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March 16, 2021

The Honorable Connie Leyva
California State Senator, 20th District
State Capitol, Room 4061
Sacramento, CA 95814

RE: SB 278 (Leyva) – OPPOSE

Dear Senator Leyva,

On behalf of the City of Cupertino, I am writing to express our opposition to SB 278, your measure which would require public agencies to directly pay retirees and/or their beneficiaries disallowed retirement benefits using general fund dollars. The City's objections to this measure are rooted in policy, operational cost, and legal concerns that will create challenges for every state and local government agency should this measure be signed into law.

SB 278 would place 100% of the total liability for disallowed retirement benefits on public agencies, thereby abdicating all responsibility previously held by CalPERS to ensure that retirement benefits are calculated and administered correctly. As such, SB 278 is a de facto and retroactive benefit enhancement measure that would further strain our budget at a time where the impacts of COVID-19 and retirement obligations are making it exceedingly difficult to effectively provide critical services for the public.

Under SB 278, the City would be issuing unlawful payments to former employees and/or their beneficiaries. Continued payment of a disallowed benefit to a retiree would constitute a gift of public funds, in violation of Section 6, Article 16 of the California Constitution. Such violation would leave a public agency left to defend itself from costly litigation lawsuits filed by members of the public.

This measure also fails to consider the common practice of employees moving from jurisdiction to jurisdiction throughout their careers. Under normal circumstances, CalPERS pays out the benefit if an employee works for multiple agencies who enjoy reciprocity; however, under SB 278 this is unclear. Such confusion will lead to compliance-related, legal and implementation-

related challenges. The lack of accountability by the administrator of public retirement benefits would lead to even more confusion and compliance-related challenges for public agencies.

The City believes that retirees and/or their beneficiaries should be entitled to the benefits that they have earned. However, if a disallowed benefit has been improperly factored into the overall benefit, potentially by an entity other than the City, we do not believe that the City's general fund should bear the responsibility of funding that disallowed retirement benefit.

It is for these reasons that the City of Cupertino opposes SB 278.

Sincerely,

A handwritten signature in blue ink that reads "Darcy Paul". The signature is fluid and cursive, with the first name "Darcy" and last name "Paul" clearly distinguishable.

Darcy Paul
Mayor
City of Cupertino

cc: Senator Dave Cortese
Assemblymember Evan Low
Assemblymember Marc Berman