the power and discretion to take all appropriate action to correct any unauthorized payments. As a result, and at the Mayor's direction, the City is ceasing payments made pursuant to the SSVRP.

While the individuals that participated in this unlawful plan may only be legally entitled to a return of their employee contributions, it is my opinion that the equities of the situation warrant providing the plan participants with a pension benefit that is the equitable equivalent of the amount they would have received had they participated in the City's only existing and legitimately authorized retirement plan (other than the Police and Fire Pension Fund Plan), the General Employees Retirement Plan ("GERP"). The City's Finance Department is currently determining the equitable GERP-equivalent

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benefit. The Board is invited to participate in this process.

Furthermore, as you are aware, my office, at my direction, requested that the Board defer any actions at the scheduled Board meeting on October 9, 2015 approving an "excess benefit arrangement" for Mr. Keane (due to the established maximum Internal Revenue Code ("IRS") dollar limitation on annual pension benefit payments) because of the apparent lack of an appropriation of dollars by City Council for such payment and because this office had already opined that the SSVRP was unauthorized, rendering any amendment to it likewise unauthorized. The Board, however, proceeded to approve the excess benefit arrangement immediately after the request. It is my understanding that the amount of the excess benefit is paid with City funds by a private financial institution. When the Finance Department determines the equitable GERP-equivalent benefit, if the amount is less than the IRS mandated maximum, the Board as the administrator and fiduciary of the plan is advised to notify the financial institution making said payments to immediately halt any payments.

I look forward to working with you and the Board and in the spirit of consolidated government, to once and for all resolve this issue for the City of Jacksonville.

Sincerely,



Jason R. Gabriel

CC: Beth A. McCague, PFPF Interim Executive Director
Ms. Donna L. Walmsley, SSVRP participant
Mr. John J. Keane, SSVRP participant
Ms. Debra S. Cohee, SSVRP participant
Jake Schickel, Esq., Counsel for Mr. Keane
Paul Daragjati, Esq., Counsel for PFPF Board