

**IN INTEREST ARBITRATION PURSUANT TO SECTION 1111
OF THE SAN JOSE CITY CHARTER**

In The Matter of Interest Arbitration
Between

CITY OF SAN JOSE

Employer,

and

INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, LOCAL 230,

Association.

JAMS REF# 1110016479

**CITY OF SAN JOSE'S PRE-HEARING
BRIEF RE TIER 2 INTEREST
ARBITRATION**

Judicial Arbitration Mediation Services
(JAMS)

Before Judge Catherine Gallagher (Ret.)

Hearing Date: May 13, 2014

Charles D. Sakai (173726)
David Kahn (98128)
Burke Dunphy (291892)
RENNE SLOAN HOLTZMAN SAKAI
350 Sansome Street, Suite 300
San Francisco, California 94104
Telephone: (415) 678-3800

Attorneys for City of San José

Introduction

Since June 2011, the City of San José (the “City”) and the International Association of Firefighters Local 230 (“IAFF Local 230”) have been bargaining over pension reform, including the establishment of an additional tier of pension benefits (“Tier 2”) for newly-hired employees represented by IAFF Local 230.¹ In June of 2012, voters passed Measure B (“Charter Article XV-A”), which amended the City Charter and, among other things, mandated that the City adopt a Tier 2 retirement benefit for new employees, and set a number of maximum benefit levels for Tier 2 members. Following passage of Measure B, the City continued to negotiate with IAFF Local 230 in good faith over Tier 2 benefits. The City sought to complete the negotiations process over Tier 2 benefits in August and September of 2012, and proposed all of the maximum benefit levels provided in Charter Article XV-A. In the alternative, the City requested that IAFF Local 230 agree to interest arbitration on the Tier 2 retirement benefits.

IAFF Local 230 would not accept either alternative - refusing to accept the City’s proposal of the maximum Tier 2 benefits allowed under the City Charter, *and* refusing to proceed to interest arbitration. The City filed a petition for a writ of mandate and to compel arbitration with the Santa Clara County Superior Court. IAFF Local 230 both opposed it and filed a cross-motion for a stay. On June 17, 2013, Judge Kevin McKenney issued the Order granting the City’s petitions for writ of mandate and compelling arbitration. As part of this Order, Judge McKenney denied IAFF Local 230’s request to allow the arbitration board to consider Tier 2 proposals exceeding the City Charter Article XV-A limits established by Measure B and also denied IAFF Local 230’s cross-petition for a stay of the arbitration and for a writ of prohibition. Charter Section 1503-A adopted by the City’s voters included the provision that the City Council should adopt implementing ordinances for Tier 2 effective no later than June 30, 2012. Due to the refusal of IAFF Local 230 to either accept the proposal of the maximum benefits legally permitted, or to proceed to interest arbitration prior to the City obtaining the writ of mandate, it is

¹ This Interest Arbitration is to resolve only Tier 2 retirement benefits, and will have no impact on the Tier 1 benefits for current employees.

now almost two years after the voter-approved implementation deadline for IAFF Local 230 Tier 2 retirement benefits.

The City continued to offer IAFF Local 230 the maximum benefits allowable under Charter Article XV-A on multiple occasions after the Order for interest arbitration, and as recently as March 18, 2014. In the two years that the City and IAFF Local 230 have been in negotiations regarding Tier 2, the City has never received any substantive counter-proposal from IAFF Local 230 on Tier 2 benefits, other than non-specific suggestions for benefits that would exceed Charter Article XV-A's legal limits. In view of the City's continuing proposals to IAFF Local 230 to provide the maximum Tier 2 retiree benefits under Charter Article XV-A, there is no reason for all or most of the issues below to proceed to interest arbitration. However, as IAFF Local 230 has made abundantly clear, it will not agree to, or meaningfully engage in negotiations on, Tier 2 retirement benefits. It appears an arbitration award under Charter Section 1111 will be required to implement the Tier 2 retirement provisions in Charter Article XV-A.

The topics at issue between the parties in this interest arbitration on IAFF Local 230 Tier 2 retirement benefits are:

1. Language regarding the application of Tier 1 retirement benefits to Tier 2 members;
2. Pension formula applicable to Tier 2 members;
3. Definition of "Final Compensation" and types of pay included in final compensation calculation;
4. Parameters of minimum service to qualify for benefits under Tier 2;
5. Parameters for eligibility for retirement service credit;
6. Age of eligibility for retirement under Tier 2;
7. Ability to defer payment of retirement benefits following separation from City employment;
8. Cost of living adjustment ("COLA") levels for Tier 2 beneficiaries;
9. Parameters for disability retirement under Tier 2;

10. Parameters of survivorship benefits for Tier 2 employees;
11. Ability of Tier 2 members to make contributions to a defined contribution plan;
12. Parameters of cost sharing between the City and Tier 2 members;
13. Scope of reciprocity for new employees;
14. Retention of authority by the City to alter retirement or post-employment benefits offered by the City;
15. Provision to reopen negotiations should the IRS determine that Tier 2 is not a qualified plan, to discuss plan modifications to obtain a qualified plan determination;
16. Parameters of retiree health benefits;
17. Return of contributions to employees who separate from City service; and
18. Redeposit of pension contributions for employees subject to layoff.

Pursuant to Section 1111 of the San José City Charter, these unresolved issues are required to be submitted to this three-member Board of Arbitration (the “Board”) for resolution. After the presentation of evidence and the submission of final proposals on each issue remaining in dispute, the Board must apply the specific criteria set forth in Charter Section 1111 and select the proposal on each issue which best satisfies the criteria set forth in Charter Section 1111. For many of the City’s Tier 2 proposals, the Board does not need to apply the Charter Section 1111 criteria because the City’s proposal is the maximum legally permitted under the City Charter.

I. Measure B and the Charter’s Limitations on Tier 2 Benefits

Recent years have brought dramatic increases in the cost of pension benefits for City employees, especially those covered by the Police and Fire Department Retirement Plan. These issues, and their impact on the City’s overall financial situation, came to a head in 2011, when contribution rates threatened to create a fiscal emergency and the City Council directed staff to begin negotiations with labor unions over a ballot measure to amend the City Charter with respect to pension benefits. In March of 2012, after many months of negotiation with the City’s unions, and, in the case of IAFF Local 230, multiple sessions with two different mediators, the

City Council voted to place what would become Measure B on the June 5, 2012 ballot. Measure B passed by a more than 2 to 1 margin, and became Article XV-A of the City Charter.

Charter Article XV-A (Measure B) made a number of changes to the City's retirement plans and structure in the City Charter, including adding the requirement that the City adopt a new benefit tier for employees who have yet to be hired. Charter Article XV-A establishes specific maximum limits and requirements for Tier 2 benefits, including eligibility age (60 for sworn employees), definition of "final compensation" (average of 3 highest consecutive years), pension formula (2% x years of service), and contribution rates (split 50/50 between participants and employer). The City has proposed, and IAFF Local 230 has rejected, the maximum permissible benefit in each of the identified categories.

However, the Charter does not specifically designate how every aspect and benefit of the retirement system will be handled for Tier 2 employees. Since late 2011, the City has been making proposals over the parameters of these ancillary Tier 2 benefits such as reciprocity, disability and survivorship benefits. To date, IAFF Local 230 has not provided any counter-proposals.

Accordingly, this interest arbitration is required to establish arbitration awards for both Tier 2 benefits with maximums that are established by Charter Article XV-A, and those Tier 2 retirement benefits that are subject to the criteria in Charter Section 1111 but without a Charter-established maximum benefit in Charter Article XV-A.

II. Litigation Related to Measure B

As the Board is undoubtedly aware, some legal challenges have been filed challenging various aspects of Measure B. However, the only challenge to the portions of Measure B dealing with new employees involve the issues pertaining to the meet and confer process through which the measure was placed on the ballot. A number of the City's unions, including IAFF Local 230, filed charges with the Public Employment Relations Board ("PERB") related to negotiations concerning Measure B. The PERB hearing involving IAFF Local 230 concluded in February 2014 and the parties are currently engaged in post-hearing briefing. The City does not expect a

decision in this matter until later this year, which will then be subject to appeal, which in turn may take years to ultimately resolve.

The possible outcome of the PERB litigation cannot be considered by the Board when applying Charter Article XV-A. Charter Article XV-A is presumptively valid. This means that the Board must apply the terms of Charter Article XV-A as they currently stand. Moreover, IAFF Local 230 already sought to stay this arbitration pending a resolution of the PERB litigation and this request was explicitly denied by Judge McKenney in his June 17, 2013 Order. IAFF Local 230 filed a writ with the Sixth District Court of Appeals, seeking review of Judge McKenney's order and again seeking a stay of these arbitration proceedings. On April 30, 2014, this request was summarily denied. For these reasons, the City believes it is critical that the instant arbitration focus on the only issue before the arbitrator – the Tier 2 benefits to be provided to future IAFF Local 230 employees pursuant to Charter Article XV-A.

III. Interest Arbitration Standards Under Charter Section 1111

Aside from the term “arbitration,” interest arbitration has little in common with more traditional “grievance” or “rights” arbitration. In traditional arbitration, the arbitrator's powers are created by contract, and the arbitrator's role is generally to interpret or apply the terms of the contract. By contrast, in interest arbitration, the arbitrator is asked pursuant to statute to determine the actual terms of the contract itself after the parties have failed to agree in negotiation. The arbitrator's powers are legislative in nature, and are delegated by the voters pursuant to standards the voters established in the City of San José's Charter. Further, unlike traditional arbitration, for which appeal rights are very limited and the scope of the arbitration is often determined by the arbitrator, the scope and method of appeal of an interest arbitration award may also be specified by the Charter.

Interest arbitration augments the rules of negotiation which, for California's local public agencies, are set by the Meyers Miliias Brown Act (the “MMBA”). (Cal. Gov't Code §§3500, *et seq.*) Under the MMBA, as under federal labor laws, the employer generally has the authority to implement its “last best offer” in negotiation after the parties reach impasse. (Cal. Gov't Code

§3505.7.) However, the MMBA also requires that public agencies go through a non-binding “fact-finding” procedure prior to implementing a last best offer. (Cal. Gov’t Code §3505.4.) That procedure does not apply, however, where a city’s charter provides for binding interest arbitration. (Cal. Gov’t Code §3505.5(e).)

In San José, Charter Section 1111 establishes the specific rules for interest arbitration. Under Charter Section 1111, “(a)ll disputes or controversies pertaining to wages, hours, or terms and conditions of employment which remain unresolved after good faith negotiations . . . shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by the recognized employee organization involved in the dispute.” (San José City Charter §1111(c).) The Board consists of a neutral representative, a partisan union representative, and a partisan City representative. (San José City Charter §1111(d).) The Board of Arbitrators is charged with holding public hearings on the issues in dispute. (*Id.*)

The San José City Charter provides for “issue-by-issue” and “last best offer” interest arbitration. Under this system, each party submits a last offer of settlement on each of the issues in dispute at the conclusion of the arbitration hearings. (San José City Charter §1111(e).) The Board then votes separately on each issue, selecting the last offer of settlement which meets the criteria specified in the Charter. (*Id.*)

For those issues where the City Charter does not set a maximum benefit, Charter Section 1111 establishes a number of criteria for the Board’s use in determining which last offer of settlement to select. One of the central considerations is whether the proposal “is in the best interest and promotes the welfare of the public.” (*Id.*) However, the Charter also provides that, in matters relating to compensation, the primary factors shall be, “the City’s financial condition and, in addition, its ability to pay for employee compensation from on-going revenues without reducing City services.” (San José City Charter §1111(f).) The Charter provides that the Board must consider “those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment, including, but not limited to, changes in the average consumer price index for goods and services, the wages, hours,

and other terms and conditions of employment of other employees performing similar services.” (San José City Charter §1111(e).) Finally, the Charter requires consideration of what labor lawyers refer to as “internal comparability,” as it provides that the Board must “consider and give substantial weight to the rate of increase or decrease of compensation approved by the City Council for other bargaining units” - in this case, Tier 2 benefits implemented for non-sworn employees and for the San José Police Officers Association (the “SJPOA”). (San José City Charter § 1111(f).)

In addition to the foregoing, Charter Section 1111 establishes strict limitations on the Board’s authority. (San José City Charter §1111(g).) Relevant to this arbitration, the Charter prohibits the Board from issuing a decision that either retroactively increases or decreases compensation (including enhancements to pension and retiree health benefits for service already rendered), or creates a new or additional unfunded liability which the City would be obligated to pay. (San José City Charter §1111(g)(2)-(3).)

In sum, under Charter Section 1111, after the conclusion of testimony, the parties will be required to submit a “last offer of settlement” on each issue remaining in dispute where the City’s proposal is not already the maximum allowed under Charter Article XV-A. The Board will then be required, on an issue by issue basis, to choose the last offer of one or the other party on each of these issues based upon the criteria established by Charter Section 1111.

IV. Where The City Is Proposing The Maximum Benefit Legally Allowed Under Measure B, Charter Section 1111 Criteria Are Not Relevant And Do Not Need To Be Considered.

Charter Article XV-A establishes maximum Tier 2 retirement benefits for IAFF Local 230 in a number of benefit areas. A city charter is effectively the city’s constitution. *City and County of San Francisco v. Patterson*, 202 Cal.App.3d 95, 102 (1988). As such, it is ““the supreme law of the City *subject only to conflicting provisions in federal and state constitutions and to preemptive state law.*”” *Woo v. Superior Court*, 83 Cal.App.4th 967, 974-75 (Ct. App. 2000) (emphasis added) (quoting *Domar Elec., Inc. v. City of Los Angeles*, 9 Cal. 4th 161, 170 (1994)). In this case, the Charter provides no discretion to exceed the maximum benefit levels

for Tier 2 employees. Rather, the Charter sets explicit limits on certain types of benefits. Because the Charter is the “supreme law of the City” and it offers no flexibility to exceed maximum Tier 2 benefits, the Board has no ability to award Tier 2 benefits in excess of the maximums set under the City’s charter. *See San Francisco Fire Fighters, Local 798 v. City and County of San Francisco*, 68 Cal.App.3d 896, 902 (Ct. App. 1977) (parties whose authority derives from a city’s charter “may not reasonably, or as a matter of law, have authority to do an act, or make an agreement, in derogation of the Charter.”)

IAFF Local 230 requested Judge McKenney to allow the Board to consider proposals that would exceed the Article XV-A Tier 2 benefits. The June 17, 2013 Order declines to allow the Board to consider increased Tier 2 benefits, finding that “the voters specifically prohibited such authority in passing Section 1504-A.” As the City is proposing the maximum benefits allowed by the City Charter in the areas listed below, there is no need for additional discussion or debate. The Board can award the City’s proposed Tier 2 benefits, but cannot exceed the City’s proposal.

Charter Article XV-A’s explicit caps or maximums on certain Tier 2 pension benefits are set forth in the table below. Although it could have proposed benefits less than the maximums in Charter Article XV-A, the City has proposed to provide IAFF Local 230 employees who are Tier 2 members with the maximum benefits allowable under Charter Article XV-A where the Charter provides limits. The Charter Article XV-A proscribed benefits and the applicable City Charter provision are set forth below, together with the City’s bargaining proposals.

Issue	Maximum Benefit Permissible Under Measure B	City's Proposal
Pension Formula	For employees hired on or after the adoption of the ordinance, 2% per year of service subject to 65% maximum percentage of final compensation. (Charter Article 1508-A (e))	For employees hired on or after the adoption of the ordinance 2% per year of service subject to 65% maximum percentage of final compensation.
Final Compensation	Average annual earned pay of highest 3 consecutive years. Base pay only - no premium pay or additional compensation. (Charter Article 1508-A (d))	Average annual earned pay of highest 3 consecutive years. Base pay only - no premium pay or additional compensation.
Minimum Service	Employees hired on or after Tier 2 becomes effective can retire at 60 with 10 years' minimum service credit. Can retire at 50 with 10 years of service credit at actuarially reduced benefit. (Charter Article 1508-A (b))	Employees hired on or after Tier 2 becomes effective can retire at 60 with 10 years' minimum service credit. Can retire at 50 with 10 years of service credit at actuarially reduced benefit.
Retirement Service Credit	Eligible for full year of service credit on 2080 hours of regular time. Includes paid leave, not overtime. Maximum service credit in one calendar year not to exceed one year. (Charter Article 1508-A (f))	Eligible for full year of service credit on 2080 hours of regular time. Includes paid leave, not overtime. Maximum service credit in one calendar year not to exceed one year.
Age	Employees hired after Tier 2 becomes effective can retire at 60 with 10 years' service credit minimum. Can retire at 50 with 10 years' service credit and with reduced benefit. (Charter Article 1508-A (b))	Employees hired after Tier 2 becomes effective can retire at 60 with 10 years' service credit minimum. Can retire at 50 with 10 years' service credit and with reduced benefit.
Deferral of Retirement	Employees who leave with 10 years of service credit may defer retirement until eligible to retire. (Charter Article 1508-A (g))	Employees who leave with 10 years of service credit may defer retirement until eligible to retire.

Issue	Maximum Benefit Permissible Under Measure B	City's Proposal
COLA	COLA limited to CPI in SJ-SF-Oak Dec. to Dec. index, capped at 1.5% per fiscal year. First COLA pro-rated. (Charter Article 1508-A (c))	COLA limited to CPI in SJ-SF-Oak Dec. to Dec. index, capped at 1.5% per fiscal year. First COLA pro-rated.
Cost Sharing	City and Plan members shall share equally in all costs of Tier 2, including administrative expenses, normal cost and unfunded liability. (Charter Article 1508-A (a))	City and Plan members shall share equally in all costs of Tier 2, including administrative expenses, normal cost and unfunded liability.
Rights	City retains authority to amend, change or terminate any retirement or post-employment benefit provided by City. (Charter Article 1502-A)	City retains authority to amend, change or terminate any retirement or post-employment benefit provided by City.

Although the City has proposed the maximum benefit level permitted under Charter Article XV-A, IAFF Local 230 has inexplicably declined to agree to settle even these issues. IAFF Local 230 renewed its refusal to settle these issues after Judge McKenney's June 2013 Order that explicitly held that directing the Board to "entertain proposals of increased Tier 2 benefits" was prohibited by the voters in passing Measure B. Given that the Board is prohibited from awarding anything in excess of the City's proposals on these issues, the City submits that the Board should adopt the City's proposals as its award.

V. Disputed Issues Are Subject To Charter Section 1111 Criteria

For those Tier 2 retiree benefits where the City Charter does not set a maximum limit, Charter Section 1111(e) requires consideration of what labor lawyers refer to as "internal comparability." It provides that the Board must "consider and give substantial weight to the rate of increase or decrease of compensation approved by the City Council for other bargaining units."

While negotiating with the IAFF Local 230, the City was also engaged in negotiations with the SJPOA. The dispute between the SJPOA and the City was set for arbitration on April 26, 2013. On the eve of arbitration, the parties reached a settlement, which was adopted by the arbitration board. The City's proposals below for the IAFF Local 230 Tier 2 retiree benefits without a Charter-established maximum track exactly the Tier 2 benefits that were awarded to the SJPOA. To be clear, the City is not required to offer the same Tier 2 benefits in these categories to IAFF Local 230 and could propose and support Tier 2 retiree benefits that are less than those stipulated to by the SJPOA. However, the City determined that it was fair and equitable to offer IAFF Local 230 the same Tier 2 benefits listed below that were awarded to the SJPOA. Each of these proposals has been determined by the City to be financially sustainable within the criteria set forth in Charter Section 1111. Because the City has failed to receive any specific counter-proposals from IAFF Local 230 on these Tier 2 benefits, there has been no opportunity to perform any financial analysis on any proposals IAFF Local 230 may present during these proceedings. IAFF Local 230 should be precluded from advancing any proposals the City has not had the chance to review and determine the cost and compliance under Charter Section 1111. The City's proposals are as follows:

A. Disability Retirements

This issue concerns disability retirement benefits provided to Tier 2 members. The City has proposed that employees who are eligible for service-connected disability retirement shall receive an annual benefit equal to 50% of the average of their three highest consecutive years of pay. Employees who are eligible for a non-service connected disability retirement with at least 5 years of service credit would be entitled to receive a benefit equal to 2% of the average of their highest three years of pay for each year of City service, which benefit shall be not less than 20% but not more than 50% of this average.

B. Survivorship Benefits for Tier 2 Employees

This issue concerns survivorship benefits for Tier 2 members.

1. Death Before Retirement

First, if an employee dies during employment with less than 2 years of service, the employee's retirement contributions are returned, with interest, to the spouse, domestic partner, children or estate.

Second, for an employee that dies during employment with more than 2 years of service who is not eligible for regular retirement, the employee's spouse, domestic partner or children will receive the greater of 10% or 2% of the employee's final compensation times years of service to a maximum of 30% of final compensation.

Third, if an employee dies during employment and was eligible for retirement, the employee's spouse, domestic partner or children will receive a monthly benefit equal to what the employee would have received if retired at the time of death.

2. Death Before Retirement - In The Line Of Duty

For an employee who falls in the line of duty, the surviving spouse, domestic partner or children will receive a minimum of 50% and up to the full retirement benefit the employee would have received, if higher.

3. Death After Retirement

At the time of retirement, the employee can elect to provide a survivorship benefit of 100%, 75% or 50% based on actuarial calculations.

C. Defined Contribution Plan

This issue relates to the City's proposal that Tier 2 include a defined contribution plan. The City has proposed that employees have the right to elect to make contributions towards their defined contribution plan offered by the City, up to the annual limit set by the IRS.

D. Reciprocity

This issue relates to the City's proposal that employees hired on or after implementation of Tier 2 be eligible for benefits under reciprocal agreements with CalPERS in effect at the time of retirement.

E. IRS Review

This issue relates to the City's proposal for a reopener provision that will be triggered in the event that the IRS determines that Tier 2 is not a "qualified plan." Under the City's proposal, the parties would meet and confer on plan modifications in order to obtain a qualified plan determination.

F. Tier I Provisions

This issue relates to the City's proposal that, in general, Tier 1 provisions shall not be applicable to Tier 2 members unless such application is specifically negotiated by the City and IAFF Local 230.

G. Retiree Healthcare

This issue relates to the City's proposal that Tier 2 members be subject to the same retiree medical benefits as Tier 1 members.

H. Return of Contributions

This issue relates to the City's proposal that employees who separate from City service shall have the right to request a return of all employee contributions to retirement in lieu of retirement benefits.

I. Redeposit of Contributions

This issue relates to the City's proposal that employees who were subject to a layoff and received a return of their pension contributions shall be allowed to redeposit such contributions within 90 days of reinstatement or rehire by the City.

J. Purchase of Service Credit

Tier 2 employees will not be eligible for purchases of service credit, other than military leave.

The City submits that its proposals on these issues are fair and reasonable, and are in line with the benefits awarded to SJPOA Tier 2 members. Accordingly, the City submits that the Board should adopt these proposals at its award.

Conclusion

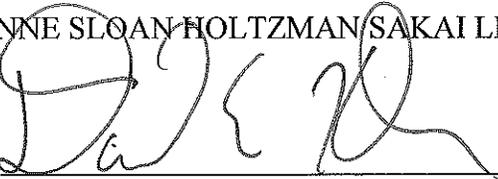
Charter Article XV-A, which the voters adopted through Measure B, requires the City to adopt and implement a Tier 2 retirement system for all City employees, including employees represented by IAFF Local 230. The Charter provides for maximum limits on many Tier 2 retirement benefits for both IAFF Local 230 and all other City Tier 2 employees. The City has been proposing the maximum Tier 2 benefits, and attempting to negotiate with IAFF Local 230 over additional Tier 2 benefits, since shortly after Measure B was approved in June 2012. Unfortunately, it has required a writ of mandate and Superior Court Order to get IAFF Local 230 to participate in interest arbitration. The City is proposing, consistent with its proposals over the last 2 years, the maximum Tier 2 benefits legally permitted by Charter Article XV-A, which are the same as now in effect for the SJPOA. These proposals should not be going to interest arbitration, as the Board cannot award Tier 2 benefits that exceed those already offered by the City. However, given IAFF Local 230's refusal to settle even these issues, the City has no choice but to submit them to the Board.

The City's proposals on the few remaining benefit areas for Tier 2 IAFF Local 230 represented employees, where Charter Article XV-A does not establish the maximum benefit, are fair, reasonable and consistent with Tier 2 benefits awarded to other bargaining units. Accordingly, the City's proposals should be adopted by the Board in its award.

Respectfully submitted,

Dated: May 6, 2014

~~RENNE SLOAN HOLTZMAN SAKAI LLP~~

By: 

David Kahn
Burke Dunphy
Attorneys for CITY OF SAN JOSE

**CERTIFICATE OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO**

I, the undersigned, am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 350 Sansome Street, Suite 300, San Francisco, California, 94104.

On May 6, 2014, I served the following document(s) by the method indicated below:

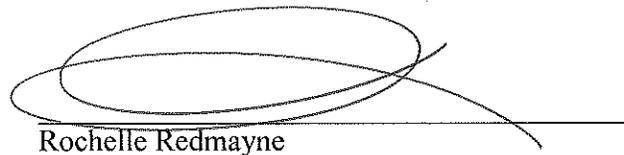
City of San Jose's Pre-Hearing Brief Re Tier 2 Interest Arbitration

- by placing the document(s) listed above in a sealed envelope(s) with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited in the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- by transmitting via facsimile on this date from the fax number (415) 678-3838 the document(s) listed above to the fax number(s) set forth below. The transmission was reported complete and without error. The transmitting fax machine complies with Cal. R. Ct. 2003(3)
- by electronic transmission via e-mail attachment.

Christopher E. Platten
Wylie, McBride, Platten & Renner
2125 Canoas Garden Avenue, Suite 120
San Jose, CA 95125
Telephone: 408.979.2920
Facsimile: 408.979.2934
cplatten@wmpirlaw.com

Attorneys for Respondent
INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, LOCAL UNION 230,
ROBERT SAPIEN, PRESIDENT,

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 6, 2014, at San Francisco, California.


Rochelle Redmayne