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VIA EMAIL AND REGULAR MAIL

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Re: New Employee Retirement Tier—Follow Up
File No. 034862

Dear Charles:

Thank you for your letter of September 21, 2012.

With respect to Judge Flaherty, the City should not feel "disappointed," as you write. Every piece of correspondence from the POA indicated that *both* sides were discussing Judge Flaherty without prejudice to their right to not select him as the third panel member. Nothing against Judge Flaherty; however the POA is concerned about incurring further $6000 per day cancellations fees, as occurred after the parties were able to resolve their differences last December over the "ongoing" salary concession question.

We remain hopeful that the new employee retirement tier issue can be resolved collaboratively, and we agree with some of the sentiments in your letter.

But the POA believes that the City's current proposal is incomplete with respect to key areas about the benefits of new employees were the POA to simply accept the City's current proposal. We believe that the parties should reconvene as soon as possible to discuss among other issues:

- Age: Is the age of retirement (60) fixed or can it be increased or decreased?
- Is the DROP Program available?
- Vested Benefits: The City contends that it has a "Reservation" of existing rights to alter the pension plan at any time. If this is the case, does it believe it can alter Age? Future Accruals? Vesting

Period? Medical Benefits? Final Average Salary? All of the above? Anything else?

- Measure B did not define the vesting period. How many years will be required for a new officer to vest?

- What number does the 9% City contribution level represent? Total employee compensation or his/her hourly rate?

- What pay items contribute towards an employee's total compensation? Is it the same as Tier 1 officers?

- If an officer is responsible for 50% of any future unfunded liability, what amortization period would the city use in to determine future contribution levels rates?

- Will the employees account be credited for amounts paid into the unfunded liability?

- Is the employee entitled to a refund of both normal and unfunded liability contributions if they separate from city employment?

- What interest rate would be used to calculate the monies an officer paid into the pension system should they request a payout upon separation?

- Is there an annual cap on the unfunded liability amount an employee is required to make?

- Will future pension losses be recognized as unfunded liabilities immediately or will a "smoothing" period be applied?

- Are all new hires required to participate in the pension plan or can they opt into Social Security?

- Currently due to an arbitration award in the City's Favor in 1992, investment gains can be used to reduce the required City's contribution rate. If the new employee plan ever becomes more than 100% funded, will the employees rate be reduced also?

- Does the City have an I.R.S. qualification letter from the I.R.S.? If not, is the City prepared to share any legal opinion as to the validity of the 2% at 60 plan provided for in Measure "B"?

- If this plan is not "Vested" due to the City having retained a "Reservation" of rights, is the plan tax qualified to avoid Social Security and receive "Pre-Tax" contributions?

- Is there any Federal Limit on the amount an employee can contribute pre-tax into a pension fund should the employees share of the unfunded liability consume most of their future income?

- What level of retiree healthcare contributions are new employees required to pay?

- What level of retiree healthcare benefits are new employees guaranteed? What rules, if any, does the City contend apply to the vesting of such benefits?

- Will new employee "Retiree Healthcare" contributions be pre-tax?

- Will "Retiree Healthcare" contributions be placed in the same trust fund as current employees?

- Has the City sought an opinion to determine if their new hire plan will have reciprocity with the new Calpers 2.7 at age 57?

- Will the City provide reciprocity to lateral officers who transfer from other agencies and who were members of CalPERS or other retirement systems prior to January 1, 2013? And employees who transfer from CalPERS agencies and who first became CalPERS members after January 1, 2013 (i.e., those affected by AB 340)?

These are just some of the myriad of questions the POA has about the City's proposal. As we have stated before, because of the dominance of Measure B issues at the bargaining in 2011, we do not believe that the parties were able to fully flesh out these issues.

We suggest that we reconvene to discuss the questions listed above, and others, as soon as possible. We would prefer to meet in person rather than go back and forth in writing, which will unnecessarily drag out resolution of these issues.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP

Gregg McLean Adam
Dictated by him, but signed in his absence

GMA:jag
cc: Jim Unland, President, SJPOA
John Robb, Vice President, SJPOA
Franco Vado, Chief Financial Officer, SJPOA