

January 30, 2013

PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

Via E-Mail & U.S. Mail

Christopher E. Platten
Wylie, McBride, Platten & Renner
2125 Canoas Garden Avenue, Suite 120
San Jose, CA 95125
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**Re: New Employee Retirement
City of San Jose and IAFF Local 230**

Dear Chris:

This letter will follow up on our correspondence of earlier this month. While I understand that Local 230 continues to have concerns about the impact of Measure B and the City's proposal on second tier retirement benefits, those concerns do not undercut the longstanding impasse between the parties. As reflected in correspondence over the past several months as well as our meeting last month, the parties have been at impasse since October of 2011, both in fact and by operation of the mutually agreed upon framework, and Local 230 has failed to respond to the City's September 12, 2012, proposal (which had previously been rejected by Local 230 and which incorporates the maximum level of benefits permitted under Measure B) in any substantive way.

There can be no question that the parties remain at impasse and, given Local 230's refusal to move forward to interest arbitration, the City has filed a Notice of Hearing on our Petition to Compel Arbitration/Writ of Mandate.

As for your specific questions:

1. The Police and Fire Retirement Board has the authority to determine amortization rates. The City does not consider the setting of amortization periods or other actuarial assumptions to be within the scope of representation.



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2. This will confirm that deferred vested members maintain their pension benefits based on the plan in effect at the time service was rendered. In other words, if a deferred vested member leaves the City and is subsequently re-employed, the individual will have their prior service calculated based on their original pension benefit accrual rate, while new service will be calculated based on the benefit accrual rate in effect at the time of their re-employment.
3. As we discussed, under the City's proposal, the cost of the second tier retirement benefit is split evenly between the City and the employees. Since both the normal cost and any unfunded liability are split evenly between the employees and the City, any actuarial gains would of necessity be distributed equally between the City and the employees.

Please let me know if you have further questions.

Sincerely,

Charles Sakai

cc (via e-mail only): Alex Gurza, Deputy City Manager
Nora Frimann, Assistant City Attorney
Jennifer Schembri, Deputy Director of Employee Relations