

**ASSOCIATION OF LEGAL PROFESSIONALS (ALP)**

April 20, 2012

DELIVERED VIA E-MAIL

Gina Donnelly  
Deputy Director of Employee Relations  
City of San Jose  
200 E. Santa Clara St.  
San Jose, CA 95113-1905

Re: City's 4/16/12 Last Best and Final Offer on Healthcare, Medicare Part A and B, and Pension Benefits for New Employees (Tier 2)

Dear Ms. Donnelly;

The Association of Legal Professionals rejects the City's Best and Final Offer for all of the following reasons.

During mediation sessions in January and February of this year, the only subject discussed during mediation was the City's proposed ballot measure with one brief foray into discussion of the Tier 2 pensions benefit scheme for new hires at the first meeting in January. The reason for the focus on the ballot measure was the City Council's self-imposed deadline to conclude negotiations by March in order to place the ballot measure on the June 2012 ballot. Never during mediation did we discuss healthcare and Medicare Part A and B. Therefore, ALP requests mediation on these subjects.

As we stated in our bargaining sessions prior to the mediation, we are concerned with changes to the retiree health care as it affects vested rights of the current employees as well as current retirees. We believe that the City's attempt to characterize a completely substandard high deductible medical benefit as the lowest cost plan "available" to current employees is merely a subterfuge to eviscerate the benefit both now and in the future. We will not go along with this, especially when the City is unable and/or unwilling to provide any cost savings to such a concession. ALP remains open to discussion of both the benefit as well as the future contribution levels for retiree healthcare in our upcoming negotiations.

As regards the City's proposed Tier 2 defined benefit plan, ALP has always been concerned about the effect of the new Tier on the contribution formula for the current employees and the future viability of the Plan. To date we have not received any financial information about the expected effect of this new Tier 2 despite numerous verbal and written requests for such information throughout the bargaining and mediation process. To date, there has been only surface bargaining without any discussion of how Tier 2 would really work and its impacts on current Plan members and beneficiaries. For this reason, the bargaining process remains open on this issue and the City's last, best and final is premature. Nor has the City provided ALP (or the Federated Retirement Board) with any proposed ordinance that would be required to implement the Plan and may answer some of the major issues with Tier 2, and which

matters that need to be contained therein are also subject to meet and confer requirements because of the impact on our unit.

It is also important to note that the City made public the John Bartel Report on Tier 2 *after* the City concluded the negotiation and mediation sessions and provided our unit with a last, best and final offer on April 16 – and that report says nothing about the impacts on current employees and the viability of the current plan. Nor was the Bartel Report provide to the Federated Retirement Board for review.

Additionally, it was made patently clear by retirement staff and consultants at yesterday's Federated Retirement Board meeting, that it would be impossible to implement the City's last, best and final Tier 2 by July 1, 2012. For this reason alone, the City's proposal would be impossible to be accepted by ALP. Again, ALP remains open to discussion of the benefit as well as the future contribution levels and impacts on current Plan members in our upcoming negotiations.

Finally, it has been over a month and we never heard back from you regarding our March 15, 2012, request to schedule meetings on negotiations on our new contract. We provided you with the names of our negotiating team in order to schedule meetings as soon as possible with whoever will represent the City in negotiations. We believe it was both inaccurate and inappropriate for you to inform Council in the City Manager's Annual Summary of Upcoming Labor Negotiations Memo that you will be beginning negotiations with us in April and then in May (later in the paragraph on p.8), when you have never spoken to us about scheduling and you are confused yourself about when you expect to begin. Negotiations need to commence as soon as possible as there are many issues to attempt to resolve at the bargaining table.

ALP remains open to discussing our entire contract with the City, including the matters discussed in the City's last, best and final offer that we decline to accept today. However, as expressed in previous communications with the City, ALP will not waive its right to assert that the City has violated its meet and confer obligations and will not waive impasse rights or any of its other bargaining rights or constitutional rights.

Regards,

ASSOCIATION OF LEGAL PROFESSIONALS



VERA M. I. TODOROV  
President