

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: June 2, 2008

Approved

Date

6/3/08

SUBJECT: ORDINANCE RELATED TO SERVICE CONNECTED DISABILITY
BENEFITS FOR FIRE DEPARTMENT MEMBERS OF THE POLICE & FIRE
DEPARTMENT RETIREMENT PLAN

COUNCIL DISTRICT: N/A

RECOMMENDATION

Approval of an ordinance amending Chapter 3.36 of Title 3 of the San Jose Municipal Code related to service connected disability benefits for members of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008.

OUTCOME

Adoption of the ordinance amending the Police and Fire Department Retirement Plan would implement an alternate retirement benefit structure for service connected disability retirements granted to members with 20 or more years of service of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008.

BACKGROUND

An interest arbitration award between the City of San Jose and the San Jose Fire Fighters was issued on or about August 11, 2007. The award applies to employees in classifications represented by the San Jose Fire Fighters and contains changes to retirement benefits, including an enhancement to the benefit formula. The award included the union's proposal to change to the benefit formula for eligible employees who retire on or after July 1, 2008.

On May 6, 2008, the City Council approved an ordinance to amend the San Jose Municipal Code that would implement the new benefit formula. The ordinance extended the benefit enhancement to all current Fire Department members of the Plan, including Deputy Fire Chiefs, the Assistant Fire Chief and the Fire Chief.

In addition, the City Administration recommended, and the City Council approved, direction to staff to return with an amended ordinance to modify the structure for service-connected disability retirements for members of the Police and Fire Department Retirement Plan with 20 or more years of service who are employed in the Fire Department and retire on or after July 1, 2008.

ANALYSIS

Arbitration Award

In the Interest Arbitration between the City and the San Jose Firefighters, the Chair of the Arbitration Panel selected the retirement benefit enhancement proposal made by the San Jose Fire Fighters, rather than the benefit proposed by the City. The proposal as drafted by the union reads as follows:

ARTICLE 28 RETIREMENT

28.6 The current formula for calculating retirement benefits is 2 ½% of the final compensation for each year of service with the City up to 20 years, plus 3% of final compensation for each year of service with the City between 21 and 25 years, and 4% from 26-30 years subject to a maximum of 85%.

Effective July 1, 2008, the benefit formula will be changed to 3% of final compensation for year of service once an employee completes twenty (20) years of service to a maximum of 90%.

On May 6, 2008, the City Council approved an ordinance that would amend the San Jose Municipal Code to implement this enhanced benefit formula, effective for all Police and Fire Department Retirement plan members who are in classifications in the San Jose Fire Department who retire on or after July 1, 2008. Although the arbitration award applies only to employees in classifications represented by Local 230, it is recommended, and the Council approved that the enhanced benefit apply to all current Fire Department members of the Plan, including Deputy Fire Chiefs, the Assistant Fire Chief and the Fire Chief. (Please see attached Council Memoranda dated April 22, 2008 and May 6, 2008).

Alternative Benefit Structure for Service-Connected Disability Retirements

In drafting the ordinance to implement the new benefit formula, the attorney from the City Attorney's Office assigned to the Board identified an alternative structure for service-connected disability retirement benefits that would implement the new formula while maintaining the existing structure for such benefits in the Plan.

The proposed ordinance (attached) would implement an alternative retirement structure that would apply only in cases of service-connected disability retirements for employees with more than 20 years of service effective July 1, 2008. Rather than receiving 3% per year of service at 20 years, employees would receive 50% of final compensation for the first 20 years, an additional 10%, plus 3% for each additional year over 20, up to a maximum of 90%. This alternative results in the same benefit paid by the Plan; however, it is not stated in the precise language used in the arbitration award.

An amendment to the arbitration award is subject to mutual agreement by both parties. A Side Letter amending the arbitration award to implement an alternative retirement formula that would

apply only in cases of service-connected disability retirements for employee with more than 20 years of service was executed on June 2, 2008.

Although the arbitration award applied only to employees in classifications represented by Local 230, it is recommended that the enhanced benefit apply to all current Fire Departments members of the Plan, including Fire Chiefs, the Assistant Fire Chief and the Fire Chief.

Costs of Alternate Benefit Formula

The Police & Fire Department Retirement Plan's actuary, The Segal Company, has reviewed the description of the alternate benefit formula for service connected disability retirements with 20 or more years of service and has confirmed that there would be no additional cost to the Retirement Plan. (Please see attached).

Retirement Board Review

San Jose Municipal Code Section 3.36.485 (A) (copy attached) requires that prior to adoption of any ordinance amending the Police and Fire Department Retirement Plan, a copy of the proposed ordinance be provided to the Board for the Board's review and recommendation. Although the Board is not required to do so, the Board may submit a report or recommendation on the proposed amendment to the City Council within sixty (60) days upon receipt of the proposed ordinance by the Secretary of the Board.

Pursuant to Municipal Code Section 3.36.485 (B), in any case where the City Council finds that there is a need to adopt an ordinance amending the system within a time period which would not allow for a sixty-day review period, the Council may act on the ordinance without first submitting it to the Board. At the time the Council passes the ordinance for publication of title, the Council refers the ordinance to the Board for study and consideration. The Board can then make recommendations to the Council, and the Council may amend the adopted ordinance with any further changes, subject to the meet-and-confer process if applicable.

A copy of the proposed ordinance has been provided to the Board.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

June 2, 2008

Subject: Retirement Benefit related to Service Connected Disability's for Fire Department Members of the Police & Fire Department Retirement Plan

Page 4 of 4

This item will be placed on the June 17, 2008, Council Agenda and the memorandum will be available to the public on the City's website.

COORDINATION

This memorandum was coordinated with the City Attorney's Office. A copy of this memorandum and the proposed ordinance will be provided to the San Jose Fire Fighters and the Police and Fire Department Retirement Board.

COST IMPLICATIONS

The Board's actuary estimated that providing the alternate retirement benefit for service connected disability retirements with 20 or more years of service would not add any additional cost to the Retirement Plan.



Alex Gurza

Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachment 1: Proposed Ordinance to amend the San Jose Municipal Code

Attachment 2: April 22, 2008 Council Memo

Attachment 3: May 6, 2008 Supplemental Memo

Attachment 4: The Segal Company Report, dated May 21, 2008

Attachment 3: San Jose Municipal Code, Section 3.36.485

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTER 3.36 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE RELATED TO SERVICE CONNECTED DISABILITY BENEFITS FOR EMPLOYEES OF THE FIRE DEPARTMENT WHO ARE MEMBERS OF THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

WHEREAS, pursuant to the Opinion and Award in Interest Arbitration Proceedings Pursuant to San Jose City Charter Section 1111 dated August 3, 2007 (the "Arbitration Award"), the benefit formula for members of the Police and Fire Department Retirement Plan (the "Plan") who are employed in the Fire Department and retire on or after July 1, 2008 will be changed from the current benefit formula; and

WHEREAS, implementation of the Arbitration Award requires amendments to the Plan; and

WHEREAS, on May 6, 2008, the City Council of the City of San Jose approved Ordinance No. 28300, in partial implementation of the Arbitration Award; and

WHEREAS, Ordinance No. 28300 included provision for enhancement of the service connected disability benefits for employees of the Fire Department who are members of the Police and Fire Department Retirement Plan; and

WHEREAS, the City and the San Jose Fire Fighters, IAFF, Local 230 have agreed to modify the Arbitration Award to provide an alternative structure to that set forth in Ordinance No. 28300 for service connected disability benefits for employees of the Fire Department who are members of the Police and Fire Department Retirement Plan; and

WHEREAS, the Board of Administration for the Plan (the "Board") has received a report from the Board's actuary regarding the actuarial cost of such benefits; and

WHEREAS, the Board has been provided a copy of the proposed amendments to the Plan for its review and recommendation;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 3. Section 3.36.1020 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1020 Service-Connected Disability Benefits.

A. Any member retired for service-connected disability pursuant to the provisions of Section 3.36.1000 shall thereafter be paid from the retirement fund, while incapacitated for the performance of duty as a result of such disability, subject to all other provisions of this Chapter, a monthly disability retirement allowance in the following amount:

1. If such member's service-connected disability retirement occurred prior to January 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation.
2. If such member's service-connected disability retirement occurred on or after January 1, 1970, but prior to February 4, 1996, the monthly disability retirement allowance shall be as follows:
 - a. From and after the date of such member's retirement prior to September 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation plus one and two-thirds percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance during said period of time exceed a maximum of sixty-six and two-thirds percent of such member's final compensation; and
 - b. From and after September 1, 1970, while so retired for disability, the monthly allowance shall be equal to fifty percent of such member's final compensation plus two and one-half percent of said final compensation for each full year of service in excess of the first

twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance exceed a maximum of seventy-five percent of such member's final compensation.

3. If such member's service-connected disability retirement occurred or occurs on or after February 4, 1996, but prior to February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation plus three percent of said final compensation for each full year of service in excess of twenty years of service for which such member is entitled to credit; provided, however:
 - a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty percent of such member's final compensation.
 - b. This paragraph A.3. shall not apply in the case where the member was retired for service prior to February 4, 1996, was not reemployed by the city for any period on or after February 4, 1996, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1. or A.2., above, as applicable.
4. Except as provided in paragraph 5 or paragraph 6 below, if such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation, plus three percent of said final compensation for each year of the first five full years of service in excess of twenty years, plus four percent of his or her final compensation for each full year of service in excess of twenty-five years of service; provided, however:

- a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty-five percent of such member's final compensation.
 - b. This paragraph A.4. shall not apply in the case where the member was retired for service prior to February 4, 2000, was not reemployed by the City for any period on or after February 4, 2000, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2. or A.3. above, as applicable.
5. With respect to those members of the Plan who are employed in the Police Department:
- a. If such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2006, the monthly allowance shall be calculated in accordance with paragraph A.4 above.
 - b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2006, the monthly allowance shall be equal to fifty percent of his or her final compensation, plus four percent of his or her final compensation for each full year of service in excess of twenty years; provided, however, that in no event shall the monthly allowance exceed a maximum of ninety percent of the member's final compensation.
 - c. This paragraph A.5. shall not apply in the case where the member was retired for service prior to July 1, 2006, was not reemployed by the city for any period on or after July 1, 2006, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2., A.3. or A.4 above, as applicable.

6. With respect to those members of the Plan who are employed in the Fire Department:
- a. If such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2008, the monthly allowance shall be calculated in accordance with paragraph A.4 above.
 - b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2008, the monthly allowance shall be equal to fifty percent of his or her final compensation; and, if the member had twenty or more years of service, an additional ten percent of said final compensation, plus three percent of his or her final compensation for each full year of service in excess of twenty years; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.
 - ~~b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2008:~~
 - ~~i. If the member was credited with less than twenty years of service credit on the date of retirement, the monthly allowance shall be fifty percent (50%) of the member's final average salary.~~
 - ~~ii. If the member was credited with twenty or more years of service credit on the date of retirement, the monthly allowance shall be equal to three percent of his or her final compensation for each year of service credit; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.~~
 - c. This paragraph A.6. shall not apply in the case where the member was retired for service prior to July 1, 2008, was not reemployed by

the City for any period on or after July 1, 2008, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2., A.3. or A.4 above, as applicable.

- B. For the purposes of this Section 3.36.1020, "service" means service performed for the City and for which the member is entitled to credit under the provisions of this Chapter. "Service" shall not include service as an officer or employee of a reciprocal agency which is used to qualify for benefits pursuant to Section 3.36.3020.
- C. Notwithstanding any other provision of this section, in computing the amount of allowance payable under this section for service in excess of the first twenty years, pro rata credit shall be given for a fraction of a full year.

PASSED FOR PUBLICATION of title this ____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: May 6, 2008

Approved

Date

5/6/08

SUPPLEMENTAL

SUBJECT: ORDINANCE TO IMPLEMENT A BENEFIT ENHANCEMENT FOR FIRE DEPARTMENT MEMBERS OF THE POLICE & FIRE DEPARTMENT RETIREMENT PLAN

RECOMMENDATION

Approval of an ordinance amending Chapter 3.36 of Title 3 of the San Jose Municipal Code to provide increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008.

Direction to return with an amended ordinance in June 2008 with a modified retirement formula for service-connected disability retirements for members of the Police and Fire Department Retirement Plan with 20 or more years of service who are employed in the Fire Department and retire on or after July 1, 2008.

Direction to return in June 2008 with an ordinance that would implement a retirement survivorship benefit change for members of the Police and Fire Department Retirement Plan with 20 or more years of service who are employed in the Fire Department and retire on or after July 1, 2008.

BACKGROUND

The arbitration award between the City and the San Jose Fire Fighters includes four items that must be implemented in July 2008:

1. The 3%@20 (90% maximum) retirement benefit formula that is contained in the ordinance recommended for adoption on May 6, 2008.
2. A survivorship retirement benefit change.
3. A general wage increase.
4. Special Operations policies and premium pays applicable to the Urban Search and Rescue (USAR) program and the Hazardous Incident Team (HIT).

The general wage increase and the Special Operations Program will be implemented and do not require further City Council action. The retirement benefit changes, however, require adoption of ordinances in order to amend the San Jose Municipal Code provisions of the retirement plan.

ALTERNATIVE BENEFIT FORMULA

In the initial Council memorandum dated April 22, 2008, page 5 includes a section regarding an Alternative Benefit Formula for Service-Connected Disability Retirements for employees with 20 or more years of service.

Contingent upon the agreement of the San Jose Fire Fighters, the Administration will bring forward an ordinance in June 2008 to implement the alternative benefit formula. The ordinance will specify that the alternative formula is effective July 1, 2008. The following steps will be taken:

- Request that the City Attorney's Office draft the ordinance
- Send the draft ordinance to the San Jose Fire Fighters for review
- Send the draft ordinance to the Retirement Board for review and comment
- Request that the Retirement Board obtain confirmation from its actuary that the alternative formula will not affect the cost of the benefit to the City or to employees
- Submit the proposed ordinance to the City Council for adoption with 14 day advance public notice

In the interim, by adoption of the ordinance currently before the City Council on May 6, 2008, it will assure that all eligible employees are able to retire under the enhanced benefit as of July 1, 2008.

SURVIVORSHIP RETIREMENT BENEFIT CHANGE

The arbitration award included a change in the survivorship retirement benefit as follows:

Effective July 1, 2008, the spousal survivorship benefit shall be equal to 50% of the member benefit up to a maximum of 45% of the member's final average salary.

This language proposed by the San Jose Firefighters does not maintain the current minimum survivorship benefit. Contingent upon the agreement of the San Jose Firefighters, the Administration recommends an ordinance that implements the increase of the maximum survivorship benefit but maintains the current minimum.

Implementation of this benefit change will follow the same steps outlined above and will be brought forward to the City Council in June 2008 with an effective date of July 1, 2008. However, there should not be any need for further actuarial study of this item.



Alex Gurza
Director of Employee Relations



COUNCIL AGENDA: 05-06-08
ITEM: 3.5

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: April 22, 2008

Approved

Date

4/22/08

SUBJECT: ORDINANCE TO IMPLEMENT A BENEFIT ENHANCEMENT FOR FIRE DEPARTMENT MEMBERS OF THE POLICE & FIRE DEPARTMENT RETIREMENT PLAN

COUNCIL DISTRICT: N/A

RECOMMENDATION

Approval of an ordinance amending Chapter 3.36 of Title 3 of the San Jose Municipal Code to provide increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008.

OUTCOME

Adoption of the ordinance amending the Police and Fire Department Retirement Plan would implement the enhanced retirement benefit that was awarded in arbitration between the City and the San Jose Fire Fighters, International Association of Firefighters, Local 230 ("San Jose Fire Fighters"). The enhanced benefit would be extended to all current fire department members of the Plan who retire on or after July 1, 2008.

EXECUTIVE SUMMARY

An interest arbitration award between the City of San Jose and the San Jose Fire Fighters was issued on or about August 11, 2007. The award contains an enhancement to the retirement benefit formula effective July 1, 2008, for employees in classifications represented by the San Jose Fire Fighters.

Although the arbitration award applies only to employees in classifications represented by the San Jose Fire Fighters, it is recommended that the enhanced retirement benefit apply to all current Fire Department members of the Plan, including Deputy Fire Chiefs, the Assistant Fire Chief and the Fire Chief.

Adoption of the ordinance will amend the San Jose Municipal Code to provide the increased retirement benefits for members of the Police and Fire Department Retirement Plan who are employed in the Fire Department and retire on or after July 1, 2008.

BACKGROUND

An interest arbitration award between the City of San Jose and the San Jose Fire Fighters was issued on or about August 11, 2007. The award applies to employees in classifications represented by the San Jose Fire Fighters and contains changes to retirement benefits, including an enhancement to the benefit formula. The change to the benefit formula is effective for eligible employees who retire on or after July 1, 2008.

ANALYSIS

Current Benefits

The current formula for calculating retirement benefits for Police and Fire Department Retirement plan members who are in classifications in the San Jose Fire Department is two and one half (2 ½%) percent of final compensation for each year of service with the City up to twenty (20) years, plus three (3%) percent of final compensation for each year of service with the City between 21 and 25 years, and four (4%) from 26 – 30 years subject to a maximum of 85% of final compensation at 30 years of service.

As part of contract negotiations for the current agreement between the City and the San Jose Police Officers' Association, retirement benefits were enhanced for Police Department members of the Plan who retire on or after July 1, 2006. The following table summarizes the current benefit formulas in the Police and Fire Department Retirement Plan:

Years of Service	Current Fire Benefit	Current Police Benefit
1-20	2.5% per year	2.5% per year
21-25	3% per year	4% per year
26-30	4% per year	4% per year
Maximum Benefit	85% at 30 years of service	90% at 30 years of service

Fire Arbitration Proposals and Costs

In arbitration with the San Jose Fire Fighters, the City offered to match the 90% benefit that had been negotiated with the San Jose Police Officers' Association. The San Jose Fire Fighters offer in arbitration was to change the benefit formula to 3% of final compensation for each year of service once an employee completes twenty (20) years, with a maximum of 90%. The Retirement Board's actuary developed cost estimates of these benefit alternatives, and these cost estimates were provided to the Arbitration Panel. (Please see attached.)

The following is a summary of the proposals made in arbitration and the costs of each proposal:

	City Proposal (eff. July 2007)	Union Proposal (eff. July 2008)
Formula	1-20 2.5% per year 21-30 4% per year	1-20 2.5% per year Once member earns 20 years of service: 1-30 3% per year
Maximum Benefit	90% at 30 years of service	90% at 30 years of service
Increase in Unfunded Liability	\$19.22 million	\$30.423 million
Increase in City's Unfunded Liability Contribution Rate	2.29% of payroll	3.63% of payroll
Increase in City's Normal Cost	1.03% of payroll	1.95% of payroll
Total Increase in City's Contribution Rate	3.32% of payroll ¹	5.58% of payroll
Total Annual City Cost (in dollars)	\$2.884 million	\$4.846 million
Total Increase in Employee's Rate (Normal Cost)	0.38%	0.73%

"Normal Cost" and Unfunded Liability

The normal cost and the unfunded liability is reflected in the preceding chart as calculated by the Board's actuary in the attached report.

"Normal cost" is the cost of benefits earned by employees in any given year. For the pension benefit, the Retirement Plan provides that the normal cost is divided between the City and employees in a ratio of 8:3. (The City contributes \$8 for every \$3 paid by the employee.) The normal cost of the two benefit proposals were calculated by the Board's actuary and are included in the preceding chart.

Enhancing retirement benefits for current employees that results in an increase in the benefit for prior years of service increases the Unfunded Actuarial Accrued Liability, or UAAL. For example, an employee who has 20 years of service under the existing formula would receive a benefit equivalent to 50% of the employees' final compensation. Under the San Jose Fire Fighters' proposal, the employee would receive **60%** of final compensation. This 20% increase results in an

¹ The annual costs to the City of these benefit enhancements are based on the payroll costs that are considered "pensionable." This includes base salary and additional pays such as holiday-in-lieu pay, EMT pay, and Anti-Terrorism Training Pay. The dollar costs in the chart above are effective 2008-2009 and are based upon the 2008-2009 proposed budget.

unfunded obligation for the past service since neither the City nor the employees have been contributing into the Plan an amount during the employee's prior years of service specifically to pay for this enhanced benefit.

The preceding chart includes the Board's actuary's calculations of the increase in the Unfunded Actuarial Accrued Liability which reflects the unfunded obligation for past service and the annual cost to the City to pay that unfunded liability. Currently, under the City's retirement plan the City pays **100%** of the unfunded liability for these enhanced benefits, which is amortized and paid as part of the City's retirement contribution rate.

As noted in the chart, the annual contribution rate required to pay the unfunded liability created by the enhanced benefit is significantly greater than the normal cost of the benefit. For example, the total contribution rate for the San Jose Fire Fighter's proposal paid by the City is 5.58% of payroll. Of that amount, approximately 65% (3.63% of payroll) is for the Unfunded Actuarial Accrued Liability.

Arbitration Award

The Chair of the Arbitration Panel selected the proposal made by the San Jose Fire Fighters, rather than the benefit proposed by the City. The proposal as drafted by the union reads as follows:

ARTICLE 28 RETIREMENT

28.6 The current formula for calculating retirement benefits is 2 ½% of the final compensation for each year of service with the City up to 20 years, plus 3% of final compensation for each year of service with the City between 21 and 25 years, and 4% from 26-30 years subject to a maximum of 85%.

Effective July 1, 2008, the benefit formula will be changed to 3% of final compensation for year of service once an employee completes twenty (20) years of service to a maximum of 90%.

For the first 20 years of service under the new formula, the benefit remains at 2.5% for each year of service. For example, an employee with 19 years of service with the City would receive a benefit equivalent to 47.5% (2.5% x 19) of the employee's final compensation. However, once an employee reaches 20 years of service with the City, all years of service are calculated at 3% per year of service. An employee with 20 years of service will receive a benefit equivalent to 60% (3% x 20) of the employee's final compensation. Thus, the benefit under this formula increases significantly from 47.5% of final compensation at 19 years of service to 60% at 20 years of service.

This enhanced benefit formula will be effective for all Police and Fire Department Retirement plan members who are in classifications in the San Jose Fire Department who retire on or after July 1, 2008. Although the arbitration award applies only to employees in classifications represented by Local 230, it is recommended that the enhanced benefit apply to all current Fire Department members of the Plan, including Deputy Fire Chiefs, the Assistant Fire Chief and the Fire Chief. This makes the retirement benefits consistent with all sworn-personnel within the Fire Department and

also is consistent with prior benefit enhancements. For example, when retirement enhancements were implemented that resulted in the increase in maximum benefit from 75% to 80% and then subsequently from 80% to 85%, the changes applied to all members of the Plan. Similarly, when the 90% benefit was recently negotiated with the POA, the benefit was extended to the Police Chief and the Assistant Police Chief although those two positions are not represented by the POA.

Alternative Benefit Formula for Service-Connected Disability Retirements

A proposed ordinance to implement the formula as awarded in arbitration was not brought forward earlier in order to determine if an agreement could be reached between the City and the San Jose Fire Fighters on an alternative formula that varied from the arbitration award in cases of service-connected disability retirements for employees with more than 20 years of service.

In drafting the ordinance to implement the new benefit formula, the attorney from the City Attorney's Office assigned to the Board identified a potential consequence of the new formula related to the portion of the retirement benefit that is excluded from the income tax payable by a retiree with over 20 years of service who receives a service-connected disability retirement. The attorney from the City Attorney's Office assigned to the Board referred this issue to the City Administration and to the Union and asked if the parties were amenable to an alternative formula for service-connected disability retirement benefits that would preserve the exclusion from retirees' income taxes.

This alternative benefit formula would apply only in cases of service-connected disability retirements for employees with more than 20 years of service. Rather than receiving 3% per year of service at 20 years per the formula in the arbitration award, employees would receive 50% of final compensation for the first 20 years, an additional 10%, plus 3% for each additional year over 20, up to a maximum of 90%. Although this alternative results in the same benefit paid by the Plan, it varies from the arbitration award in that the first twenty years would not be at 3% per year.

The discussions with the San Jose Fire Fighters have included the need for a tax expert/attorney and the Board's actuary to review the alternative formula. After discussions with the San Jose Fire Fighters about this issue, as well as other unresolved issues resulting from the arbitration award, an agreement has not been reached on the alternative formula.

The proposed ordinance (attached) implements the formula as awarded in arbitration in order to ensure that employees can retire under the enhanced benefits effective July 1, 2008, without delay. If an agreement is subsequently reached with the San Jose Fire Fighters, an ordinance may be brought forward to the City Council that amends the formula in a manner that maintains the exclusion from the retirees' income taxes that exists under the current retirement benefit formula.

Retirement Board Review

San Jose Municipal Code Section 3.36.485 (A) (copy attached) requires that prior to adoption of any ordinance amending the Police and Fire Department Retirement Plan, a copy of the proposed ordinance be provided to the Board for the Board's review and recommendation. Although the Board is not required to do so, the Board may submit a report or recommendation on the proposed

amendment to the City Council within sixty (60) days upon receipt of the proposed ordinance by the Secretary of the Board.

Pursuant to Municipal Code Section 3.36.485 (B), in any case where the City Council finds that there is a need to adopt an ordinance amending the system within a time period which would not allow for a sixty-day review period, the Council may act on the ordinance without first submitting it to the Board. At the time the Council passes the ordinance for publication of title, the Council refers the ordinance to the Board for study and consideration. The Board can then make recommendations to the Council, and the Council may amend the adopted ordinance with any further changes, subject to the meet-and-confer process if applicable.

In order to allow for the full sixty day review period under Section 3.36.485 (A), the proposed ordinance would have needed to be provided to the Board in early March. However, given the discussions with the San Jose Fire Fighters about the possibility of an alternative formula, an ordinance was not provided to the Board earlier in the event that an agreement could have been reached on the alternative formula. In order to implement the enhanced retirement benefit in the arbitration award by July 1, 2008, the proposed ordinance will allow employees to retire and receive the increased benefits without delay.

A copy of this memorandum, including the proposed ordinance, will be provided to the Board.

PUBLIC OUTREACH/INTEREST

- X **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item will be placed on the May 6, 2008, Council Agenda and the memorandum will be available to the public on the City's website.

COORDINATION

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office. A copy of this memorandum and the proposed ordinance will be provided to the San Jose Fire Fighters and the Police and Fire Department Retirement Board.

HONORABLE MAYOR AND CITY COUNCIL

April 22, 2008

Subject: Retirement Benefit Enhancement for Fire Department Members
of the Police & Fire Department Retirement Plan

Page 7 of 7

COST IMPLICATIONS

The Board's actuary estimated that providing the enhanced retirement benefit for Police and Fire Retirement plan members who are in classifications in the San Jose Fire Department would increase the City's contribution rate to the Police and Fire System by approximately 5.58% percent of covered payroll annually. The Board has not yet approved the change in contribution rates, but it is anticipated that the contribution rates for this benefit change will be effective on July 1, 2008.

The estimated annual on-going cost to the City of the enhanced retirement benefits as awarded in arbitration is approximately \$4.846 million.



Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachment 1: Proposed Ordinance to amend the San Jose Municipal Code

Attachment 2: The Segal Company Report, dated January 12, 2007

Attachment 3: San Jose Municipal Code, Section 3.36.485

c: Police and Fire Department Retirement Board
San Jose Firefighters, IAFF, Local 230

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING CHAPTER 3.36 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE TO PROVIDE INCREASED RETIREMENT BENEFITS FOR MEMBERS OF THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN WHO ARE EMPLOYED IN THE FIRE DEPARTMENT

WHEREAS, pursuant to the Opinion and Award in Interest Arbitration Proceedings Pursuant to San Jose City Charter Section 1111 dated August 3, 2007 (the "Arbitration Award"), effective July 1, 2008, the benefit formula for members of the Police and Fire Department Retirement Plan (the "Plan") who are employed in the Fire Department and retire on or after July 1, 2008 will be changed from the current benefit formula; and

WHEREAS, implementation of the Arbitration Award requires amendments to the Plan; and

WHEREAS, the Council desires to include those members of the Plan who are employed in the Fire Department but are not represented by an employee organization as well as those who are represented; and

WHEREAS, the Board of Administration for the Plan (the "Board") has received a report from the Board's actuary regarding the actuarial cost of such benefits; and

WHEREAS, the Board has been provided a copy of the proposed amendments to the Plan for its review and recommendation;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. Chapter 3.36 of Title 3 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

3.36.808 Service Retirement Allowance for Members Employed in Fire Department-- Retirement on or After February 4, 2000.

- A. Subject to the provisions of this Chapter 3.36, if a member employed in the Fire Department retired or retires for service on or after February 4, 2000, but prior to July 1, 2008, pursuant to the provisions of Section 3.36.750, 3.36.770 or 3.36.780, then he or she shall be paid from the retirement fund a monthly service retirement allowance calculated in accordance with Section 3.36.807.
- B. Subject to the provisions of this Chapter 3.36, if a member employed in the Fire Department retired or retires for service on or after July 1, 2008, pursuant to the provisions of Section 3.36.750, 3.36.770 or 3.36.780, then:
1. If the person was credited with less than twenty years of service credit at the time of retirement, he or she shall be paid from the retirement fund a monthly service retirement allowance equal to two and one-half percent of his or her final compensation for each year of service credit.
 2. If the person was credited with twenty or more years of service credit at the time of retirement, he or she shall be paid from the retirement fund a monthly service retirement allowance equal to three percent of his or her final compensation for each year of service credit; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.
- C. For the purposes of this Section 3.36.809, "service" means service performed for the City and for which the member is entitled to credit under the provisions of this Chapter. "Service" shall not include service as an officer or employee of a reciprocal agency which is used to qualify for benefits pursuant to Section 3.36.3020.
- D. In computing the amount of the allowance payable for service in excess of the first twenty years, pro rata credit shall be given for a fraction of a full year.

SECTION 2. Section 3.36.995 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.995 Nonservice-Connected Disability Benefits.

- A. Subject to the provisions of this Chapter, a person who is retired for nonservice-connected disability, pursuant to Section 3.36.990, shall be paid from the retirement fund while the member is incapacitated for the performance of duty as a result of the nonservice-connected disability, a monthly allowance calculated in accordance with this section.
- B. A member who is entitled to credit for at least two but less than twenty years of service at the time the nonservice-connected disability occurs shall receive a monthly allowance equal to thirty-two percent of the member's final compensation, plus one percent of said final compensation for each full year of service for which the member is entitled to credit in excess of the first two years of service; provided, however, that in no event shall the total monthly allowance exceed fifty percent of the member's final compensation.
- C. A member who is entitled to credit for twenty or more years of service at the time the nonservice-connected disability occurs shall receive a monthly allowance as follows:
 - 1. If such member's nonservice-connected disability retirement occurred prior to January 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation.
 - 2. If such member's nonservice-connected disability retirement occurred on or after January 1, 1970, but prior to February 4, 1996, the monthly ~~disability retirement~~ allowance shall be:
 - a. From and after the date of such member's retirement to September 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation plus one and two-thirds percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance during said period of time exceed a maximum of sixty-six and two-thirds percent of such member's final compensation; and

- b. From and after September 1, 1970, while so retired for disability, the monthly allowance shall be equal to fifty percent of such member's final compensation plus two and one-half percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance exceed a maximum of seventy-five percent of such member's final compensation.
3. If such member's nonservice-connected disability retirement occurred or occurs on or after February 4, 1996, but prior to February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation, plus three percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however:
 - a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty percent of such member's final compensation.
 - b. This paragraph C.3. shall not apply in the case where the member was retired for service prior to February 4, 1996, was not reemployed by the city for any period on or after February 4, 1996, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph C.1. or C.2., above, as applicable.
4. Except as provided in paragraph 5 or or paragraph 6 below, if such member's nonservice-connected disability retirement occurred or occurs on or after February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation for up to the first twenty years of service, plus three percent of said final compensation for each of the next five full years of service in excess of twenty years, plus four

percent of his or her final compensation for each full year of service in excess of the first twenty-five years of service; provided, however:

- a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty-five percent of such member's final compensation.
- b. This paragraph C.4. shall not apply in the case where the member was retired for service prior to February 4, 2000, was not reemployed by the City for any period on or after February 4, 2000, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph C.1., C.2. or C.3. above, as applicable.

5. With respect to those members of the Plan who are employed in the Police Department:

- a. If such member's nonservice-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2006, the monthly allowance shall be calculated in accordance with paragraph C.4 above.
- b. If such member's nonservice-connected disability retirement occurred or occurs on or after July 1, 2006, the monthly allowance shall be equal to two and one-half percent of his or her final compensation for each of the first twenty years of service plus four percent of his or her final compensation for each full year of service in excess of the first twenty years of service; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.
- c. This paragraph C.5. shall not apply in the case where the member was retired for service prior to July 1, 2006, was not reemployed by the City for any period on or after July 1, 2006, and the disability

retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph C.1., C.2., C.3. or C.4 above, as applicable.

6. With respect to those members of the Plan who are employed in the Fire Department:

- a. If such member's nonservice-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2008, the monthly allowance shall be calculated in accordance with paragraph C.4 above.
- b. If such member's nonservice-connected disability retirement occurred or occurs on or after July 1, 2008:
 - i. If the member was credited with less than twenty years of service credit on the date of retirement, the monthly allowance shall be calculated in accordance with paragraph C.4. above.
 - ii. If the member was credited with twenty or more years of service credit on the date of retirement, the monthly allowance shall be equal to three percent of his or her final compensation for each year of service credit; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.
- c. This paragraph C.6. shall not apply in the case where the member was retired for service prior to July 1, 2008, was not reemployed by the City for any period on or after July 1, 2008, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph C.1., C.2., C.3. or C.4 above, as applicable.

- D. For the purposes of this Section 3.36.995, "service" means service performed for the City, and for which the member is entitled to credit under the provisions of this Chapter. "Service" shall not include service as an officer or employee of a reciprocal agency which is used to qualify for benefits pursuant to Section 3.36.3020.
- E. Notwithstanding any other provision of this section, in computing the amount of allowance payable under this section for service in excess of the first twenty years, pro rata credit shall be given for a fraction of a full year.

SECTION 3. Section 3.36.1020 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1020 Service-Connected Disability Benefits.

- A. Any member retired for service-connected disability pursuant to the provisions of Section 3.36.1000 shall thereafter be paid from the retirement fund, while incapacitated for the performance of duty as a result of such disability, subject to all other provisions of this Chapter, a monthly disability retirement allowance in the following amount:
 - 1. If such member's service-connected disability retirement occurred prior to January 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation.
 - 2. If such member's service-connected disability retirement occurred on or after January 1, 1970, but prior to February 4, 1996, the monthly disability retirement allowance shall be as follows:
 - a. From and after the date of such member's retirement prior to September 1, 1970, the monthly allowance shall be equal to fifty percent of such member's final compensation plus one and two-thirds percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance during said

- period of time exceed a maximum of sixty-six and two-thirds percent of such member's final compensation; and
- b. From and after September 1, 1970, while so retired for disability, the monthly allowance shall be equal to fifty percent of such member's final compensation plus two and one-half percent of said final compensation for each full year of service in excess of the first twenty years of service for which such member is entitled to credit; provided, however, that in no event shall the total monthly disability retirement allowance exceed a maximum of seventy-five percent of such member's final compensation.
3. If such member's service-connected disability retirement occurred or occurs on or after February 4, 1996, but prior to February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation plus three percent of said final compensation for each full year of service in excess of twenty years of service for which such member is entitled to credit; provided, however:
 - a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty percent of such member's final compensation.
 - b. This paragraph A.3. shall not apply in the case where the member was retired for service prior to February 4, 1996, was not reemployed by the city for any period on or after February 4, 1996, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1. or A.2., above, as applicable.
 4. Except as provided in paragraph 5 or paragraph 6 below, if such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, the monthly allowance shall be equal to fifty percent of such member's final compensation ~~for up to twenty years of~~

service, plus three percent of said final compensation for each year of the ~~first~~next five full years of service in excess of twenty years, plus four percent of his or her final compensation for each full year of service in excess of twenty-five years of service; provided, however:

- a. In no event shall the total monthly disability retirement allowance exceed a maximum of eighty-five percent of such member's final compensation.
 - b. This paragraph A.4. shall not apply in the case where the member was retired for service prior to February 4, 2000, was not reemployed by the City for any period on or after February 4, 2000, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2. or A.3. above, as applicable.
5. With respect to those members of the Plan who are employed in the Police Department:
- a. If such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2006, the monthly allowance shall be calculated in accordance with paragraph A.4 above.
 - b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2006, the monthly allowance shall be equal to fifty percent of his or her final compensation ~~for up to twenty years of service,~~ plus four percent of his or her final compensation for each full year of service in excess of twenty years; provided, however, that in no event shall the monthly ~~service retirement~~ allowance exceed a maximum of ninety percent of the member's final compensation.
 - c. This paragraph A.5. shall not apply in the case where the member was retired for service prior to July 1, 2006, was not reemployed by

the city for any period on or after July 1, 2006, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement allowance shall be calculated in accordance with paragraph A.1., A.2., A.3. or A.4 above, as applicable.

6. With respect to those members of the Plan who are employed in the Fire Department:
- a. If such member's service-connected disability retirement occurred or occurs on or after February 4, 2000, but prior to July 1, 2008, the monthly allowance shall be calculated in accordance with paragraph A.4 above.
 - b. If such member's service-connected disability retirement occurred or occurs on or after July 1, 2008:
 - i. If the member was credited with less than twenty years of service credit on the date of retirement, the monthly allowance shall be fifty percent (50%) of the member's final average salary.
 - ii. If the member was credited with twenty or more years of service credit on the date of retirement, the monthly allowance shall be equal to three percent of his or her final compensation for each year of service credit; provided, however, that in no event shall the monthly service retirement allowance exceed a maximum of ninety percent of the member's final compensation.
 - c. This paragraph A.6. shall not apply in the case where the member was retired for service prior to July 1, 2008, was not reemployed by the City for any period on or after July 1, 2008, and the disability retirement is a result of a change in retirement status from service to disability. Under such circumstances, the disability retirement

allowance shall be calculated in accordance with paragraph A.1., A.2., A.3. or A.4 above, as applicable.

- B. For the purposes of this Section 3.36.1020, "service" means service performed for the City and for which the member is entitled to credit under the provisions of this Chapter. "Service" shall not include service as an officer or employee of a reciprocal agency which is used to qualify for benefits pursuant to Section 3.36.3020.
- C. Notwithstanding any other provision of this section, in computing the amount of allowance payable under this section for service in excess of the first twenty years, pro rata credit shall be given for a fraction of a full year.

SECTION 4. Section 3.36.1640 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1640 Monthly Allowance Or Return Of Contributions To Certain Persons With Ten Or More Years Of Service Whose Membership Terminates Before Retirement.

- A. Any person credited with ten or more years of service on or after July 1, 1976, in this Retirement Plan whose membership is terminated after July 1, 1976, before such person retires, by reason of resignation or discharge, layoff or leave of absence deemed by the Board to have resulted in permanent discontinuance (unless such permanent discontinuance is to accept transfer to or appointment to another position covered by the plan) shall have the right to elect in writing, on a form to be furnished by this plan, not later than ninety days after the date upon which notice of said right is mailed by this plan to the person's latest address on file in the office of this Pan, whether to allow his or her accumulated contributions to remain in the retirement fund or to withdraw such contributions. Failure to make such election in writing shall be deemed an irrevocable election to withdraw his or her accumulated contributions. In the event of an election to withdraw, such person shall receive from the retirement fund the amount of such person's accumulated contributions to the fund, plus interest thereon as earned by the fund during the period of such person's service, but in no case shall the

interest exceed two percent (2%) per annum. Thereafter neither such person nor the surviving spouse, domestic partner, child or children, or estate of such person shall be entitled to any allowance or benefit whatsoever under the provisions of this Chapter.

- B. When both of the following conditions have been satisfied, a person who has elected to allow his or her accumulated contributions to remain in the retirement fund may apply for a monthly allowance to be paid from the retirement fund:
1. Such person attains fifty-five years of age; and
 2. Twenty years have elapsed from the time such person first became a member.
- C. A person who separates from City service on or after July 5, 1992, may apply for a monthly allowance to be paid from the retirement fund if the conditions of subsection B. are satisfied or if both of the following conditions are satisfied:
1. The person has attained fifty years of age; and
 2. At the time the person separated from City service, the person was entitled to not less than twenty-five years of service credit in this plan.
- D. The monthly allowance payable pursuant to this section shall be calculated as follows:
1. For a person who separated from City service prior to February 4, 1996, the monthly allowance shall be equal to two and one-half percent of the person's final compensation for each full year of service. In no event shall the person's monthly allowance exceed a maximum of seventy-five percent of his or her final compensation.
 2. For a person who separated from City service on or after February 4, 1996, but prior to February 4, 2000, the monthly allowance shall be equal to two and one-half percent of the person's final compensation for each of the first twenty years of service plus three percent of the person's final compensation for each full year of service in excess of twenty years of service. In no event shall the person's monthly allowance exceed a maximum of eighty percent of his or her final compensation.

3. For a person who separated from City service on or after February 4, 2000, the monthly allowance shall be equal to two and one-half percent of his or her final compensation for each of the first twenty years of service plus three percent of his or her final compensation for each of the next five full years of service plus four percent of the person's final compensation for each full year of service in excess of the first twenty-five years of service; provided, however that in no event shall the monthly allowance exceed a maximum of eighty-five percent of the member's final compensation.
4. For a person who was employed in the Police Department and who separated from City service on or after July 1, 2006, the monthly allowance shall be equal to two and one-half percent of his or her final compensation for each of the first twenty years of service plus four percent of the person's final compensation for each full year of service in excess of twenty years of service; provided, however that in no event shall the monthly allowance exceed a maximum of ninety percent of the member's final compensation.
5. For a person who was employed in the Fire Department and who separated from City service on or after July 1, 2008:
 - a. If the person was credited with less than twenty years of service credit at the time of separation from service, he or she shall be paid from the retirement fund a monthly allowance equal to two and one-half percent of his or her final compensation for each year of service credit.
 - b. If the person was credited with twenty or more years of service credit at the time of separation from service, he or she shall be paid from the retirement fund a monthly allowance equal to three percent of his or her final compensation for each year of service credit; provided, however, that in no event shall the monthly service

retirement allowance exceed a maximum of ninety percent of the member's final compensation.

- E. For the purposes of this Section 3.36.1640, "service" means service performed for the City and for which the member is entitled to credit under the provisions of this Chapter. "Service" shall not include service as an officer or employee of a reciprocal agency which is used to qualify for benefits pursuant to Section 3.36.3020.
- F. In computing the amount of allowance payable, pro rata credit shall be given for a portion of a full year.
- G. At any time after electing to allow his or her accumulated contributions to remain in the retirement fund, the person may submit a written request for a return of such contributions, in which event such contributions shall be returned to such person plus interest thereon as earned by the fund to the date such contributions are returned, but in no case shall interest exceed two percent per annum. Thereafter, neither such person nor the surviving spouse, domestic partner, child or children, or estate of such person shall be entitled to any allowance or benefit whatsoever under the provisions of this Chapter.

SECTION 5. Section 3.36.3630 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.3630 Monthly Allowance For Alternate Payee.

- A. An alternate payee who has been awarded a separate account shall be paid a monthly allowance from the retirement fund, for the life of the alternate payee, if all of the following conditions are satisfied:
 - 1. The alternate payee has not received a refund of accumulated contributions.
 - 2. Notwithstanding any service credit awarded to the alternate payee as of the date the alternate payee files an application for monthly benefits:
 - a. The participant is eligible to retire for service under provisions of this plan; or

- b. Three percent of the participant's final compensation for each year of service credit credited to the alternate payee's separate account that is in excess of ten years.
 2. Except as provided in paragraph 3 or paragraph 4 below, in the case where the participant separates from service on or after February 4, 2000, and subject to a maximum of forty-two and one-half percent of the participant's final compensation, the amount of the monthly allowance payable to the alternate payee shall be:
 - a. Two and one-half percent of the participant's final compensation for each of the first ten years of service credit credited to the alternate payee's separate account; plus
 - b. Three percent of the participant's final compensation for each of the next two and one-half years of service credit credited to the alternate payee's separate account; plus
 - c. Four percent of the participant's final compensation for each year of service credit credited to the alternate payee's separate account that is in excess of twelve and one-half years.
 3. In the case where the participant was employed in the Police Department and separates from service on or after July 1, 2006, and subject to a maximum of forty-five percent of the participant's final compensation, the amount of the monthly allowance payable to the alternate payee shall be:
 - a. Two and one-half percent of the participant's final compensation for each of the first ten years of service credit credited to the alternate payee's separate account; plus
 - b. Four percent of the participant's final compensation for each year of service credit credited to the alternate payee's separate account that is in excess of ten years.
 4. In the case where the participant was employed in the Fire Department and separates from service on or after July 1, 2008, and subject to a

maximum of forty-five percent of the participant's final compensation, the amount of the monthly allowance payable to the alternate payee shall be:

- a. In the case where the alternate payee's account is credited with less than ten years of service credit, two and one-half percent of the participant's final compensation for each year of service credit credited to the alternate payee's separate account.
- b. In the case where the alternate payee's account is credited with ten or more years of service credit, three percent of the participant's final compensation for each year of service credit credited to the alternate payee's separate account.

- D. In the event the alternate payee elects to receive a monthly benefit before the nonmember spouse reaches age 55, the alternate payee's monthly benefit shall be reduced by an amount calculated in the same manner as the reduced monthly service retirement allowance of a member under subsection B. of Section 3.36.810.
- E. For the purposes of this section:
 1. If the alternate payee elects to receive a monthly allowance prior to the date the participant retires, "final compensation" means the monthly final compensation of the participant as of the effective date of the first payment of the alternate payee's allowance.
 2. If the participant retired either for service or disability prior to the effective date of the payment of the alternate payee's allowance, "final compensation" means the monthly final compensation used in calculating the participant's retirement allowance.
- F. Monthly allowances payable to the alternate payee shall be increased by cost-of-living adjustments in accordance with Chapter 3.44.

PASSED FOR PUBLICATION of title this ____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk



THE SEGAL COMPANY
 120 Montgomery Street, Suite 500 San Francisco, CA 94104-4308
 T 415.263.8200 F 415.263.8290 www.segalco.com

January 12, 2007

VIA EMAIL and US MAIL

Mr. Edward F. Overton
 Director/Retirement Services
 City of San Jose Police and Fire Department Retirement Plan
 1737 North First Street, Suite 580
 San Jose, CA 95112-4505

Re: **Results of the Firefighter Benefit Improvement Study**

Dear Ed:

On December 12, 2006, we provided you with a proposal to carry out various benefit improvement studies requested by IAFF Local 230 and the City. This letter provides the results of those studies.

Background and Discussions

The following table compares the current benefit formula accrual rates (expressed as a percent of final average compensation) with those studied:

Current Benefit		5% at 25		4% at 20		3% per year of service	
1-20 years	2.5%	1-20 years	2.5%	1-20 years	2.5%	1-20 years	2.5%
21-25 years	3.0%	21-25 years	3.0%	21-30 years	4.0%	Once member earns 20 years of service:	
26-30 years	4.0%	26-30 years	5.0%			1-30 years	3.0%
>	85% Cap	>	90% Cap	>	90% Cap	>	90% Cap

Further details regarding these proposed improvements follow.

Benefits, Compensation and HR Consulting ATLANTA BOSTON CALGARY CHICAGO CLEVELAND DENVER HARTFORD HOUSTON LOS ANGELES
 MINNEAPOLIS NEW ORLEANS NEW YORK PHILADELPHIA PHOENIX PRINCETON RALEIGH SAN FRANCISCO TORONTO WASHINGTON, D.C.



Multinational Group of Actuaries and Consultants BARCELONA BRUSSELS DUBLIN GENEVA HAMBURG JOHANNESBURG LONDON MELBOURNE
 MEXICO CITY OSLO PARIS

- The current continuance benefit is equal to the greater of 37.5% of final average compensation or 50% of the member's retirement allowance with a maximum continuance benefit of 42.5% of final average compensation. The pricing of each of the above possible improved formulas includes the alternative cost of either maintaining the current maximum continuance benefit at 42.5% of final average compensation or increasing the continuance benefit to 45% of final average compensation.
- The service and non-service connected disability retirements for members with less than 20 years of service will remain unchanged. However, for members with over 20 years of service, the benefit will increase to a level equal to that described above for service retirement.
- We assumed that the cost of converting the prior service for active members will be paid for entirely by the City and that firefighters will be required to contribute 3/11 of the normal cost under the improved formula.

We received no specific direction as to the anticipated effective date of any improvement. As an alternative, we have assumed that the effective date would be July 1, 2006, the same date at which the Police improvements became effective. If the actual effective date is different from that, it may affect the results of this study. Unfortunately, it is not possible to predict in advance the impact of a change in the effective date.

Actuarial Valuation Results

The following two pages provide the results of our study. These results are for Fire Member only.

The "4% at 20" formula matches the current Police member formula, although the Fire member version provides an increased continuance benefit. We observe that the additional Fire cost under that formula is just slightly higher than that for the Police, specifically a slightly lower normal cost and a higher UAAL cost.

We believe the lower 4% at 20 normal cost for Fire versus Police stems from Fire members typically entering the Plan at a later age than Police. This means that, under the current uniform retirement age assumptions, Fire members are expected to retire with a shorter career than Police, hence will draw less of a benefit increase from a back-loaded formula like the 4% at 20. We believe the relatively higher UAAL cost comes from current Fire members having about ½ year more average service than Police, resulting in a higher past service liability.

Change in Actuarial Accrued Liability	\$11,150	\$19,220	\$30,423
Change in Actuarial Value of Assets	\$0	\$0	\$0
Change in Unfunded Actuarial Accrued Liability (UAAL)	\$11,150	\$19,220	\$30,423
Increase in Employer UAAL Rate (% of Payroll*)	1.33%	2.29%	3.63%
Increase in Employer Normal Cost (% of Payroll*)	0.44%	1.03%	1.95%
Increase in Total Employer Rate (% of Payroll*)	1.77%	3.32%	5.58%
Increase in Employee UAAL Rate (% of Payroll*)	0.00%**	0.00%**	0.00%**
Increase Employee Normal Cost (% of Payroll*)	0.16%**	0.38%**	0.73%**
Increase in Total Employee Rate (% of Payroll*)	0.16%**	0.38%**	0.73%**

* Estimated payroll for plan years 2005-2006 and 2006-2007 are \$71,434 and \$74,291, respectively.

** See later discussion in this letter.

Change in Unfunded Actuarial Accrued Liability (UAAL)	\$11,600	\$19,683	\$30,908
Increase in Employer UAAL Rate (% of Payroll*)	1.38%	2.35%	3.69%
Increase in Employer Normal Cost (% of Payroll*)	0.45%	1.04%	1.96%
Increase in Total Employer Rate (% of Payroll*)	1.83%	3.39%	5.65%
Increase in Employee UAAL Rate (% of Payroll*)	0.00%**	0.00%**	0.00%**
Increase Employee Normal Cost (% of Payroll*)	0.17%**	0.39%**	0.74%**
Increase in Total Employee Rate (% of Payroll*)	0.17%**	0.39%**	0.74%**

* Estimated payroll for plan years 2005-2006 and 2006-2007 are \$71,434 and \$74,291, respectively.

** See later discussion in this letter.

Impact of Delaying Contribution Rate Increase for Members

In our study for the cost of the Police benefit improvement, we also provided the cost associated with collecting member contributions retroactive to the date of the improvement. We would be glad to provide such cost calculation later if it is called for in the Fire benefit improvement.

Assumptions Used in the Analysis

In general, the assumptions used in this analysis are identical to those used in our October 4, 2006 reconciliation of the June 30, 2005 valuation results; however, there are two items worthy of discussion:

UAAL Amortization Period – Earlier this year, the Board decided to amortize the increase in Plan's Unfunded Actuarial Accrued Liability (UAAL) due to the June 30, 2005 experience study and the 2003-2005 actuarial experience over a period of 16 years. The 16 year period was also used in amortizing the UAAL for the Police improvement. We have continued to apply the 16-year period in this study.

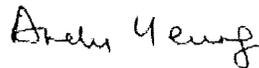
Service Retirement Rates – We have assumed that the current retirement rates will be unaffected by the benefit improvement. Although some Fire members may be able to retire a little earlier with the same retirement income after these improvements, others may decide to delay retirement further so that they can accrue a higher benefit. We will monitor the retirement pattern and make changes, if necessary, in the next experience study.

If you have any questions, please let us know.

Sincerely,



Paul Angelo, FSA, EA, MAAA
Senior Vice President & Actuary



Andy Yeung, ASA, EA, MAAA
Associate Actuary

AYY/bqb

San Jose Municipal Code

3.36.485 Review of proposed amendments.

- A. Except as provided in subsection B., prior to the adoption of any ordinance amending the police and fire department retirement plan, a copy of the proposed ordinance shall be provided to the board for the board's review and recommendation.
 - 1. The board may, but is not required to, submit a report or recommendation on the proposed amendment to the city council.
 - 2. If the board declines or fails to submit a report or recommendation on a proposed amendment within sixty days of receipt of the proposed ordinance by the secretary to the board, the city council may proceed to adopt or not adopt the ordinance without first receiving a report or recommendation from the board.
 - 3. Nothing in paragraph 2. shall be deemed to preclude the board from thereafter submitting a report or recommendation to the city council.
- B. In any case where the city council finds that there is a need to adopt an ordinance amending the system within a time period which would not allow for a sixty-day review period, the council may act on the ordinance without first submitting it to the board, and the following procedures shall apply:
 - 1. At the time the council passes the ordinance for publication of title or, in the case of an urgency ordinance, at the time the council adopts the ordinance, the council shall refer the ordinance to the board for study and consideration.
 - 2. Following its study, the board may submit to the council a recommendation that the council take one or more of the following actions:
 - a. Repeal the ordinance.
 - b. Readopt the provisions of the ordinance with such amendments, additions or changes, if any, as the board may wish to recommend.
 - c. Make such other changes or provisions as the board may recommend.
 - 3. Upon receipt of the board's recommendation, the council may implement or disapprove the recommendation.

(Ords. 24922, 24979.)



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VIA E-MAIL AND USPS

May 21, 2008

Mr. Russell Crosby
Director/Retirement Services
San Jose City Police and Fire Department Retirement Plan
1737 N First Street, Suite 580
San Jose, CA 95112-4505

Re: Cost Impact on Modified Formula for Service-Connected Disability Retirement Benefit for Fire Members

Dear Russell:

In our June 30, 2007 valuation report dated January 31, 2008, we have calculated the contribution rates for the City and the Fire members assuming that upon a service-connected disability retirement, a Fire member would be entitled to a benefit equal to: (a) fifty percent of Final Compensation (FC) if the member has less than twenty years of service or (b) three percent of FC per year of service if the member has twenty or more years of service, with a maximum benefit of ninety percent of FC. In particular, it was assumed that a Fire member with exactly twenty years of service would receive a benefit of sixty percent of FC.

The Retirement System has provided us with a copy of the draft Ordinance that describes the service-connected disability benefit for Fire members. The Retirement System has asked us to confirm that the adoption of the modified service-connected disability described in that Ordinance would not add any additional cost to that we have already provided in our June 30, 2007 valuation report.

As provided in the draft Ordinance, upon service-connected disability: "...the monthly allowance shall be equal to fifty percent of his or her final compensation; and, if the member had twenty or more of years service, an additional ten percent of said final compensation, plus three percent of his or her final compensation for each full year of service in excess of twenty years; provided, however, that in no event shall the monthly allowance exceed a maximum of ninety percent of the member's final compensation..". In particular, a Fire member with exactly twenty years of service would receive the sixty percent of FC benefit that we assumed in our June 30, 2007 valuation.

Benefits, Compensation and HR Consulting ATLANTA BOSTON CALGARY CHICAGO CLEVELAND DENVER HARTFORD HOUSTON LOS ANGELES
MINNEAPOLIS NEW ORLEANS NEW YORK PHILADELPHIA PHOENIX PRINCETON RALEIGH SAN FRANCISCO TORONTO WASHINGTON, D.C.



Multinational Group of Actuaries and Consultants BARCELONA BRUSSELS DUBLIN GENEVA HAMBURG JOHANNESBURG LONDON MELBOURNE
MEXICO CITY OSLO PARIS

Mr. Russell Crosby
May 21, 2008
Page 2

Result

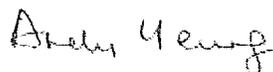
Based on a comparison of the descriptions for the two service-connected disability benefit, we believe that they provide the same benefit. Therefore, the adoption of the draft Ordinance would not add any additional cost to that we have already provided in our June 30, 2007 valuation report.

Please let us know if you have any questions.

Sincerely,



Paul Angelo, FSA, EA, MAAA
Senior Vice President & Actuary



Andy Yeung, ASA, EA, MAAA
Vice President & Associate Actuary

AYY/kek

San Jose Municipal Code

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(Ords. 24922, 24979.)