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September 21, 2012

CHARLES SAKAI  
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*VIA E-Mail and US Mail*

Gregg McLean Adam  
Carroll, Burdick & McDonough LLP  
44 Montgomery Street  
San Francisco, CA 94104  
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**Re: New Employee Retirement  
City of San Jose and the San Jose POA**

Dear Gregg:

I am in receipt of your letter dated September 18 naming John Robb as SJPOA's panel member for the interest arbitration over the second tier retirement benefits mandated by the San Jose City Charter as amended by Measure B. It is an understatement to say that I am disappointed with your position that the SJPOA is "not prepared" to agree to the use of Judge Flaherty as the neutral arbitrator. Given the length of time we have discussed him as the neutral panel member and the fact that your office recently procured arbitration dates from him, this feels like nothing more than an attempt to delay the implementation of the second tier retirement benefit.

As I have indicated, the City and the SJPOA have a responsibility to enact the will of the voters as expressed in Measure B and the SJPOA's continued reluctance to move forward on arbitration over the second tier retirement benefit serves only SJPOA's interests and not the interest of the voters. Nonetheless, that appears to be your choice. Please have John Robb contact Alex' office as soon as possible to schedule a time to discuss selection of a neutral.

With regard to your questions about the City's proposal, that language is simply what it says it is: a "reservation" of existing rights. Since the language does not create any rights in excess of those already held by the City, the SJPOA should not have any problem with it. Moreover, the City has sought legal advice on this language and understands that it would be acceptable to the IRS for the reason stated.

Let me stress again that the City's proposal represents the maximum allowable benefit under Measure B and is consistent with Measure B's limitations. Therefore, I am at a loss as to why the SJPOA cannot simply agree to the terms imposed by the voters. If the SJPOA has specific



Gregg McLean Adam  
New Employee Retirement  
September 21, 2012  
Page 2

issues that you would like to see addressed, please send me a counteroffer. However, this should not delay the selection of a neutral and the scheduling of arbitration.

Sincerely,

Charles Sakai

Cc (*via e-mail only*): Alex Gurza, Deputy City Manager  
Nora Frimann, Assistant City Attorney  
Jennifer Schembri, Assistant to the City Manager

CDS/lr

