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Christopher E. Platten
Wylie, McBride, Platten & Renner
2125 Canoas Garden Avenue, Suite 120
San Jose, CA 95125

Gregg M. Adam
Carroll, Burdick & McDonough
44 Montgomery Street, Suite 400
San Francisco, CA 94101-4606

Re: Possible Amendments to Measure B

Dear Chris and Gregg:

As you know, we have held confidential settlement discussions to resolve the litigation and various disputes related to Measure B. Our first meeting was on January 27, 2014, and we have met several times since then. I think we made substantial progress, but I understand your clients (to date) will not agree to certain key components that the City believes are vital to achieving meaningful pension reform.

While a comprehensive deal remains possible, the City is anxious to address and resolve two key concerns. These areas are: (1) the ability of employees who have left employment to return to Tier 1; and (2) the availability of a disability retirement to police and fire employees who suffer a serious bodily injury.

I enclose the specific language that the City proposes. Although this proposed amendment is narrower than the amendments we have been discussing in the context of a global settlement, the amendment will clearly benefit your membership. We are not asking for any concessions, so I am hopeful you will simply agree to this amendment, so it can move forward without objection.

Very truly yours,

Arthur A. Hartinger
Attorney at Law

CC: Ed Shikada, City Manager
AAH:rjm

6/30/14

SECTION 1508-A. Future Employees – Limitation on Retirement Benefits – Tier 2.

(g) Employees who leave or have left City service and are subsequently rehired or reinstated before January 1, 2016 shall be placed into the second tier of benefits (Tier 2) that applied to them when they left. Employees who have at least five (5) years of service credit in the Federated City Employees' Retirement System or at least ten (10) years of service credit in the Police and Fire Department Retirement Plan on the date of separation and who have not obtained a return of contributions will have their benefit accrual rate preserved for the years of service prior to their leaving City service.

SECTION 1509-A. Disability Retirements.

(a) To receive any disability retirement benefit under any pension plan, City employees must be incapable of engaging in any gainful employment for the City, but not yet eligible to retire (in terms of age and years of service). The determination of qualification for a disability retirement shall be made regardless of whether there are other positions available at the time a determination is made.

(b) An employee is considered "disabled" for purposes of qualifying for a disability retirement, if ~~all of the following is met:~~

- (i) An employee cannot do work that they did before; and
- (ii) It is determined that

1) an employee in the Federated City Employees' Retirement System cannot perform any other jobs described in the City's classification plan because of his or her medical condition(s); or

2) an employee in the Police and Fire Department Retirement Plan cannot perform any other jobs described in the City's classification plan in the employee's department because of his or her medical condition(s); ~~and/or~~

(iii) An employee in the Police and Fire Department Retirement Plan has suffered a serious bodily injury from a single event and the employee's disability has lasted or is expected to last for at least one year or to result in death.

(c) Determinations of disability shall be made by an independent panel of medical experts, appointed by the City Council. The independent panel shall serve to make disability determinations for both plans. Employees and the City shall have a right of appeal to an administrative law judge.

(d) The City may provide matching funds to obtain long term disability insurance for employees who do not qualify for a disability retirement but incur long term reductions in compensation as the result of work related injuries.

(e) The City shall not pay workers' compensation benefits for disability on top of disability retirement benefits without an offset to the service connected disability retirement allowance to eliminate duplication of benefits for the same cause of disability, consistent with the current provisions in the Federated City Employees' Retirement System.