



RENNE SLOAN HOLTZMAN SAKAI LLP

350 Sansome Street, Suite 300
San Francisco, CA 94104-1304

t: 415.678.3800

f: 415.678.3838

September 12 2012

CHARLES SAKAI
CSAKAI@PUBLICLAWGROUP.COM

VIA E-Mail and US Mail

Mr. Christopher E. Platten, Esq.
Wylie, McBride, Platten & Renner
2125 Canoas Garden Avenue, Suite 120
San Jose, CA 95125
cplatten@wmprlaw.com

**Re: City of San Jose and IAFF, Local 230
Second Tier Retirement Benefits**

Dear Chris:

This letter will confirm that the City of San Jose and IAFF, Local 230 are scheduled to meet on October 1, 2012, from 1-4 pm over the second tier retirement benefit (Tier 2) which the City Charter now mandates for new hires in the bargaining unit represented by Local 230.

As you know, the City has proposed the following Tier 2 retirement formula for new hires:

- 2% per year of service at age 60
- Three years average final compensation
- Maximum benefit level of 65% of final average compensation
- COLA capped at 1.5% per annum

The attached proposal, which has been presented to you before, is entirely consistent with the maximum benefit levels provided for in Measure B. The Normal Cost of this proposal is approximately 22.4%, as estimated by the City's consulting actuary, Bartel and Associates, based on the June 30, 2011 valuation data. As you know, the actual contribution rates will be set by the Police and Fire Department Retirement Plan Board's actuary, Cheiron. Pursuant to the terms of Measure B, this would be split equally between the City and members. We would like to note that Measure B places a 9% cap on the City's costs in the event the City contributes to a defined contribution or other retirement plan in addition to the Tier 2 defined benefit plan.

Given that the City's proposal represents the maximum allowable pension formula for new hires under Measure B, I would urge your client to consider simply accepting the City's proposal. That said, if Local 230 is not willing to agree to the maximum benefit under Measure B, the parties have been at impasse over these negotiations since October of last year and were not able to resolve this issue after two rounds of mediation. Therefore, City is prepared to move forward to interest arbitration and hereby appoints Alex Gurza as its member of the arbitration panel.



Chris Platten
Second Tier Retirement Benefits
September 12, 2012
Page 2

Pursuant to the terms of Section 1111 of the City Charter, please notify me within three days of Local 230's identified panel member, so that they can select the chairperson. The City would propose using retired Santa Clara County Judge James Flaherty as the chairperson. (<http://www.jamsadr.com/flaherty/>)

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
Attachment

CITY PROPOSAL – RETIREMENT BENEFITS FOR NEW EMPLOYEES

The benefits set forth below shall apply to full time eligible employees who are hired on or after September 30, 2012, and shall be referred to as Tier 2 in the Police and Fire Department Retirement Plan.

Proposed Language:

Pension Formula

The pension benefit formula for eligible employees hired on or after September 30, 2012, shall be 2.0% percent per year of service subject to a maximum of 65% of final compensation.

Final Compensation

Final compensation shall mean the average annual earned pay of the highest three consecutive years of service. Final compensation shall be base pay only, excluding premium pays or other additional compensation.

Minimum Service

Employees shall be eligible for a service retirement after earning ten (10) years of retirement service credit and meeting the age requirement specified below.

Retirement Service Credit

Employees shall be eligible for a full year of service credit upon reaching 2,080 hours of regular time worked (including paid leave, but not overtime), or the equivalent annual hours for Fire employees in the Fire Department who are assigned a 56-hour work schedule. The maximum retirement service credit in a calendar year shall not exceed one year.

Age

Employees hired on or after September 30, 2012, shall be eligible to retire at age 60 with at least ten (10) years of retirement service credit.

Employees can retire at a minimum of age 55 with at least ten (10) years of retirement service credit; however, the member's benefit shall be reduced so it does not exceed the actuarial value of full retirement. This reduced benefit shall be determined by the Police and Fire Department Retirement Plan's actuary.

Deferral of Retirement

Employees who leave employment who have at least ten (10) years of retirement service credit may defer the retirement benefit until the employee becomes eligible to retire.

Cost of Living Adjustment (COLA)

Plan members shall receive a cost of living adjustment limited to the increase in the consumer price index (San Jose – San Francisco – Oakland U.S. Bureau of Labor Statistics index, CPI-U, December to December), capped at 1.5% per fiscal year. The first COLA adjustment shall be prorated based on the number of months retired.

Disability Retirements

Service Connected

Plan members who are eligible for a service connected disability retirement benefit shall receive an annual benefit based on 50% of the average annual pensionable pay of the highest three consecutive years of service.

Non-Service Connected

Plan members who are eligible for a non-service connected disability retirement benefit shall receive 2.0% times years of City service, but not less than 20% and not greater than 50% based on the average annual pensionable pay of the highest three consecutive years of service. Plan members shall not be eligible for a non-service connected disability retirement unless the member has earned 5 years of retirement service credit.

Survivorship Benefits

Death Before Retirement

If an employee dies during employment with the City and was not eligible for retirement, a return of employee contributions, plus interest shall be returned to the spouse, domestic partner, or estate.

If an employee dies during employment with the City and was eligible for retirement, a monthly benefit equivalent to what the employee would have received if retired at the time of death shall be provided to the spouse, domestic partner, or estate.

Death Before Retirement - Employees killed in the line of duty

If an employee is killed in the line of duty, the surviving spouse or domestic partner shall receive a monthly benefit equivalent to 50% of the average annual pensionable pay of the highest three consecutive years of service.

Death After Retirement

At the time of retirement, an employee may elect to receive a lower pension benefit to provide survivorship benefits to a spouse/domestic partner or child(ren) designated at the time of retirement. The Board's actuary shall determine the pension benefit for a 50%, 75% or 100% continuance that is actuarially equivalent to the member's benefit.

Defined Contribution Plan

Employees may supplement the retirement benefit by electing to make contributions to a defined contribution plan offered by the City, up to the annual IRS limit.

Cost Sharing

The City and Plan members in Tier 2 shall share equally in all costs of Tier 2 to the pension plan, including, but not limited to administrative expenses, normal cost and unfunded actuarial liability.

Reciprocity

Employees hired on or after September 30, 2012, shall be eligible for the benefits under the reciprocal agreement with CalPERS that are in effect at the time of the employee's retirement.

Rights

The City expressly retains its authority to amend, change or terminate any retirement or other post employment benefit provided by the City.

The retirement benefits for employees in Tier 2 shall include those described herein and shall not include any other benefits received by other members of the Police and Fire Department Retirement Plan, including, but not limited to, the purchase of service credit and redeposit of contributions.