ASSOCIATION OF LEGAL PROFESSIONALS ~ ALP

March 11, 2013

Marco Mercado
Office of Employee Relations
CITY OF SAN JOSE
200 E. Santa Clara St., 3rd Floor Wing
San Jose, CA 95113

Re: City-ALP Negotiations

Dear Mr. Mercado:

I am writing this letter to inquire about the City's intent with regard to further negotiations with ALP.

On Monday, February 25, 2013, ALP received a letter dated February 21, 2013 from Charles Sakai stating that the "City believes it is appropriate to set an appointment with the appointed mediator, Kenneth Glenn" and that "the City will be developing proposal language based upon our discussions to date and will provide you with a proposal for settlement." The letter was silent on whether the City was declaring impasse.

On Monday, February 25, 2013, ALP submitted proposed Tentative Agreement 2 and proposed Tentative Agreement 3 to the City. With regard to the mediation request, ALP indicted in its cover letter (copy attached) submitted with the proposed agreements that ALP does not believe the parties are at impasse. ALP expressly requested the City to clarify its position on this issue.

On February 27, 2013, ALP submitted a letter dated February 26, 2013 to the City (copy attached) specifically responding to the mediation request in Mr. Sakai's February 21, 2013 letter. In ALP's letter, ALP:

1. Reiterates that mediation is premature,

2. States its belief that the parties should be able to resolve at least some of the remaining 8 outstanding provisions and that they should do their best to do so before requesting mediation services from the State,

3. Expressly requests to meet with the City at least once or twice more before any mediation, and

4. Suggests that to the extent the parties cannot agree on any of the outstanding 8 provisions, the parties provide the mediator, Mr. Ken Glenn, with an agreed upon statement of the issues in an attempt to maximize the possibility of having a successful mediation.

On Wednesday, February 27, 2013, ALP received the attached email message from you acknowledging that the City received ALP's proposals and that the City would be providing a response (see attached message).

As of the date of this letter, other than receiving acknowledgements of ALP's communications, ALP has not received any response or communication from the City to any of the above matters. Nor has ALP received any confirmation from the City regarding mediation on Wednesday, March 13, 2013. In light of the lack of communication from the City, ALP can only assume that there will not be any mediation this Wednesday.

Please provide ALP with the status of the City's intent with regard to further negotiations with ALP.

Sincerely,

ASSOCIATION OF LEGAL PROFESSIONALS

VERA M. I. TODOROV
President

Attachments
cc (w/atts): Jennifer Schembri
Debra Figone
Rick Doyle
Mayor and Council Members

ASSOCIATION OF LEGAL PROFESIONALS ~ ALP

February 25, 2013

Charles Sakai
Attorney at Law
RENNE SLOAN HOLTZMAN SAKAI
350 Sansome St., Ste. 300
San Francisco, CA 94104

Sent by e-mail attachment to
csakai@publiclawgroup.com

Re; City of San Jose/Association of Legal Professional Negotiations

Dear Mr. Sakai:

Enclosed please find ALP's proposed Tentative Agreement 2 and proposed Tentative Agreement 3. ALP started preparing these documents well before receiving your letter dated February 21, 2012 regarding the request for mediation with Ken Glenn. These documents undermine the suggestion in your letter and during our "negotiations" on February 20, 2013 that ALP is not making a good faith effort to negotiate a memorandum of agreement with the City.

Your letter is completely silent on whether the City is declaring impasse. Generally, mediation occurs following a declaration of impasse. Given the progress that the parties have been making towards a memorandum of agreement, ALP does not believe impasse has been reached. Please provide clarification on whether the City has a different view.

Currently, ALP does not have memorandum of agreement with the City of San Jose. It is entitled to one. Proposed Tentative Agreement 2 reflects the provisions of the memorandum of agreement which no longer appear to be in controversy. It consists of provisions already agreed to in Tentative Agreement 1 and those provisions that, during negotiations over proposed Tentative Agreement 2, are not in controversy.

As proposed Tentative Agreement 2 reflects, out of a total of 42 provisions that are being discussed for inclusion in a final memorandum of agreement, the parties have agreed on 34 of the provisions. In other words, the parties have already reached agreement on over 80% of the provisions of a memorandum of agreement.

Proposed Tentative Agreement 3 reflects the eight provisions of the memorandum of agreement that remain outstanding. A perusal of proposed Tentative Agreement 3 reflects that significant portions of the eight provisions are not in controversy. Indeed, ALP would fully expect to be able to reach agreement with the City on at least four of the eight outstanding provisions. And, yes, there may be some difficult discussions over some of the remaining outstanding provisions – and perhaps the parties ultimately will not be able to reach agreement on those provisions. But, the parties are not at that

point yet, and it is premature to conclude otherwise. Accordingly, requesting mediation now is not the most respectful or effective use of Mr. Ken Glenn's services.

Finally, what is disappointing and frustrating to ALP is that – despite the progress the parties have been making over the last few months – the City's team of professional negotiators feel the need to express "strong disappointment" and call for mediation because the parties reach a rough patch in negotiations. Some setbacks have to be expected in all by the simplest of negotiations. The parties have worked through issues before to come to agreement on 34 of the provisions to be included in a memorandum of agreement, and ALP fully expects to be able to do so on at least most of the outstanding provisions.

And, quite frankly, ALP is tired of hearing the City's team of professional negotiators complain about the length of time "negotiations" are taking. The City and ALP are negotiating difficult issues in a difficult environment. These difficulties have only been exacerbated by the fact that the City's professional negotiating team has generally reflected the City's inflexible, controlling, uncreative, and adversarial approach to labor relations over the last few years. Moreover, as ALP has stated before, it does not have the luxury of a professional negotiating team. The primary obligation of those negotiating for ALP is to complete the City's work first.

ALP looks forward to a response from the City on the proposed tentative agreements. ALP would anticipate that the City's response would include and explanation and proposed language for any provisions it rejects.

Sincerely,

ASSOCIATION OF LEGAL PROFESSIONALS

VERA M. I. TODOROV
President

Enclosures
cc *(by e-mail)*: Jennifer Schembri w/enc.
Marco Mercado w/enc.
Rick Doyle w/enc.

ASSOCIATION OF LEGAL PROFESIONALS ~ ALP

February 26, 2013

Marco Mercado
Office of Employee Relations
CITY OF SAN JOSE
200 E. Santa Clara St., 3rd Floor Wing
San Jose, CA 95113

Sent by e-mail attachment to
marco.mercado@sanjoseca.gov

Re: City of San Jose/Association of Legal Professional Negotiations
City's Request for a March 13, 2013 Mediation Date

Dear Mr. Mercado:

In order to maximize the effectiveness of mediation – and out of respect for Mr. Ken Glenn's time – ALP requests the City to reconsider its request for mediation on March 13, 2013. Mediation is premature. ALP requests the City to meet at least once or twice more before requesting mediation to see how many of the 8 outstanding provisions in ALP's TA3 the parties can resolve without outside help.

As ALP indicated in its cover letter to TA3, the parties should be able to resolve most, if not all, of the outstanding provisions without a mediator. To the extent the parties absolutely can not agree on any of the outstanding provisions, ALP believes a far more prudent approach to mediation would be for the parties to agree on a statement of the provisions and issues that remain outstanding, and to provide the statement to Mr. Glenn ***before*** the mediation. This process would maximize the effectiveness of Mr. Glenn's time and the possibility of having a successful mediation.

I look forward to hearing back from you on this matter.

Sincerely,

ASSOCIATION OF LEGAL PROFESSIONALS

VERA M. I. TODOROV
President

Enclosures
cc *(by e-mail)*: Jennifer Schembri
Charles Sakai
Rick Doyle
Mayor and Council Members
Debra Figone

Mercado, Marco

From: Mercado, Marco
Sent: Wednesday, February 27, 2013 9:22 AM
To: Todorov, Vera
Cc: Schembri, Jennifer; 'csakai@publiclawgroup.com'; Schwarzbach, Glenn; Donnelly, Ellen; Mitchell, Carl
Subject: RE: City-ALP Negotiations: City request for Mediation

Hi Vera –

The City is in receipt of your letter. We will follow up with you.

Thank you.

MARCO MERCADO
SENIOR EXECUTIVE ANALYST
CITY MANAGER'S OFFICE OF EMPLOYEE RELATIONS
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113
(408) 535-8156 DIRECT
(408) 535-8150 MAIN
(408) 292-6436 FAX
WWW.SANJOSECA.GOV

From: Todorov, Vera
Sent: Wednesday, February 27, 2013 8:30 AM
To: Mercado, Marco
Cc: Schembri, Jennifer; 'csakai@publiclawgroup.com'; Doyle, Richard; Figone, Debra; Reed, Chuck; Constant, Pete; Kalra, Ash; Liccardo, Sam; Chu, Kansen; Campos, Xavier; Oliverio, Pierluigi; Nguyen, Madison; Herrera, Rose; Rocha, Donald; Khamis, Johnny; Schwarzbach, Glenn; Donnelly, Ellen; Mitchell, Carl
Subject: City-ALP Negotiations: City request for Mediation
Importance: High

<< File: mm.pdf >>
Please see the attached letter.

Vera Todorov | Sr. Deputy City Attorney
City of San Jose
200 E. Santa Clara St., 16th Floor | San Jose, CA 95113
d - 408.535.1956 | t - 408.535.1900 | f - 408.998.3131
vera.todorov@sanjoseca.gov

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