

BEESON, TAYER & BODINE
 ATTORNEYS AT LAW
 A PROFESSIONAL CORPORATION
 ROSS HOUSE, SUITE 200
 483 NINTH STREET
 OAKLAND, CALIFORNIA 94607-4051
 (510) 625-9700
 FAX (510) 625-8275

SACRAMENTO OFFICE
 520 CAPITOL MALL
 SUITE 300
 SACRAMENTO, CA 95814-4714
 (916) 325-2100
 FAX (916) 325-2120

DONALD S. TAYER
 (1932-2001)

WWW.BEESONTAYER.COM

DUANE B. BEEBON
 NEIL BODINE
 ROBERT BONSALL
 GEDFREY FILLER
 CATHERINE E. AROSTEGUI
 JOHN C. PROVOST
 ANDREW H. BAKER
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 JOHN E. VARGA
 VISHTAEP SOROUSHIAN
 *ALSO ADMITTED IN NEVADA AND HAWAII
 **ALSO ADMITTED IN PENNSYLVANIA AND WASHINGTON
 ***ALSO ADMITTED IN NEW YORK
 ****ALSO ADMITTED IN HAWAII



Sender's Email: tpaterson@beesontayer.com

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Sent by Facsimile & U.S. Mail



Gina Donnelly
 Deputy Director of Employee Relations
 City of San Jose
 Office of the City Manager
 200 E. Santa Clara Street
 San Jose, CA 95113

Re: *Bargaining of Retiree Health Funding*

Dear Ms. Donnelly:

This firm represents AFSCME Local 101, MEF/CEO ("Unions"), and writes on their behalf to request the City to bargain with respect to changes to the City's funding of its retiree health obligations and the method of funding such obligations.

We understand the City has proposed an amendment to an ordinance that eliminates a previously implemented contingency on employee contributions to a trust fund to be established pursuant to section 115 of the Internal Revenue Code. The prior-enacted ordinance was premised on pre-tax or tax-preferred employee contributions, and in that regard required the City to obtain a private letter ruling from the IRS approving this procedure. We understand the City was not successful in obtaining such a ruling, and has now taken the unilateral action of proposing an amendment to the ordinance eliminating the precondition of obtaining approval by private letter ruling. This proposal constitutes a material change to the terms and conditions of employment of the Unions' members and further calls into question the efficacy or suitability of the proposed section 115 Trust. Therefore, the Unions hereby demand to bargain over retiree health and its funding. Clearly, it would be inappropriate for the City to unilaterally amend the ordinance absent bargaining in good faith with the Unions.

Very truly yours,

Teague P. Paterson

TPP/tg

cc: LaVerne Washington
 Yolanda Cruz
 Charles Allen