

May 30, 2013

Vera Todorov  
President  
Association of Legal Professionals (ALP)  
c/o City Attorney's Office  
200 E. Santa Clara Street  
San Jose, CA 95113

**RE: Retiree Healthcare Coalition Counterproposal**

Dear Vera:

Thank you for providing us the Coalition's retiree healthcare counterproposal dated May 23, 2013. We appreciate the Coalition's acknowledgment of the short time frame we have to reach an agreement before the retirement board sets the contribution rates for Fiscal Year 2013-2014.

Enclosed is the City counterproposal, which we hope will lead to a tentative agreement. As you know, an agreement will need to be reached prior to when the Federated City Employees' Retirement System Board establishes the contributions rates, in order to affect the retiree healthcare rates for Fiscal Year 2013-2014. However, if we do not reach an agreement before that date, we are committed to continuing to negotiate over retiree healthcare.

Additionally, we agree that stakeholder education is an important process so we have included a side letter agreement on a Retiree Healthcare Stakeholder Working Group. Please note that if ALP agrees to this side letter, it does not act as a substitute for the meet and confer process.

We have also included language regarding an indemnification on the Section 115 retiree healthcare trust issue, which is subject to Council approval.

We look forward to hearing back from ALP if you accept this counterproposal.

Sincerely,



Alex Gurza  
Deputy City Manager

Enclosure

**CITY PROPOSAL – RETIREE HEALTHCARE**

Proposed Language:

**RETIREE HEALTHCARE FUNDING AND BENEFITS**

The City and employees represented by the Association began to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the “policy method”) to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan (“Plan”). The transition began on June 28, 2009. The Plan’s initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan’s actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this section.

The City and the Association agree that the Municipal Code and/or applicable plan documents shall be amended to the extent necessary in accordance with this agreement and that the Association will support such amendments.

The phase-in to the ARC shall be effective on the first pay period of the City’s fiscal year in each succeeding year, the first increment which was effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of the ARC may vary upward or downward. The City and the Association agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members’ contribution rate is 4% of pensionable pay, the subsequent fiscal year’s contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the first payperiod of Fiscal Year 2014-2015, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code.

The City has established a qualified 115 trust (“Trust”). Employee contributions will begin going into the Trust in time to avoid any potential of reaching IRS limits on the existing medical benefits account or whenever the City receives advice of Tax Counsel or ruling from the IRS that the contributions can be treated as pre-tax, whichever occurs first.

If employee contributions are deposited into the Trust prior to receiving a ruling from the IRS that the contributions can be treated as pre-tax and the City subsequently receives an IRS determination that the contributions should be treated as post-tax, the City agrees to indemnify any employee as to any IRS liability arising solely from the contributions that were taken as pre-tax prior to the IRS determination.

It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

Employees hired into full-time benefited positions on or after the first payperiod following the effective date of the ordinance implementing this provision ("Effective Date") will not participate in or be eligible for the defined benefit retiree healthcare program. For Fiscal Year 2013-2014, the City will pay the unfunded liability contribution that these employees would have otherwise paid had they gone into the retiree healthcare defined benefit program.

*(This language shall be added as a section to any Memorandum of Agreement between the City and ALP under the article entitled "Retiree Healthcare.")*

## **HEALTHCARE COST MITIGATION**

Notwithstanding any other provision of this Agreement, the parties agree to meet and confer over retiree healthcare benefits and funding upon request of either party. This may include but is not limited to alternatives to reduce the cost of retiree healthcare benefits and options for current employees that comply with IRS regulations and whether or not the City will continue to pay for the unfunded liability contribution that new employees would have otherwise paid had they gone into the retiree healthcare defined benefit program.

Negotiations between the City and the Association shall commence within 14 days upon notice of either party. The City and the Association shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

*(This language shall be added as a section to any agreement on a Memorandum of Agreement between the City and ALP under the article entitled "Agreement Conditions.")*

## HEALTH INSURANCE

Effective January 1, 2014, all available plans will have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family). The premiums will be adjusted effective the first payperiod in payroll calendar year 2014, which starts December 22, 2013.

Effective January 1, 2013, Kaiser Permanente 1500 Deductible HMO Benefit Plan will be available to employees represented by the Association in addition to the existing plan options.

*(This language shall be added to any agreement on a Memorandum of Agreement between the City and ALP under the article entitled "Health Insurance.")*

## DENTAL INSURANCE

Effective January 1, 2014, all available plans will have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family). The premiums will be adjusted effective the first payperiod in payroll calendar year 2014, which starts December 22, 2013.

*(This language shall be added to any agreement on a Memorandum of Agreement between the City and ALP under the article entitled "Dental Insurance.")*

## **Side Letter Agreement**

### **RETIREE HEALTHCARE STAKEHOLDER WORKING GROUP**

#### **PURPOSE**

The City and the nine bargaining units that form the Retiree Healthcare Coalition, ("the Bargaining Unit(s)") have discussed the importance of education regarding the retiree healthcare issue including discussion of potential solutions. To this end, the City and the Bargaining Unit(s) will jointly schedule Retiree Healthcare Stakeholder Working Group sessions. The sessions are for the designated purpose of obtaining an understanding of the issues that can or may affect the City's retiree healthcare benefit including potential solutions.

#### **AGREEMENT**

The City and the Bargaining Unit(s) will jointly coordinate to conduct and facilitate the Retiree Healthcare Stakeholder Working Group sessions. These sessions shall include information that will help both parties address the challenge of retiree healthcare and the discussion of potential long-term solutions. The stakeholders shall include, but not be limited to, the City, the Bargaining Unit(s), employees, retirees and the public.

If the City and the Bargaining Unit(s) agree to begin the Retiree Healthcare Stakeholder Working Group, any outside consultants or subject matter experts appearing at any scheduled session shall be agreed upon by the City and the Bargaining Unit(s) before the scheduled appearance of such person(s). To the extent that the agreed upon person(s) require compensation, the costs shall be funded on an equally shared basis among the City and the Bargaining Unit(s).

The City and the Bargaining Unit(s) agree that this process will not supplant the meet and confer process regarding retiree healthcare. Prior to or concurrently with the Retiree Healthcare Stakeholder Working Group, negotiations between the City and the Bargaining Unit(s) shall commence within 14 days upon notice of either party. The City and the Bargaining Unit(s) shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

This Agreement is tentative and shall become effective only as part of the overall retiree healthcare agreement on, and only during the term of, any agreement reached between the City and the Bargaining Unit(s).

**FOR THE CITY:**

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Alex Gurza Date  
Deputy City Manager

**FOR THE UNION:**

\_\_\_\_\_  
Yolanda Cruz Date  
President  
MEF, AFSCME Local 101

\_\_\_\_\_  
Charles Allen Date  
Business Agent  
AFSCME, Local 101

**FOR THE UNION:**

\_\_\_\_\_  
LaVerne Washington Date  
President  
CEO, AFSCME Local 101

\_\_\_\_\_  
Charles Allen Date  
Business Agent  
AFSCME, Local 101

**FOR THE UNION:**

\_\_\_\_\_  
Bill Pope Date  
Business Representative  
Operating Engineers, Local 3

**FOR THE UNION:**

\_\_\_\_\_  
Vera Todorov Date  
President  
ALP

**FOR THE UNION:**

\_\_\_\_\_  
Peter Fenerin Date  
President  
ABMEI

**FOR THE UNION:**

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John Mukhar Date  
President  
AEA, IFPTE Local 21

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Michael Seville Date  
Acting Senior Representative  
IFPTE, Local 101

**FOR THE UNION:**

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Dale Dapp Date  
President  
AMSP, IFPTE Local 21

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Michael Seville Date  
Acting Senior Representative  
IFPTE, Local 101

**FOR THE UNION:**

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Matt Farrell Date  
President  
CAMP, IFPTE Local 21

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Michael Seville Date  
Acting Senior Representative  
IFPTE, Local 101

**FOR THE UNION:**

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Frank Crusco Date  
Chief Steward  
IBEW, Local 332

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Dan Rodriguez Date  
Business Representative  
IBEW, Local 332