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AMERICAN FEDERATION OF STATE,  
COUNTY & MUNICIPAL EMPLOYEES  
DISTRICT COUNCIL 47, BY AND THROUGH  
ITS PRESIDENT CATHERINE G. SCOTT, et  
al.

Plaintiffs,

v.

CITY OF PHILADELPHIA,

Defendant.

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COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

OCTOBER TERM, 2011

NO. 3594

### **STIPULATION**

This stipulation is entered into between Plaintiff, American Federation of State, County & Municipal Employees (“AFSCME”) District Council 47 (“DC 47”), AFSCME DC 47 Local 2187 (“Local 2187”), AFSCME DC 47 Local 810 (“Local 810”), AFSCME DC 47 Local 2186 (“Local 2186”) (collectively “AFSCME”) and Defendant, City of Philadelphia (“City”) (collectively “the parties”).

**WHEREAS**, the Philadelphia City Council enacted Bill No. 110443 (“Ordinance”) or about September 15, 2011, over the veto of Mayor Michael Nutter, which made certain changes to the City’s existing pension plans in which employees represented by AFSCME, among many other employees, participate, including changes to the Deferred Retirement Option Program (“DROP”);

**WHEREAS**, the Ordinance is scheduled to take effect ninety days after its enactment;

**WHEREAS**, on or about September 28, 2011, DC 47, on behalf of itself and its affiliates Local 2187 and Local 2186, filed a charge of unfair labor practice with the

Pennsylvania Labor Relations Board (“PLRB”), docketed as Case No. PERA-C-11-387-E (“PLRB Charge”), alleging that the City is required to bargain over/discuss changes in the pension code, including changes to DROP, but failed to do so, and that the Ordinance creates an unlawful unilateral change in the working conditions of employees represented by Local 2186, Local 2187 and Local 810;

**WHEREAS**, AFSCME also filed a complaint in the Philadelphia Court of Common Pleas, docketed as No. 110103594 (“Complaint”), seeking to enjoin the City from enforcing the Ordinance as to employees represented by AFSCME pending resolution of the PLRB Charge;

**WHEREAS**, the City contends that it was not required to bargain with Local 2187 or Local 810 over the changes made to the pension plans by the Ordinance and that it has fulfilled any obligations to meet and discuss with Local 2186, without conceding that it had such an obligation;

**WHEREAS**, the parties deem it to be in the public’s best interest to avoid disruption and uncertainty with respect to the retirement benefits of City employees represented by AFSCME while these issues are litigated before the PLRB,

**NOW, THEREFORE**, the parties hereby agree as follows:

1. The Ordinance will not be enforced in whole or in part as to City employees represented by Local 2187 or Local 810 pending a final order of the PLRB or an agreement by the parties to the contrary.
2. This Stipulation is made without prejudice to and, in fact, preserves the City’s position that it has no obligation to bargain with Local 2187 or Local 810 or meet and discuss with Local 2186 over the changes to the pension code made by the Ordinance.

3. The Complaint is withdrawn as it relates to Local 2186 without prejudice.

4. The parties agree that should the City prevail on the PLRB Charge, the City shall have the right to enforce the Ordinance as of its effective date as to anyone who entered into the DROP program in accordance with Paragraph 1 of this Stipulation, including, but not limited to, removing such an employee from the DROP program for any period for which he or she would not be eligible for the DROP under the Ordinance and/or adjusting the amount of interest accruals in the employee's nominal DROP account for the covered period. The parties further agree that anyone covered by this Stipulation who enters into the DROP program in accordance with Paragraph 1 of this Stipulation will be required, as a condition of enrollment in the DROP program, to acknowledge the City's retention of the right to take action as set forth in this paragraph if it prevails on the PLRB Charge.

5. This Agreement is made without prejudice to any claims by any covered employee related to the Ordinance's application which existed as of the effective date of the Ordinance.


6. The City's obligation to answer the Complaint will be stayed for as long as this Stipulation remains in effect. If this Stipulation is vacated or dissolved and the Complaint is not withdrawn, the City shall have twenty (20) days to answer, move or otherwise plead in response to the Complaint from the date the Stipulation is vacated or dissolved.

7. This Stipulation will be automatically dissolved upon the issuance of a final order by the PLRB on the PLRB Charge.

8. This Stipulation may be dissolved at any time by agreement of the parties.

9. This Stipulation may be dissolved at the request of the City with twenty (20) days notice to DC 47, Local 2187 and Local 810 in which case the City's obligation to

respond to the Complaint shall be triggered and DC 47, Local 2187 and Local 810 may thereafter pursue the relief sought in the Complaint.



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*American Federation of State, County & Municipal Employees District Council 47, Local 2187, Local 2186 and Local 810*

Dated: December 6, 2011



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Dated: December 6, 2011

Approved:

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J.