CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Office of the City Manager

EMPLOYEE RELATIONS

June 20, 2014

Jim Unland
President
San Jose Police Officers' Association (SJPOA)
c/o 1151 N. Fourth Street
San Jose, CA 95112

RE: Revised Draft Proposed Ballot Measure

Dear Jim:

After the last meeting we had with the bargaining units regarding the proposed retirement board governance changes on June 11, 2014, we have further revised the proposed draft ballot measure after receiving additional feedback.

The enclosed revised proposed draft ballot measure contains changes, some of which were mentioned during the City Council meeting on June 17, 2014. The changes made to the draft ballot measure from the previous version have been highlighted in yellow.

Please let us know if you would like to discuss any of the further changes to the draft ballot measure.

Sincerely,

Alex Gurza
Deputy City Manager

c: Jennifer Schembri, Deputy Director of Employee Relations
Gregg Adam, POA Legal Counsel

Enclosure

SECTION 810. Retirement Board or Boards

(a) The City Council by ordinance shall establish one or more retirement boards to administer the retirement plans established pursuant to Article XV of this Charter.

(b) The term of membership, qualifications of the members and the size of each retirement board shall be prescribed by ordinance. The members of any retirement board shall be appointed and removed in a manner prescribed by ordinance with a majority of the members appointed by the City Council. The City Council shall appoint and remove the members of any retirement board in a manner prescribed by ordinance. The members of each retirement board shall be paid a monthly stipend determined pursuant to the provisions of Section 1001.1 of this Charter.

(c) Each retirement board shall administer the retirement plan or plans that the retirement board has been designated to administer in accordance with the fiduciary duties and obligations established by law, the City Charter, and as further prescribed by ordinance.

(d) Each retirement board shall annually adopt a budget approved by the City Council covering the entire aggregate expense of administration of the retirement plan or plans that the retirement board has been designated to administer for the ensuing fiscal year, using the same fiscal year as the City pursuant to Section 1200 of this Charter. ~~The expense of administration for each retirement plan shall not exceed an amount set by the City Council as specified in an ordinance.~~

(e) Each retirement board may retain or employ, by contract, attorneys to assist the retirement board on matters reasonably necessary to carry out

their fiduciary duties in the administration of the retirement plan or plans that the retirement board has been designated to administer.

(f) Each retirement board shall comply with all open and public meeting requirements established by state law and applicable Council action.

SECTION 810.1 Retirement Board; Power of Appointment

(a) The retirement board or boards may appoint and prescribe the duties of the chief executive officer and the chief investment officer or such equivalent positions of the Office of Retirement Services to assist in the administration of the plan or plans. Such appointed officers shall serve in unclassified positions at the pleasure of the appointing retirement board; if more than one board then the boards shall jointly appoint the chief executive officer and the chief investment officer.

(b) The chief executive officer or the officer holding an equivalent position of the Office of Retirement Services may appoint and prescribe the duties of the professional and technical, and clerical employees employed in the Office of Retirement Services.

(c) In addition, when the chief executive officer or the officer holding an equivalent position deems it necessary for the good of the service he or she may suspend without pay, demote, discharge, remove or discipline any such employee in the Office of Retirement Services subject to any applicable Civil Service provisions of the Charter and any Civil Service Rules adopted thereto.

(d) Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of any such officer or employee whom the retirement board or boards is empowered to appoint or the chief executive officer is empowered to appoint, but the Council may express its views and fully and

freely discuss with the retirement board or boards anything pertaining to the appointment and removal of such officers and employees.

(e) Compensation set for chief executive officer, chief investment officer, or their equivalent and the investment professional staff shall be set in accordance with Charter Section 902 and the boards or boards shall consider compensation of equivalent positions in comparable United States Public Pension Plans in recommending the total compensation ~~of the~~ for the positions of chief executive officer, chief investment officer or their equivalent and the investment professional staff. ~~shall include total compensation of the salaries of equivalent in positions in comparable United States public pension plans.~~

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SECTION 1001.1 ~~Council~~ Salary Setting Commission.

There shall be, and there is hereby established, a ~~Council~~ Salary Setting Commission. The following provisions shall be applicable thereto:

(a) MEMBERSHIP. The ~~Council~~ Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members must be qualified electors of the City at all times during their term of office.

(b) TERMS OF OFFICE. Except as provided hereinbelow, the regular term of office of each member of the ~~Council~~ Salary Setting Commission shall be four (4) years. The initial members of the ~~Council~~ Salary Setting Commission shall be appointed by the Civil Service Commission during the month of January, 1981. Two (2) of the members so appointed shall be appointed for a term expiring on December 31, 1982; and three (3) of the members so appointed shall be appointed for a term expiring on December 31, 1984. Commencing in December of 1982, the Civil Service Commission shall, during the month of December of each even-numbered year, make appointments to fill the offices of the members whose terms are expiring at the end of such even-numbered year. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the 31st day of December of the second even-numbered year thereafter.

(c) VACANCIES. The office of a member shall become vacant upon the happening before the expiration of his or her term of any of the events set forth in subsections (a), (b), (c), (d), (e), (h), (i), (j), (k), and (l) of Section 409 of this Charter. Also, the Civil Service Commission may remove a member from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing it first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Civil Service Commission in his or her own defense. If a vacancy occurs before the expiration of a member's term, the Civil Service Commission shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.

(d) POWERS AND DUTIES.

~~(1)~~ The ~~Council~~ Salary Setting Commission shall biennially make recommendations

(1) respecting salaries for members of the Council, including the Mayor, as provided in Section 407 of this Charter.

(2) regarding the monthly stipend for any non-City employee member of the retirement board or boards which administer the retirement plan or plans established pursuant to Article XV of this Charter and designated by the Council to receive a stipend. The stipend set by the Council will be in accordance with the process established through ordinance.

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SECTION 1101. Civil Service System; Classified and Unclassified Service. The Civil Service of the City shall be divided into the Classified Service and the Unclassified Service, as follows:

(a) The Unclassified Service shall comprise and include all of the following officers and employees:

(1) The Mayor and the members of the Council and their assistants;

(2) All members of boards and commissions, and if so desired by the Civil Service Commission, the Secretary of the Civil Service Commission;

(3) The City Manager and all his or her assistants, deputies, and secretaries, the head of each department, assistant directors of departments, deputy directors of departments, (excluding the police department) and the City Clerk and one assistant.

(4) Temporary Employment

a. Persons temporarily employed to make or conduct a special inquiry, investigation, examination or installation, or to render professional, scientific or technical services of an occasional or exceptional character; provided that no person employed in the Unclassified Service pursuant to this subsection for any purpose shall continue in such employment pursuant to this subsection for a period in excess of six (6) months for each special inquiry, investigation, examination, installation or particular service unless an extension is approved by the Civil Service Commission;

b. Persons temporarily employed to fill positions for a period of time not to exceed two (2) years, where there exists a need to perform duties of a temporary nature or where duties may be required on an intermittent basis.

(5) Persons employed in the event of an emergency to perform services required because of and during such emergency for a period of time not to exceed six (6) months unless an extension is approved by the Civil Service Commission;

(6) Persons employed to temporarily fill positions in the classified service when no eligible lists of applicants for such positions exist, until such time as eligible lists are created and persons can be hired there from to fill such positions;

(7) Volunteer members of the police, fire or civil defense departments or of any police, fire or civil defense force or organization.

(8) The Public Information Officer, and all persons employed in the Public Information Office, exclusive of clerical employees.

(9) The City Auditor and the professional and technical employees in the Office of the City Auditor.

(10) The City Attorney and all attorneys and supervisors in the Office of the City Attorney;

(11) The Independent Police Auditor and the professional and technical employees in the Office of the Independent Police Auditor.

(12) The chief executive officer, chief investment officer, or their equivalent and the investment professional staff, as set forth by ordinance, in the Office of Retirement Services and who shall not be member of the City's defined benefit pension or retiree healthcare retirement plans. This section shall not apply to any incumbent filling those positions ~~on any board~~ on the date that the conversion was approved by election.

(b) The Classified Service shall consist of all persons employed in positions in the City Civil Service which are not in the Unclassified Service;

(c) Nothing herein shall be construed as precluding the appointing authority from filling any position in the manner in which positions in the Classified Service are filled.

(d) Whenever previously classified positions are placed in the unclassified service in this Charter, the unclassified status shall not apply to those incumbents filling those classified positions on the date that the conversion was approved by election.

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