

350 Sansome Street, Suite 300 San Francisco, CA 94104-1304 t: 415.678.3800 f: 415.678.3838

October 23, 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:

Welcome back. This letter is simply to confirm that, at our meeting of October 2, 2012, you stated that (1) IAFF, Local 230 was unwilling to accept the City's proposal for second tier retirement benefits; (2) IAFF President Robert Sapien would represent Local 230 on the arbitration panel; however (3) Local 230 would not agree to Judge Flaherty or to name a neutral panel member because you do not agree that the parties are at impasse.

Local 230's position on impasse is indefensible. Pursuant to the Pledge of Cooperation and Agreement Upon a Framework for Retirement Reform and Related Ballot Measure Negotiations, signed by the City and Local 230 in June of 2011, the parties reached impasse on the issue of second tier retirement benefits nearly a year ago, on October 31, 2011.

Subsequent to our meeting on October 2, 2012, I received a list of questions from you regarding the second tier retirement benefit. The City is in the process of responding to these questions. However, that correspondence has no impact on the parties' longstanding impasse. Local 230 has had at least half a year to ask these questions (Measure B language was finalized in March 2012, although many of your questions could have been asked when negotiations over the second tier began in June of 2011). Moreover, as you know, the City's September 12, 2012, proposal, which is identical in nature to the City's prior proposal, represents the maximum permissible benefit under the City Charter. The City has no authority to increase its proposal beyond the maximums authorized under the Charter. Therefore, even if the parties had not been at impasse in October of 2011, we assuredly are now.

Given the foregoing, the City continues to urge that Local 230 accept the City's last proposal and save both parties the expense of both litigation and interest arbitration. Absent that, the parties



must proceed to interest arbitration pursuant to Charter Section 1111.

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