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**DATE: 09/21/2010**

**SUBJECT: City Prevails on Retiree Health Care Appeal**

**BY: Pakou Ly**

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## City Prevails on Retiree Health Care Appeal

The Minnesota Court of Appeals issued its decision today in favor of the City of Duluth on the summary judgment decision which allows the City to move all retirees to a single plan offered to active employees. The Court of Appeals agreed with the City, and with the trial court, that the contract term "to the same extent as active employees" is unambiguous.

The Court held: "The term 'active employees' in the CBA is used in contrast to retired employees. The plain and ordinary meaning of 'active employees' is employees who are currently working -- as opposed to employees who have retired... [T]he [C]ity may modify the level of health-insurance coverage provided to retirees to the same extent that it modifies the level of coverage provided to active employees."

"The confirmation of the district court's decision is a tremendous victory for the taxpayers of Duluth and for the long term sustainability of the benefit itself," said Mayor Don Ness. "Facing financial ruin, we have taken aggressive and necessary steps to fix this critical problem. Had we failed on this case, those costs would have continued to be an ever-increasing burden on the taxpayers of Duluth."

In 2005 an independent actuarial study projected that the unfunded liability for retiree health care would reach \$351 million by 2010. Because of the reforms that have been undertaken, the most recent actuarial study in 2010 places the unfunded liability at \$205 million.

"The \$146 million dollar decrease in these actuarial figures represents an incredible accomplishment for the citizens of Duluth. It would be hard to overestimate the importance of the actions taken and the decisions of the Court in support of our position," said Mayor Ness.

The Court of Appeals also reversed the trial court's grant of summary judgment on the issue of promissory estoppel because the parties had previously agreed to address the contract claim only in the class action. The City

anticipates that the trial court will ultimately dismiss the promissory estoppel claim as beyond the scope of the case.

“The promissory estoppel decision is not unexpected. It should not have any affect on our ability to follow the contract in light of the strong opinion of the court on summary judgment,” said City Attorney Gunnar Johnson.

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