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Received
City Manager
MAY 20 2011
Office of
Employee Relations

May 18, 2011

Debra Figone
City Manager
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: Fiscal Reform Plan, May 2, 2011

Dear Ms. Figone:

This letter is sent on behalf of IFPTE Local 21.

We have a number of questions concerning the fiscal reform plan document dated May 2, 2011. Although addressed to you, we are copying Alex Gurza on this letter in order to expedite responses.

Page 9:

"It has been said that the City of San Jose will no longer be a competitive employer..."

There is a long response on pages 9 and 10 as to why you think the City will be competitive even without any pension benefits for new hires (i.e. if the City just spends 6.2% of pay for Social Security). We would like to see more:

We would like a statement from department heads (e.g. fire and police chiefs) on what they think would happen if the City provided no material pension as suggested in your memo. Would employees stay? Do you agree that to require police officers and firefighters (mostly hired in their 20's) to work until age 60 or 62 to receive a pension, has a tremendous downside to the citizens they serve as well as to the employees themselves? Is your proposal one to protect current citizens (via lower taxes) at the expense of future citizens who will one day have to scrap such a proposed pension change to avoid losing experienced employees?

What would happen if the only disability payment made to an employee shot and injured in the line of duty was a Social Security disability pension?

Page 34:

You state 15 principles. Why isn't one of the principles to honor the legal promises the City has made?

Page 35

Principle I: Has there been material spiking? Since the plans exclude overtime, what is the source of the spiking? If it is due to promotions, who controls promotions? what is the magnitude? isn't this built into the salary increase assumptions used by the plan's actuary? Is this really just an excuse to lower the cost by extending the averaging period for final salary? On page 46 you talk about spiking again. Other than lengthening the averaging period, how would this be prohibited? We assume the word "prohibit" is not an exact term since I assume you are not suggesting something like - no promotions after the age of 55.

At the bottom of page 35 you talk about significant legal questions but fail to provide any legal analysis. Is it a waste of time to look at options which are not real options? We see that the last two lines on page 37 seem to say you are not restricting the options to those that are unchallengeable. Can you provide a public statement on the legal constraints (what might be challenged)?

Page 37:

Throughout your analysis there is this focus on using a 6.75% (50/50) assumption and having based your cost or savings on this assumption. This raises several questions:

- We would like to see the input to the model that produces the 6.75% 50/50 result and the 7.75% 25/75 result (e.g. expected returns by investment class).
- Who controls the assumptions used for the both Plans' CARFs? Is it the Boards of Trustees?
- Is the City responsible for the ARC (and the assumptions it is based on) in the City's CAFR? Is this any different now than in the past?
- We would like to confirm that until the last few years, the City was supportive of the investment assumptions but now believes that the market has changed and the return expectations need to drop faster than the Board of Trustees have dropped the rate and that you believe the City should not

pay for any of the impact of the change in expected future returns. Do you agree?

- If the 6.75% rate is still "overly optimistic" who is responsible for paying for a further lowering of the assumption if lowering the rate is the direction of the Trustees?

- Our understanding is that the investment assumption in the Federated plan dropped from 8.25% to 7.75% and now has been raised to 7.95%. Can you explain the rationale for this?

There is a comment that some have raised questions about why retirees get a 3% increase even when the plan is in trouble and employees are getting pay cuts. Would the City prefer a pay-based indexation or Social Security (CPI) based indexation for retirees? Wouldn't the same argument apply to other taxpayers getting Social Security indexation even though Social Security is much more poorly funded than the pension plan?

Page 38 SRBR

We have the following questions about the SRBR.

- Please provide a calculation of the net impact of the cost of the SRBR in terms of the impact on the discount rate. We have heard that it is worth 30 basis points but have seen no calculation.

- Do you believe that the 7.75% and 6.75% assumptions include or exclude the cost of the SRBR?

- There is a statement that says: "even if a 'bonus' program is properly funded..." What does this mean?

- There is a statement that says "if a program is designed to pay additional cash to retiree, it should be funded." Are you saying that the City has not been funding the true ARC since the ARC did not reflect all of the benefits promised under the plan (including the SRBR)?

- Can you provide any legal guidance provided to you on how the SRBR might be amended or legal restrictions?

Page 40 Retiree Health Care

- We do not understand the table. How can a plan be 7% funded with $0.72 billion in unfunded liabilities based on Market Value (of assets) and 6%

funded with $0.71 billion in unfunded liabilities based on Actuarial Value (of assets)?

- Has there been any legal guidance provided on how the Retiree Health Care benefits might be amended or legal restrictions?
- Why now? Is there anything different now vs. 10 years ago?

Page 43

We just want to be clear that you want the City to pay (for new hires) no more than the 6.2% rate that private sector employers pay to Social Security. Please confirm.

On page 43 there is a reference to a "401k or 457 in the public sector". Are we correct that the 401k reference should really be to a 401(a) defined contribution plan? Is a 401(k) plan possible for all City employees (since generally public sector employers can not adopt a 401(k) plan)?

The City has suggested that if a tier 2 defined benefit plan is adopted that future unfunded liabilities be shared equally. Isn't this just an illusion as such a concept would not be robust enough to surviving difficult times?

Pages 44 – 45 and 48 - 50

Who created these numbers? Assuming it was an actuary, we would like to see the details and know who the actuary is. We would like to see details including those described in ASOP41 (Actuarial Standards of Practice 41 regarding Actuarial Communications) and understand all of the benefits valued (including disability benefits) and all of the decrements used. Do the responsible actuary and you believe that the assumptions used in these charts are reasonable?

On page 45 (bottom) it says guaranteed annual increases (COLAs) would be eliminated. How would this be equitable if there is no Social Security safety net?

Page 46:

How to you create a "risk free" defined benefit plan? Are you talking about buying annuities?

Page 48 - 50

Please confirm that to "pay for" the lowering of the interest rate from 7.75% to 6.75% you are proposing to lower future benefit accruals. Said differently, is the City trying to reduce it risk by having the employees pay for it?

In addition to the foregoing, and following on the Mayor Reed's memorandum regarding a possible fiscal emergency, please provide a copy of projected fiscal year 2011 year end revenues and expenditures inclusive of transfers, and a present cash flow accounting for the city's general fund.Your earliest response to these inquiries is anticipated and appreciated.

As always, should you have any questions, please don't hesitate to contact me.

Very truly yours,

WYLIE, McBRIDE,
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CHRISTOPHER E. PLATTEN

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