CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Gloria Schmanek

SUBJECT: Early Council Packet

DATE: August 14, 2012

Approved

Date 8/14/12

EARLY DISTRIBUTION COUNCIL PACKET FOR AUGUST 28, 2012

Please find attached the Early Distribution Council Packet for the August 28, 2012 Council Meeting.

2.x Adoption of Appropriation Ordinance and Funding Sources Resolution Amendments in Various Funds to Rebudget Funds to 2012-2013 to Complete Projects.

Recommendation:

(a) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1 (Fund 377):
   (1) Increase the Beginning Fund Balance by $497,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $497,000.

(b) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 (Fund 381):
   (1) Increase the Beginning Fund Balance by $526,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $526,000.

(c) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (Fund 382):
   (1) Increase the Beginning Fund Balance by $341,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $341,000.

(d) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 (Fund 384):
   (1) Increase the Beginning Fund Balance by $637,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $637,000.

(e) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #8 (Fund 386):
   (1) Increase the Beginning Fund Balance by $120,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $120,000.

(f) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 (Fund 388):
   (1) Increase the Beginning Fund Balance by $804,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $804,000.

(g) Adopt of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (Fund 389):
   (1) Increase the Beginning Fund Balance by $562,000; and
   (2) Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $562,000.

(h) Adopt the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Neighborhood Security Bond Act Fund:
   (1) Increase the Beginning Fund Balance by $315,000; and
   (2) Increase the Fire Station – 24 Silver Creek/Yerba Buena appropriation to the Fire Department by $315,000.

(City Manager's Office)

3.x Special Operations Premium Pay Pilot Program for San José Fire Fighters, IAFF Local 230.

Recommendation: Adopt a resolution to reflect an agreement between the City and the San José Fire Fighters, IAFF Local 230, regarding a Pilot Program for Special Operations Premium Pay for secondary Hazardous Incident Team and Urban Search and Rescue Company. CEQA: Not a project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

3.x Response to Santa Clara County Civil Grand Jury Report – An Analysis of Pension and Other Post Employment Benefits.

Recommendation: Approve the response to the 2011-2012 Santa Clara County Civil Grand Jury Report entitled "An Analysis of Pension and Other Post-Employment Benefits." CEQA: Not a Project, File No.PP10-069(a), Staff Reports/Assessments/Annual Reports/Information Memos. (City Manager's Office)

6.x Actions Related to the 2012 Street Resurfacing Project.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the 2012 Street Resurfacing Project. CEQA: Exempt, File No. PP11-035. (Transportation)

These items will also be included in the Council Agenda Packet with item numbers.

/s/
GLORIA SCHMANEK
Council Liaison

COUNCIL AGENDA: 08-28-12
ITEM:

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: August 14, 2012

Approved

Date 8/14/12

SUBJECT: ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN VARIOUS FUNDS TO REBUDGET FUNDS TO 2012-2013 FOR COMPLETION OF PROJECTS

RECOMMENDATION

1. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #1 (Fund 377):
   a. Increase the Beginning Fund Balance by $497,000; and
   b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $497,000.

2. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #4 (Fund 381):
   a. Increase the Beginning Fund Balance by $526,000; and
   b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $526,000.
   c.

3. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (Fund 382):
   a. Increase the Beginning Fund Balance by $341,000; and
   b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $341,000.

4. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #6 (Fund 384):
   a. Increase the Beginning Fund Balance by $637,000; and
   b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $637,000.

5. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #8 (Fund 386):
    a. Increase the Beginning Fund Balance by $120,000; and
    b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $120,000.

6. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #9 (Fund 388):
    a. Increase the Beginning Fund Balance by $804,000; and
    b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $804,000.

7. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #10 (Fund 389):
    a. Increase the Beginning Fund Balance by $562,000; and
    b. Increase the Strategic Capital Replacement and Maintenance Needs appropriation to the Parks, Recreation, and Neighborhood Services Department by $562,000.

8. Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the Neighborhood Security Bond Act Fund:
    a. Increase the Beginning Fund Balance by $315,000; and
    b. Increase the Fire Station – 24 Silver Creek/Yerba Buena appropriation to the Fire Department by $315,000.

OUTCOME

Approval of this memorandum will allow the timely completion of projects identified in this memorandum.

BACKGROUND

At the end of each fiscal year, all appropriations lapse and any unspent funds become part of the following year's beginning fund balance. In order to complete projects not completed at the end of the 2011-2012 fiscal year, remaining funds must be re-appropriated, or rebudgeted, to 2012-2013. Usually, such funds are rebudgeted through the Annual Report scheduled for City Council consideration on October 16, 2012. However, due to the urgency to complete projects, the Administration is recommending to rebudget certain funds at this time.

ANALYSIS

Due to delays in projects identified in this memorandum, a number of rebudget adjustments will be necessary to complete projects described below during late summer and early fall.

Strategic Capital Replacement and Maintenance Needs

The rebudgeting of funds is recommended in Council District 1, Council District 4, Council District 5, Council District 6, Council District 8, Council District 9, and Council District 10 Construction Tax and Property Conveyance Tax Funds: Parks Purposes (Construction and Conveyance Tax funds) to address a significant number of urgent repairs as current funding levels in the 2012-2013 Adopted Budget are not sufficient. Repairs, such as cement, asphalt, and hard court resurfacing, need to occur during the warm months of the year. Other repairs include unanticipated building and fencing repairs and playground equipment replacement. Some of these repairs have been brought to the City's attention by residents. For Council District 2, Council District 3, and Council District 7 Construction and Conveyance Tax funds, there are sufficient funds in the respective appropriations to cover projects that will occur during the summer months. Recommendations to rebudget any unexpended funds for those Council Districts will be brought forward as part of City Council consideration of the 2011-2012 Annual Report.

Fire Station 24 – Silver Creek/Yerba Buena

The rebudgeting of funds in the amount of $315,000 is necessary for completion of the relocation of Fire Station 24 from its current location on Aborn Road to a new fire station facility at the intersection of Silver Creek Road and Yerba Buena Road. The project was originally scheduled to be completed by June 2012, but the construction has proceeded slightly slower than anticipated. Funding is needed to complete a contractor payment and to pay for other construction related items.

EVALUATION AND FOLLOW-UP

No additional follow up actions with the City Council are expected at this time.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

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

- ☐ **Criterion 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)**
- ☐ **Criterion 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 memorandum meets criterion 1. Therefore, this memorandum will be posted on the City's website for the August 28, 2012 City Council agenda.

COORDINATION

This memorandum has been coordinated with the Parks, Recreation and Neighborhood Services Department and the Fire Department.

FISCAL/POLICY ALIGNMENT

This memorandum is consistent with the City Council-approved Budget Strategy to continue with capital investments that spur construction spending in our local economy.

COST SUMMARY/IMPLICATIONS

A year-end reconciliation was completed for each of the projects recommended in this memorandum to ensure that it was available to rebudget unexpended funds.

BUDGET REFERENCE

Not applicable.

CEQA

Not a Project, File No. PP10-067(b), Appropriation Ordinance.

JENNIFER A. MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the designated fund and in the amounts listed below in Fiscal Year 2012-2013 moneys in excess of those heretofore appropriated therefrom:

Council District #1 Construction and Conveyance Tax Fund	$497,000
Council District #4 Construction and Conveyance Tax Fund	$526,000
Council District #5 Construction and Conveyance Tax Fund	$341,000
Council District #6 Construction and Conveyance Tax Fund	$637,000
Council District #8 Construction and Conveyance Tax Fund	$120,000
Council District #9 Construction and Conveyance Tax Fund	$804,000
Council District #10 Construction and Conveyance Tax Fund	$562,000
Neighborhood Security Bond Act Fund	$315,000

JENNIFER A. MAGUIRE
Budget Director

For questions please contact Jim Shannon, Capital Budget Coordinator, at 408-535-4852.

COUNCIL AGENDA: 08-28-12
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: August 13, 2012

Approved Date 8/13/12

SUBJECT: APPROVAL OF SPECIAL OPERATIONS PREMIUM PAY PILOT PROGRAM FOR SAN JOSE FIRE FIGHTERS, IAFF LOCAL 230

RECOMMENDATION

Adopt a resolution to reflect an agreement between the City of San José (City) and the San Jose Fire Fighters, IAFF Local 230 (IAFF Local 230), to allow for the implementation of a Pilot Program that expands the Special Operations premium pay, specifically Hazardous Incident Team (HIT) and Urban Search and Rescue Company (USAR), to qualified employees regularly assigned, and qualified relief personnel assigned, to Engine Company 25 and Engine Company 5, until June 30, 2013.

OUTCOME

Adoption of the resolution will reflect an agreement between the City and IAFF Local 230, to allow for the implementation of a Pilot Program that expands the Special Operations premium pay, specifically HIT and USAR, to qualified employees regularly assigned, and qualified relief personnel assigned, to Engine Company 25 and Engine Company 5, until June 30, 2013.

BACKGROUND

During discussions Fire Administration had with IAFF Local 230 about the Squad Pilot Program, which identified alternatives to traditional re-staffing of engines or trucks, IAFF Local 230 indicated their interest in having or providing additional premium pay related to HIT and USAR. In brief, the unrelated Squad Pilot Program is an alternative service model consisting of single piece companies, with one Fire Engineer and one Fire Paramedic assigned to five San Jose Fire Stations, as determined by the Fire Chief and subject to the parameters of the side letter.

The San Jose Fire Department's Emergency Operations Policies and Procedures (EOPP) provides information related to the Department's HIT and USAR.

The HIT Company is expected to be responsible for various tasks, including, but not limited to, responding to hazardous materials related emergencies City-wide and providing state-of-the-art information to the Incident Commander (IC) to assist in the decision making process, identification, detection, and/or measurement of involved materials, first-stage containment and/or control of released materials, exposure protection for the public, Fire Department personnel, and the environment, sophisticated communications capabilities, hazardous material incident related record keeping and post-emergency follow-up, etc.

The USAR Company is expected to be responsible for various tasks, including, but not limited to, responding to all current Truck assigned emergencies in their respective first due areas of response; responding to full first alarms, multiple alarms, and High Rise incidents as dispatched or as special called by the IC of an incident; responding to all technical rescue emergencies within the City limits as dispatched, etc.

Per the Memorandum of Agreement (MOA) with IAFF Local 230, personnel regularly assigned to the HIT and USAR teams receive a Special Operations Premium Pay equivalent to a one (1) step increase (or approximately 5%) during each biweekly pay period of such assignment. On or about July 18, 2012, the City and IAFF Local 230 entered into a Side Letter agreement related to the Special Operations Premium Pay Pilot Program to expand the HIT and USAR premium pay to personnel assigned to the secondary HIT and USAR teams of Engine Company 25 and Engine Company 5, respectively.

The purpose of the Special Operations Premium Pay Pilot Program is to expand the Special Operations premium pay to employees assigned to secondary HIT and USAR teams, specifically those qualified employees regularly assigned, and qualified relief personnel assigned, to Engine Company 25 and Engine Company 5. The agreement reached between the City and IAFF Local 230 will be effective the beginning of the first pay period after the agreement is approved by City Council, and will expire on or about June 30, 2013. No other provisions related to the Special Operations or Special Operations Premium Pay are altered or otherwise affected by this agreement.

ANALYSIS

A copy of the executed side letter is attached. The following is a summary of the key provisions:

Term This agreement was executed on or about July 18, 2012. The terms of the agreement shall become effective when approved by the City Council and shall expire on June 30, 2013. Employees shall not be eligible for retroactive pay for the premium pay.

Sunset Provision	The Special Operations Premium Pay Pilot Program will expire on June 30, 2013. Any continuance of the Special Operations Premium Pay Pilot Program will be discussed during the upcoming negotiations for a successor MOA; otherwise, this pilot program shall cease to be in effect after June 30, 2013, unless extended by mutual agreement of the parties.
Premium Pay (HIT)	Effective the beginning of the first payroll pay period subsequent to the approval of City Council and subject to the provisions set forth in 5.2.3 of the MOA and any applicable Departmental policy, *all employees regularly assigned to Engine Company 25* shall be paid an amount equivalent to a one (1) step salary step increase under the biweekly pay plan, or approximately five percent (5.0%) during each biweekly pay period, of such assignment to Engine Company 25. This means that an employee is eligible for this premium pay only when working on Engine Company 25. Effective the beginning of the first payroll pay period subsequent to the approval of City Council and subject to the provisions set forth in 5.2.3 and any applicable Departmental policy, *qualified relief personnel who are assigned to Engine Company 25*, during the absence of regularly assigned Engine Company 25 members, shall be paid $25.00 for such assignment to Engine Company 25 during which four (4) or more consecutive hours are worked per shift.
Premium Pay (USAR)	Effective the beginning of the first payroll pay period subsequent to the approval of City Council and subject to the provisions set forth in 5.2.5 and any applicable Departmental policy, *all employees regularly assigned to Engine Company 5* shall be paid an amount equivalent to a one (1) step salary step increase under the biweekly pay plan, or approximately five percent (5.0%) during each biweekly pay period, of such assignment to Engine Company 5. This means that an employee is eligible for this premium pay only when working on Engine Company 5. Effective the beginning of the first payroll pay period subsequent to the approval of City Council and subject to the provisions set forth in 5.2.5 and any applicable Departmental policy, *qualified relief personnel who are assigned to Engine Company 5*, during the absence of regularly assigned Engine Company 5 members, shall be paid $25.00 for such assignment to Engine Company 5 during which four (4) or more consecutive hours are worked per shift.

As previously noted, no other terms related to the Special Operations or Special Operations Premium Pay are altered by this agreement.

EVALUATION AND FOLLOW-UP

No further follow-up with the City Council related to this action is anticipated at this time.

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)**

While this action does not meet any of the criteria listed, this memorandum was posted on the City's website 14 days in advance of the August 28, 2012, City Council meeting.

COORDINATION

This memorandum was coordinated with the San Jose Fire Department and the City Manager's Budget Office.

COST IMPLICATIONS

The recommended special operations premium pilot program for the remainder of Fiscal Year 2012-2013, which includes expanding the HIT and USAR premium pay to relief personnel, results in additional cost to the General Fund. As stated previously in this memorandum, these pay premiums would go into effect with the first pay period after City Council approval, which would be the pay period starting on September 2, 2012.

Therefore, the total cost for the additional premium pay for the HIT and USAR front line and relief personnel for 2012-2013 would be approximately $97,000, and the estimated total cost for the additional HIT and USAR relief personnel coverage pay would be approximately $10,000 with a combined cost of approximately $107,000. There are sufficient funds in the Fire Department's Personnel Services appropriation to pay for these premium pays.

CEQA

Not a Project, File No.PP10-069(b), Personnel Related Decisions.

Alex Gurza
Deputy City Manager

For questions please contact Alex Gurza, Deputy City Manager, at (408) 535-8150.

Attachment

SIDE LETTER AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 230

SPECIAL OPERATIONS PREMIUM PAY PILOT PROGRAM

PURPOSE

To amend the current Memorandum of Agreement between the City of San Jose and the International Union of Firefighters (IAFF) Local 230, to allow for the implementation of a Pilot Program that expands the Special Operations premium pay to qualified employees regularly assigned, and qualified relief personnel assigned, to Engine Company 25 and Engine Company 5, until June 30, 2013, unless extended by mutual agreement of the parties.

AGREEMENT

5.2 Special Operations.

5.2.1 All employees assigned to the Hazardous Incident Team (HIT) program shall be paid an amount equivalent to a one (1) step increase under the biweekly pay plan, or approximately five percent (5.0%) during each biweekly pay period of such assignment.

5.2.1.1 Effective the beginning of the first payroll pay period subsequent to the effective date of this agreement, all employees regularly assigned to Engine Company 25, subject to the provisions set forth in 5.2.3 and any applicable Departmental policy, shall be paid an amount equivalent to a one (1) step salary step increase under the biweekly pay plan, or approximately five percent (5.0%) during each biweekly pay period, of such assignment to Engine Company 25. This means that an employee is eligible for this premium pay only when working on Engine Company 25.

5.2.2 Relief personnel who are assigned to the HIT Unit during the absence of regularly assigned unit members shall be paid $15.00 for such assignment during which four (4) or more consecutive hours are worked.

5.2.3 Prior to July 1, 2008, the City will provide Local 230 with the EOPP Section covering the HIT Program amended to include the following:

- Skill-based bidding whereby employees with higher levels of skill and/or training applicable to the HIT Program will have priority in bidding into the Program and seniority will be used as a tiebreaker;

- A requirement that any individual assigned to the HIT Program will remain with the HIT Program for a period of three (3) years following the completion of any minimum skill and certification requirements;

- A requirement that all personnel assigned to the HIT Program will maintain and annually demonstrate required skills and complete any mandatory continuing education; and

- A restriction limiting shift trades and relief assignments for personnel assigned to the HIT Unit to other employees assigned to the Program or with qualified relief pool members who had completed the minimum skill and certification requirements.

The Department will adopt the revised EOPP effective July 1, 2008.

5.2.4 Effective the beginning of the first payroll pay period after the final adopted of the revised EOPP covering the HIT Program, qualified relief personnel who are assigned to the HIT Unit during the absence of regularly assigned unit members shall be paid $25.00 for such assignment during which four (4) or more consecutive hours are worked.

5.2.4.1 Effective the beginning of the first payroll pay period subsequent to the effective date of this agreement, qualified relief personnel who are assigned to Engine Company 25, subject to the provisions set forth in 5.2.3 and any applicable Departmental policy, during the absence of regularly assigned Engine Company 25 members shall be paid $25.00 for such assignment to Engine Company 25 during which four (4) or more consecutive hours are worked per shift.

5.2.5 On or about January 1, 2008, the City will provide Local 230 with a draft EOPP describing the USAR Program. This draft policy will contain the following:

- Skill-based bidding whereby employees with higher levels of skill and/or training applicable to the USAR Program will have priority in bidding into the Program and seniority will be used as a tiebreaker.

- A requirement that any individual assigned to the USAR Program will remain with that Company for a period of three (3) years following the completion of any minimum skill and certification requirements.

SPECIAL OPERATIONS PREMIUM PAY PILOT PROGRAM

- A requirement that all personnel assigned to the USAR Program will maintain and annually demonstrate required skills and complete any mandatory continuing education; and

- A restriction limiting shift trades and relief assignments for personnel assigned to a USAR Company to other employees assigned to the USAR Program or with qualified relief pool members who have completed the minimum skill and certification requirements.

Local 230 will review and comment on the draft EOPP describing the USAR program and may request bargaining over any matters within the scope of representation (not including items enumerated in this section) on or before March 1, 2008.

5.2.6 Effective the later of July 1, 2008 or the beginning of the first payroll pay period after the parties reach agreement on the EOPP describing the USAR program, all employees assigned to a USAR Company shall be paid an amount equivalent to a one (1) step increase under the biweekly pay plan, or approximately five percent (5.0%) during each biweekly pay period of such assignment.

5.2.6.1 Effective the beginning of the first payroll pay period subsequent to the effective date of this agreement, all employees regularly assigned to Engine Company 5, subject to the provisions set forth in 5.2.5 and any applicable Departmental policy, shall be paid an amount equivalent to a one (1) step salary step increase under the biweekly pay plan, or approximately five percent (5.0%) during each biweekly pay period, of such assignment to Engine Company 5. This means that an employee is eligible for this premium pay only when working on Engine Company 5.

5.2.7 Effective the later of July 1, 2008, or the beginning of the first payroll pay period after the parties reach agreement on the EOPP describing the USAR program, qualified relief personnel who are assigned to a USAR Company during the absence of regularly assigned unit members shall be paid $25.00 for such assignment during which four (4) or more consecutive hours are worked.

SIDE LETTER AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 230

SPECIAL OPERATIONS PREMIUM PAY PILOT PROGRAM

5.2.7.1 Effective the beginning of the first payroll pay period subsequent to the effective date of this agreement, qualified relief personnel who are assigned to Engine Company 5, subject to the provisions set forth in 5.2.5 and any applicable Departmental policy, during the absence of regularly assigned Engine Company 5 members shall be paid $25.00 for such assignment to Engine Company 5 during which four (4) or more consecutive hours are worked per shift.

5.2.8 Any negotiations over the development of policies pursuant to section 5.2 or any subsection therefore, shall not be subject to arbitration under Charter Section 1111 or any other provision of the MOA.

TERM and SUNSET PROVISION

This agreement shall become effective when signed by all parties below and approved by the City Council and shall expire on June 30, 2013. Employees shall not be eligible for retroactive pay for the premium pay provided herein.

Continuance of the Pilot Program will be discussed during upcoming negotiations for a successor Memorandum of Agreement. This Pilot Program shall cease to be in effect after June 30, 2013, unless the Pilot Program is extended by mutual agreement of the parties.

FOR THE CITY:

7-18-12

Alex Gurza — Date
Deputy City Manager

7/11/12

William McDonald — Date
Fire Chief

FOR THE EMPLOYEE ORGANIZATION:

July 11, 2012

Robert Sapien Jr. — Date
President, IAFF

COUNCIL AGENDA: 08/28/12
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: August 14, 2012

Approved

Date 8/14/12

SUBJECT: SANTA CLARA COUNTY CIVIL GRAND JURY REPORT – AN ANALYSIS OF PENSION AND OTHER POST EMPLOYMENT BENEFITS

RECOMMENDATION

It is recommended that the Mayor and City Council approve this response to the 2011-2012 Santa Clara County Civil Grand Jury Report entitled "An Analysis of Pension and Other Post-Employment Benefits."

OUTCOME

Approval of this report will satisfy the requirements of Penal Code Section 933(c), which requires the City Council to respond to Civil Grand Jury reports to the presiding judge of the Superior Court.

BACKGROUND

Grand Jury Report

The Santa Clara County Civil Grand Jury conducted an analysis of the Comprehensive Annual Financial Reports of all fifteen (15) cities and town located within Santa Clara County. As such, the Grand Jury provided the City with its final report, including findings and recommendations, entitled "An Analysis of Pension and Other Post Employment Benefits." (Please see Attachment A) According to the report:

> *(T)he Grand Jury sought to answer the following question: "Is the cost of providing pension and other post employment benefits interfering with the delivery of essential City services and is the ultimate cost to the taxpayers a bearable burden"?*

The report contains seven (7) findings with applicable recommendations to all cities in Santa Clara County including specific recommendation made for San Jose. The City has responded to each of those findings and recommendations in accordance with California Penal Code Section 933.05, which states that the responding person or entity shall indicate one of the following with respect to each finding and recommendation:

Finding:

1. The respondent agrees with the finding.

2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons thereafter.

Recommendation:

1. The recommendation has been implemented, with a summary regarding the implemented action.

2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.

3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

The conclusions of the report indicate "that until significant modifications are enacted, there is no doubt that the escalating cost of providing (employee pensions and other post employment benefits) at the current level is interfering with the delivery of essential City services and the ultimate cost to the taxpayers is an unbearable burden. These costs are already impacting delivery of essential services as demonstrated by San Jose reducing police and fire department staffing levels, closing libraries or not opening those newly built, curtailing hours of community centers, and not repairing pot-hold city streets." The report further concludes that other cities in Santa Clara County "are likely to face similar challenges as long as high cost benefit plans face an underfunding liability."

The focus of the Grand Jury's finding and recommendations includes maintaining an actuarially sound retirement benefit for employees while adjusting the level of benefits offered to newly hired employees. The City of San Jose recognizes the need for reducing retirement costs and recently had a ballot measure before the San Jose voters on June 5, 2012; "The Sustainable Retirement Benefits and Compensation Act," (Measure B). Measure B is intended to provide the City with long-term savings through cost containment strategies related to post-employment benefits, including providing maximums for the retirement benefit for new employees and requiring voter approval for increases in retirement benefits. Further,. a second tier for new employees in the Federated City Employees' Retirement System is currently in the process of being implemented. A second tier for employees in the Police and Fire Department Retirement Plan will be subject to binding interest arbitration.

GRAND JURY FINDINGS, RECOMMENDATIONS AND CITY'S RESPONSE

Grand Jury Finding 1

Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

City Response to Finding 1

The City agrees with this finding. The City of San Jose is committed to providing its residents and customers with essential services. As a service organization, the vast majority of the City's costs are personnel costs for the employees who provide those services. However, the City's rising personnel expenditures have been significantly affected by the rising costs of pension and other post employment benefits. Despite major sacrifices from both the community the City serves and the City's employees to address these ever escalating costs, significant concerns remain which need to be considered, especially related to escalating retirement costs. To that end, Measure B is intended to provide the City with long-term savings.

Currently, employees in the City's Federated City Employees' Retirement System are generally eligible to retire at age 55 with 5 years of service or at any age with 30 years of service, while sworn employees in the Police & Fire Department Retirement Plan are generally eligible to retire at age 50 with 25 years of service, age 55 with 20 years of service, or at any age with 30 years of service. It is recognized that allowing employees to retire at such an early age significantly adds to the cost of the pension and retiree healthcare benefits.

On June 5, 2012, the citizens of the City who through taxes and fees fund these benefits, voted to approve Measure B by 69.02%. Measure B, among other things, provides for maximums for a new tier of retirement benefits for new employees. This includes language that, within the defined benefit program, the retirement age should be no less than 65 for employees in the Federated City Employees' Retirement System and age 60 in the Police & Fire Department Retirement Plan, thereby raising the eligibility age for retirement. In addition, Measure B creates a Voluntary Election Program (VEP) whereby current employees who are members of the existing retirement programs may choose to enroll in an alternate retirement program with reduced benefits, while maintaining the benefit accrual rate for years of service already rendered. The VEP is subject to IRS approval due to the tax implications of creating an option for retirement benefits. This Voluntary Election Program (VEP) also raises the age at which someone can retire by six (6) months every year, until the retirement age is age 62 for employees in the Federated City Employees' Retirement System and age 57 in the Police and Fire Department Retirement Plan.

Grand Jury Recommendation 1

The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

City Response to Recommendation 1

The City has not yet implemented this recommendation, but it will be implemented in the future. Under the parameters set forth in Measure B, the City will extend the retirement age under the Voluntary Election Program, subject to IRS approval, and the second tier as soon as possible. Specifically, for those current employees who choose to enroll in the Voluntary Election Program, the retirement eligibility will be changed to age 57 for employees in the Police and Fire Department Retirement Plan, and to age 62 for employees in the Federated City Employees' Retirement System over a period of 14 years. Employees in the second tier retirement benefit (Tier 2) in the Federated City Employees' Retirement System will be eligible for retirement at age 65 with at least 5 years of City service. In addition, the eligibility to retire with 30 years of service shall be increased by 6 months annually on July 1 of each year, starting with July 1, 2017. Subject to arbitration, sworn Police and Fire employees would be eligible to retire at age 60 with 10 years of service credit. The second tier for employees in the Federated City Employees' Retirement System is estimated to be in place by the Fall of 2012.

Grand Jury Finding 2

Campbell, Gilroy, Los Altos Hills, Los Gatos, Milpitas and Palo Alto have adopted second tier plans that offer reduced Benefits, which help reduce future costs, but further changes are needed to address today's unfunded liability. Santa Clara County and the cities Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga, and Sunnyvale have not adopted second tier plans.

City Response to Finding 2

The City agrees with this finding. As stated previously, the City plans to implement a second tier retirement benefit for new hires. Voters overwhelmingly approved Measure W in 2010, which allowed the City to create a new retirement benefit tier for newly hired or re-hired employees. As a result, Measure B was designed to provide parameters for a new tier of retirement benefits. The City Council voted to approve a Tier 2 for new non-sworn employees on or about June 12, 2012. The City is currently in the process of implementing this second tier for new employees in the Federated City Employees' Retirement System and it is estimated to be in place by the Fall of 2012. The second tier for new employees in the Police and Fire Department Retirement Plan are subject to binding interest arbitration with the San Jose Police Officers' Association (POA) and San Jose Fire Fighters, IAFF Local 230, (IAFF Local 230).

Grand Jury Recommendation 2A

Santa Clara County and the Cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga, and Sunnyvale should work to implement second tier plans.

<u>City Response to Recommendation 2</u>

The recommendation has not yet been implemented but will be implemented in the future. As noted above, on or about June 12, 2012, the City Council approved a second tier retirement benefit for new, rehired or reinstated non-sworn employees within the parameters set forth in Measure B. The City is currently working on the administrative necessities to put this program in place, including any ordinances, resolutions, etc., that are required to effectuate the second tier retirement benefit for new non-sworn employees. It is expected that this be in place by the Fall of 2012. The City is also pursuing a second tier retirement benefit for new sworn Police and Fire employees consistent with the parameters set forth in Measure B and will be proceeding to binding interest arbitration with the affected unions.

Grand Jury Recommendation 2B

For Gilroy, Los Gatos, Milpitas, and Palo Alto, which have not implemented second tier plans for MISC and Public Safety second tier plans should be implemented for both plans.

<u>City Response to Recommendation 2B</u>

The recommendation will not be implemented because it is not warranted or is not reasonable in that this recommendation appears to address an issue specific to another agency.

Grand Jury Recommendation 2C

All Cities' new tier of plans should close the unfunded liability burden they have pushed to future generations. The new tier should include raising the retirement age, increasing employee contributions, and adopting pension plan caps that ensure pensions do not exceed salary at retirement.

City Response to Recommendation 2C

The recommendation has not yet been implemented but will be implemented in the future. The City recognizes the financial burden placed on current and future taxpayers as a result of the escalating retirement costs and as such determined the necessity to address the unfunded liability. While both the City and its employees will be significantly affected by the financial burden of retirement costs, Measure B is intended to assist the City and its employees manage the financial gap in the years to come As noted above, on or about June 12, 2012, the City Council approved a second tier retirement benefit for new or rehired non-sworn employees within the parameters set forth in Measure B. By implementing Tier 2 for newly hired and re-hired employees, the City expects to realize cost savings over time. It is expected that this be in place by the Fall of 2012.

In addition, the City is also pursuing a second tier retirement benefit for new sworn Police and Fire employees consistent with the parameters set forth in Measure B and the impasse procedures applicable to sworn Police and Fire employees, which is binding interest arbitration.

The second tier parameters in Measure B raise the retirement age, require new employees to pay fifty (50) percent of the total cost of the retirement benefit, and ensure that the retirement benefit payment is based on the highest three consecutive years of earned base pay only.

Grand Jury Finding 3

Retroactive Benefit enhancements were enacted by Cities using overly optimistic ROI and actuarial assumptions without adequate funding in place to pay for them.

City Response to Finding 3

The City agrees with this finding. In 2010, the citizens of the City approved Measure V, which was passed by voters in 2010, prohibits an arbitrator, where applicable, to render a decision or award that retroactively increases or enhances pension and retiree healthcare benefits, or that creates a new or additional unfunded liability the City would be obligated to pay for. It should be noted that whereas arbitrators previously issued decisions in binding interest arbitration granting retroactive benefit enhancements to employees, creating new unfunded liabilities that the City was solely responsible for and that were not previously funded, Measure V prohibits these types of decisions in the future. In addition, the voters also passed Measure W in 2010 allowing for the establishment of a new tier of retirement benefits and that the any such plan must be actuarially sound. In 2012, the voters passed Measure B which takes steps to ensure the actuarial soundness of future retirement benefits and expense decisions.

Grand Jury Recommendation 3

The Cities should adopt policies that do not permit Benefit enhancement unless sufficient monies are deposited, such as in an irrevocable trust, concurrent with enacting the enhancement, to prevent an increase in unfunded liability.

<u>City Response to Recommendation 3</u>

The recommendation has not yet been implemented but will be implemented in the future. The passage of Measure B included language that requires the actuarial soundness of the retirement benefit plans. The language of Measure B also includes language that prevents the Retirement Board from paying a benefit or expense that has not been actuarially funded. In addition, Measure B reserves the right for voters to modify any retirement benefit, including pension and other post employment benefits, and any such increases are subject to future approval by the voters. In addition and as noted above, the voters passed Measure V in 2010 which prohibits an arbitrator, where applicable, to render a decision or award that retroactively increases or enhances pension and retiree healthcare benefits, or that creates a new or additional unfunded liability the City would be obligated to pay for. It should be noted that arbitrators previously issued decisions in binding interest arbitration granting retroactive benefit enhancements to employees, creating new unfunded liabilities that the City was solely responsible for and that were not previously funded; Measure V prohibits these types of decisions in the future.

Grand Jury Finding 4

The Cities are making an overly generous contribution toward the cost of providing benefits.

<u>City Response to Finding 4</u>

The City agrees with this finding. Recognizing the need for a fiscally responsible and actuarially sound pension program, the City acted with the intention of curtailing unsustainable retirement costs by pursuing the changes to retirement benefits in Measure B. Employees who choose to remain in the current retirement benefit tier instead of opting into the Voluntary Election Program will be required to pay for a portion of the unfunded liability costs of the retirement system.

Grand Jury Recommendation 4A

The Cities should require all employees to pay the maximum contribution rate of a given plan.

City Response to Recommendation 4A

The recommendation will not be implemented because it is not warranted or is not reasonable. This recommendation appears to apply to those agencies that are in CalPERS and pick up the employee portion of costs. The City of San Jose operates two (2) independent retirement systems (the Federated City Employees' Retirement System, and the Police & Fire Department Retirement Plan) independent of CalPERS. Under the Sections §1504 and §1505 of the City Charter, the City shares the actuarially defined normal cost of the retirement benefit with active employees in a ratio of 8:3, meaning that for every $8 the City contributes for retirement benefits allocated to an employee's current year of service, that active employee contributes $3. Both the City and its employees currently and will continue to pay their respective contributions under the terms of the City Charter. However, it is worth noting that any unfunded liability associated with pension costs is currently solely funded by the City.

According to the Tier 2 parameters of Measure B, the City and Tier 2 employees are expected to share all costs associated with the Tier 2 plan 50/50. However, Measure B will require employees who choose to remain in the current retirement benefit tier instead of opting into the Voluntary Election Program to pay for a portion of their costs. Furthermore, it is worth noting that the costs associated with retiree medical care are equally borne by both the City and current employees, including any unfunded liability associated with retiree healthcare.

Grand Jury Recommendation 4B

The Cities should require employees to pay some portion of the Past Service Cost associated with the unfunded liability, in proportion to the Benefits being offered.

City Response to Recommendation 4B

The recommendation has not yet been implemented but will be implemented in the future. Under Measure B, active employees who choose to stay in the current level of benefits will be required to contribute additional amounts associated with the unfunded liability of the retirement benefit and thus will share the costs of the unfunded liability with the City. It should be noted that current employees in the Police and Fire Department Retirement Plan currently pay a small portion of the unfunded liability.

Grand Jury Finding 5

The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities.

City Response to Finding 5

The City agrees with the finding. The City and employees are currently in a transition phase-in strategy to contribute the full Annual Required Contribution (ARC) for retiree healthcare benefits. As noted previously, active employees currently pay at least fifty percent (50%) of the retiree healthcare cost, which includes normal costs and unfunded liability costs. The transition to contribute the ARC began in 2009 for most bargaining units with a five-year phase in strategy. However, it should be noted that, for employees represented by the POA and IAFF Local 230, the contribution amount cannot exceed an incremental increase of 1.25% of pensionable pay when compared to the previous year. When the retiree healthcare ARC contribution rate exceeds 10% of pensionable pay, the POA and IAFF Local 230 will enter discussions with the City to address the contributions to contribute the full ARC and alternatives to lower retiree healthcare costs.

Grand Jury Recommendation 5

The Cities, should immediately work toward implementing policy changes and adopting measures aimed at making full OPEB ARC payments as soon as possible.

City Response to Recommendation 5

The recommendation has not yet been fully implemented. As noted above, the City has partially implemented the Grand Jury's recommendation to make full OPEB ARC payments. The transition to contribute the full ARC began in 2009 for most bargaining units with a phase in strategy. For employees represented by the POA and IAFF Local 230, both bargaining units will enter discussions with the City to address the contributions to contribute the fully fund the ARC and alternatives to lower retiree healthcare costs, should the retiree healthcare ARC contribution rate exceed 10% of pensionable pay.

Grand Jury Finding 6

The City of San Jose permits the transfer of pension trust fund money, when ROI exceeds expectations, to the SRBR, despite the fact that the pension trust funds are underfunded.

City Response to Finding 6

The City agrees with this finding. The City acknowledged its commitment to fiscal stability by proposing to eliminate the Supplemental Retiree Benefit Reserve (SRBR) in Measure B. The SRBR provided cash payments to retirees, payable under certain circumstances, in addition to their regularly allocated retirement system benefit payments. Accordingly, with the approval of Measure B and once the implementation of Measure B is completed, the assets set aside for the SRBR will be transferred back into the appropriate retirement trust fund. It should be noted that the City Council adopted consecutive resolutions to suspend disbursements from the SRBR in Fiscal Year 2010-2011, and continuing through Fiscal Year 2012-2013, pending the Measure B effective date.

Grand Jury Recommendation 6

The City of San Jose should eliminate the SRBR program or amend the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

City Response to Recommendation 6

The recommendation has not yet been implemented but will be implemented in the future. As noted above, the passage of Measure B eliminates the SRBR once implemented. In addition, City Council has previously placed a moratorium on disbursements from the SRBR through Fiscal Year 2012-2013.

Grand Jury Finding 7

The Cities' defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore manageable by the Cites.

City Response to Finding 7

The City agrees with this finding. While considering the appropriate paths to financial solvency, the City discussed wholly funding Tier 2 employees' retirement benefit through a 401(k)-style defined contribution plan. The parameters set forth in Measure B allowed for a defined contribution plan, however, at this time, the City Council approved a lower defined benefit plan for new employees in the Federated City Employees' Retirement System, and the City anticipates proceeding to binding interest arbitration over a second tier with the POA and IAFF Local 230. Further analysis will be necessary to determine the appropriate defined contribution style plan should the City Council decide to pursue this option in the future.

Grand Jury Recommendation 7

The Cities should transition from defined benefit plans to defined contribution plans as the new tier plans are implemented.

City Response to Recommendation 7

The recommendation requires further analysis. As noted above, the City has not implemented a defined contribution plan but, under Measure B, parameters were set that allowed for a hybrid defined benefit/defined contribution retirement benefit for new hires in Tier 2. Ultimately, the City Council approved a lower defined benefit plan for new employees in the Federated City Employees' Retirement System, and the City anticipates proceeding to binding interest arbitration over a second tier with the POA and IAFF Local 230. Should the City Council decide to pursue this available option in the future, further analysis will be necessary regarding the most viable defined contribution plan option.

PUBLIC OUTREACH/INTEREST

By the very nature of the Grand Jury's report and its release, public outreach requirements have been met. Additionally, upon approval of this memorandum by Council, the City Attorney will submit the memorandum to the presiding judge of the Superior Court, as required under Penal Code Section 933(c).

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

CEQA

Not a project, File No.PP10-069(a) (Staff Reports/Assessments/Annual Reports/Information Memos. City Manager's Office)

Alex Gurza
Deputy City Manager

For additional information on this report, contact Alex Gurza, Deputy City Manager, at 535-8150.

GRAND JURY
SANTA CLARA COUNTY

June 7, 2012

Honorable Chuck Reed
Mayor
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council:

Pursuant to Penal Code § 933.05(f), the 2011-2012 Santa Clara County Civil Grand Jury is transmitting to you its Final Report, **An Analysis of Pension and Other Post Employment Benefits.**

Penal Code § 933.05(f)
A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity **two working days** prior to its public release and after the approval of the presiding judge. No officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. **Leg. H.** 1996 ch. 1170, 1997 ch. 443.

This report will be made public and released to the media on **Wednesday, June 13, 2012,** at **1 P.M.** If you have any questions please contact Gloria Alicia Chacón at 408-882-2721.

Sincerely,

KATHRYN G. JANOFF
Foreperson
2011-2012 Civil Grand Jury

KGJ:dsa
Enclosure

cc: Ms. Debra Figone, City Manager, City of San Jose

2011-2012 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

AN ANALYSIS OF PENSION AND OTHER POST EMPLOYMENT BENEFITS

Issue

After reviewing the Comprehensive Annual Financial Reports (CAFRs) of all cities, towns and the County of Santa Clara (hereafter referred to as City or Cities[1]), the Grand Jury was struck by the extent that the pensions and Other Post Employment Benefits (OPEB) (collectively "Benefits") were underfunded. Subsequently, the Grand Jury sought to answer the following question: "Is the cost of providing pension and other post employment benefits interfering with the delivery of essential City services and is the ultimate cost to the taxpayers a bearable burden?"

Introduction

The Grand Jury developed a survey to gather information from the Cities and the County. The Survey and responses are important to this report and the Grand Jury encourages readers to read the Survey questionnaire provided in Appendix A before continuing. Due to the technical complexity of this report, the Grand Jury has provided a glossary of the terminology used throughout this report (Appendix B). Acronyms are also included in the glossary.

CalPERS[2] requires Cities to contribute sufficient funds, held in trust, to pay for pension benefits as they are earned. This helps to ensure sufficient funding is in place to provide the promised pension benefits. This trust money is invested and expected to return a long-range investment return as high as 7.50%[3] (after expenses). It is these investment earnings that are expected to pay for as much as 70%[4] of the cost of pension benefits.

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[1] Cities as defined in this report include: Santa Clara County; the cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, Sunnyvale; and the towns of Los Altos Hills and Los Gatos,

[2] The California Public Employees' Retirement System (CalPERS) is an agency in the California executive branch that manages pension and health benefits for California public employees, retirees, and their families.[I]

[3] CalPERS recently reduced this rate from 7.75%.

[4] Expected to decline as investment yield declines.

According to interviews, historically high investment earnings in the early 1990s spawned the belief that expensive pension enhancements could be granted and paid for by the excess investment earnings without compromising the Cities' ability to afford other services. Once these pension enhancements are granted to an employee, they generally cannot be retracted unless a substantially comparable replacement is offered, a concept referred to as vested rights. Cities reported that they felt compelled to enhance benefits to attract and retain the best work force possible.

In addition to pensions, employers provide OPEB consisting primarily of health care benefits. Unlike pension funding requirements, there is no requirement for Cities to pre-fund the cost of OPEB benefits. As a result, most Cities have not funded OPEB benefits and have accrued large OPEB debts. Escalating health care costs, the largest component of OPEB, compound this debt problem.

As a result of an economic downturn, the average investment rate of return (investment earnings) for the last ten years is considerably below what experts and Cities agree is the still optimistic assumed rate of 7.5%. This return on investment (ROI) leads to an increase in the Cities' annual payment into the pension fund to make up the difference.

The rising costs of pension and OPEB (collectively hereinafter referred to as Benefits), combined with the downturn of the economy have resulted in very large budget shortfalls. These must be paid by current and future tax revenue, which is limited. Thus, according to interviews, paying for these rising costs will come at the expense of other City services.

With this in mind, the Grand Jury assessed the viability and sustainability of Cities' public employee Benefits. This assessment sought to answer the following questions:

- What are the costs of public employee Benefits and who pays for them?
- Will Cities' projected revenues keep up with projected expense of Benefits?
- What is being done and what can be done to control Benefit costs?
- Why are public employee Benefits different from those in the private sector?

Background

Several cities have declared bankruptcy. While the reasons for bankruptcy vary from one municipality to another, and include lower tax revenues and decreased home values, one common reason cited is large unfunded liability associated with providing pension and healthcare benefits to its public employees. Locally, the City of Vallejo declared bankruptcy in 2009 after failing to negotiate pay cuts in the face of $195 million in unfunded pension obligations. Stockton is falling into bankruptcy with less than 70 cents set aside for every dollar of pension benefits its workers are owed[5]. A recent Stanford University study regarding public pension funds statewide emphasizes this predicament: "public pension shortfalls of $379 billion or $30,500 per household" exist statewide[6] contributing to the downgrading of California's bond rating. San Jose is proposing pension reform and considering higher taxes resulting from ten consecutive years of budget shortfalls. The full effect of these unsustainable costs is yet to come.

Methodology

The scope of the Grand Jury's investigation was limited to the Cities. Special districts and other agencies were excluded from this investigation. The following resources were used to gather and evaluate the data contained in this report:

- City CAFRs; particularly notes to financial statements concerning Benefits (see Appendix A)
- Results obtained from a survey created by the Grand Jury and distributed to the Cities (see Appendix B for the complete survey)
- Interviews conducted with one or more of the following persons from the Cities: Financial Manager, Chief Finance Officer, City Manager, Retirements Service Director, and Human Resource Manager. All interviews were conducted following receipt and evaluation of a survey, affording the opportunity to seek clarification and elaboration on survey responses as necessary.
- Interviews with CalPERS actuaries and CalPERS consultants
- Other documents listed in Appendix A.

Report Conventions

The Grand Jury did not extrapolate, derivate or convert the data provided by the Cities in response to the survey. When the Grand Jury had questions, or found inconsistencies in the data provided, every effort was made to resolve the issues through interviews, email and phone conversations.

All dollar figures are expressed in actuarial valuation units,[7] not market value, unless otherwise stated. The glossary in Appendix C provides definitions of the terminology used throughout this report. Acronyms are also included in the glossary.

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[5] "Untouchable pensions may be tested in California," Mary Williams Walsh, New York Times, March 16, 2012.

[6] http://siepr.stanford.edu/system/files/shared/Nation%20Statewide%20Report%20v081.pdf

[7] See Appendix C Glossary for definition.

Discussion

This discussion consists of three primary sections:

- **Understanding CalPERS** presents and discusses the basic concepts of CalPERS public pension benefits to lay a foundation for a more detailed look at City-provided Benefits.
- **Key Survey Results** discusses those survey results found to be most relevant to answering the Grand Jury questions.
- San **Jose's Plan** is discussed separately because San Jose is the only city to not use CalPERS.

Understanding CalPERS

Because all Cities except San Jose[8] participate in CalPERS for pension and many use CalPERS for OPEB as well, it is vital to understand the following key concepts:

- Basic Pension Plan Formulas
- Annual Required Contribution (ARC)
- CalPERS Menu Options
- Assumed or expected Return on Investment (ROI)
- Unfunded Liability.

Basic Pension Plan Formulas

Employees belong to one of two different groups: Miscellaneous (MISC) or Public Safety,[9] each having defined plans. Table 1 lists all first tier[10] CalPERS plans utilized by Cities. Note that the plan names include the pension earned per year and the retirement age at which full benefits are received.

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[8] Excluding the San Jose Mayor and Council Member plan.

[9] Police and Fire personnel.

[10] See Appendix C Glossary for definition.

Table 1: First Tier CalPERS Plans Used by the Cities

s Plans		Public Safety Plans	
Plan Name	Number of Cities Participating	Plan Name	Number of Cities Participating
2.0%@55	4	3.0%@50	11[11]
2.5%@55	5	3.0%@55	1
2.7%@55	7		

For all plans the pension benefit formula contains the same three primary components multiplied together as shown here:

Pension = Earned Benefit Rate x Years of Service x Salary

Earned Benefit Rate: This is the percent of salary earned per year of service as indicated by the plan name. Retirement before age 55 for MISC employees and before age 50 for most Public Safety employees results in the Earned Benefit Rate being reduced (per CalPERS' table). For example, a MISC employee in the 2.0%@55 plan who retires at age 50 gets an earned benefit rate of 1.426[12] per year of service rather than 2.0. Similarly, participants of the 2.5%@55 plan as well as the 2.7%@55 plan receive an earned benefit rate of 2.0 at age 50. Interestingly, the earned benefit rate for members of the 2.0%@55 plan continue to rise until the age 63 where it plateaus at 2.418[13] percent per year of service. This contrasts with the other two MISC plans that plateau at age 55 at 2.5% and 2.7% respectively. (For a more detailed delineation of earned benefit rates, see www.calpers.ca.gov).

Years of Service: This is self explanatory except to point out CalPERS supports reciprocity, which means that employees can transfer from one CalPERS-covered agency (City) or any other public agency that has established reciprocity with CalPERS, to another such agency without forfeiture of earned pension (as is usually the case in the private sector).[14] Thus, an employee may work 10 years each for three different cities and earn the same pension benefits as otherwise would have been earned if they had worked for 30 years at a single city. But because each of the three cities pays only its one-third share of the earned pension, statistically, this employee appears as three employees earning a more modest pension from each city.

[11] Some Cities contract for police and fire. Gilroy police and fire belong to separate Public Safety plans.

[12] From CalPERS Benefit FactorsTable, page 22, Local Miscellaneous Benefits

[13] From CalPERS Benefit FactorsTable, page 22, Local Miscellaneous Benefits

[14] Reciprocity agreements may also exist between other pension plan providers.

Salary: CalPERS has guidelines defining what wages and reimbursements qualify for the purposes of determining pension. For a detailed discussion, go to www.calpers.ca.gov. Generally, salary can either be the average highest salary over a three-year period, or a highest single 12-month salary can be used, depending on the plan adopted by the City. Using the highest 12-month salary (rather than highest 36-month average salary in the pension formula shown above) is an example of what is known as a "Class 1" benefit enhancement that is more expensive to provide.

It is noted here that Public Safety plan participants have a 90% maximum salary cap that can be earned at onset of retirement. There is no corresponding limit placed on plan participants. In both cases however, the Grand Jury learned that large pensions (expressed as a percent of salary) serve as a deterrent to prolonging employment because one can retire at close to full pay. Subsequent discussions on Employer Paid Member Contribution (EPMC) and Cost-of-Living Allowances (COLA) will show how pensions can actually exceed salary, leading to the paradox of employees losing income if they continue to work as a public employee rather than retire.

ARC: What is it and How is it Determined?

The ARC is the annual actuarially determined amount that must be paid to ensure there will be enough money to pay for all promised Benefits. As shown below, the pension ARC consists of three principle components added together:

ARC = Employee Contribution + Normal Cost + Past Service Cost

It should be noted that generally the Normal Cost and Past Service Cost, in accordance with labor contracts, are paid for by the Cities—through tax revenue—and sometimes are supplemented by an employee contribution.

Employee Contribution: From the perspective of CalPERS, this is a fixed percent and, as the name would suggest, was intended to be paid by the employees in much the same way as most private workers pay a portion of their own Social Security benefits. For all City employees, the Employee Contribution is either 7%, 8% or 9% of an employee's salary, depending in which plan the employee participates. It is important to note, however, that in practice, most Cities pay some portion of this cost on behalf of the employees.

Normal Cost: Less the employee contribution, if made, this is the amount required to pay for the benefits that were earned in the prior year for the (expected) life of the employee in retirement. This is determined through rigorous actuarial valuations taking many variables into account, including retirement age, life expectancy, and probability of disability. Normal Cost tracks very closely with the degree of Benefits being offered. That is to say, discrete cost increases occur to this component of the ARC with each benefit enhancement proportional to the cost of the benefit. Without benefit enhancements, Normal Cost remains relatively flat over time.

Past Service Cost: Whenever the plan assets (all previously paid ARCs), including ROI, become insufficient to pay the actuarial accrued cost of benefits, an unfunded liability[15] exists. This deficit must be made up in the form of Past Service Cost. This component of the ARC is largely proportional to unfunded liability, increasing as the unfunded liability goes up to begin paying down the debt. For many Cities surveyed, Past Service Cost is approaching and in some cases already exceeds Normal Cost. Later, this report will discuss the three most often cited reasons for unfunded liability: market losses (ROI lower than the assumed rate), retroactive benefit enhancements, and other accumulated actuarial assumption changes (e.g., longer life expectancy, demographic changes).

CalPERS Menu Options

Each CalPERS plan has numerous benefits that are inherent to the plan itself.[16] In addition to these benefits, CalPERS offers a wide range of menu options that can be thought of as upgrades or enhancements to the base plan. They are too numerous to list but include the following:

- Annual cost-of-living allowance (COLA) increase
- Employer-paid member contribution (EMPC)
- Credit for unused sick leave
- Improved industrial and non-industrial disability
- Special death benefits
- Survivor benefits
- Various military and public service credits.

Each enhancement selected results in quantifiably larger ARC payments. One cannot conclude from the plan name that it is necessarily more or less generous than another plan of a different name. For this reason, the Grand Jury's investigation concerned itself not with the issue of what specific Benefits were being provided but rather what was the total cost of providing the Benefits expressed as a percent of payroll. Cities and CalPERS experts agreed this is a sound methodology for comparing cities of different sizes.

[15] See Appendix C Glossary for definition.

[16] For a more detailed discussion of menu options, go to www.calpers.ca.gov.

Sensitivity to Expected ROI

All Cities and all CalPERS representatives interviewed consistently told us that somewhere between 65% and 70% of the money to pay for Benefits comes from the ROI of previously accumulated ARC payments. This cannot be emphasized enough. The Cities spoke to their burden in struggling to meet ARC obligations in light of budget constraints, but these ARC payments cover only about 30% of the amount necessary to cover the cost of providing these Benefits. A critical actuarial assumption is the expected ROI, which is currently assumed to be 7.50% after expenses for pension. The actual average ROI over the last ten years has been 6.1% as depicted in Figure 1. The result of this underperformance is higher unfunded liabilities, lower funded ratios, and larger ARC payments (in particular, the Past Service Cost component of the ARC as discussed above). Discussion of San Jose's ROI included in this figure is deferred until later.

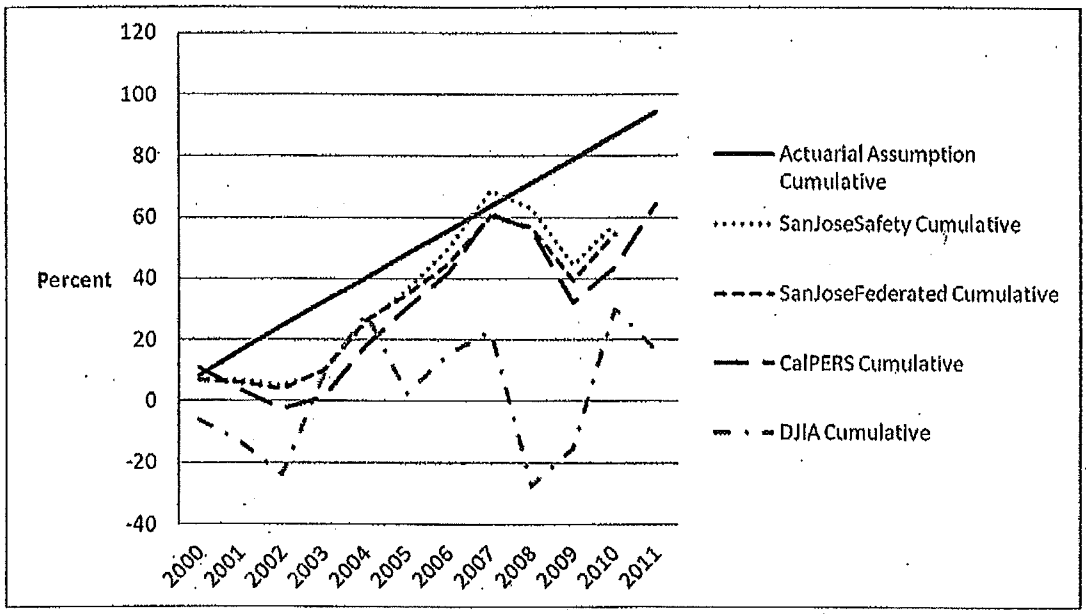

Figure 1: Actual Return on Investment Compared to Assumed and Dow Jones[17]

CalPERS lowered the assumed ROI from 7.75% to 7.5% at a March 14, 2012 meeting. Last year this same recommendation was rejected. This year, a 0.5% change was recommended and only a 0.25% change was approved. Table 2 below is excerpted from "Pension Math: How California's Retirement Spending is Squeezing the State Budget" written by Joe Nation from Stanford Institute for Economic Policy Research.

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[17] DJIA is calendar year and other data are fiscal year

Table 2: CalPERS Return on Investment Analysis

Investment rate	Probability of meeting or exceeding rate	CalPERS funded ratio[18]
9.5%	21.7%	95.1%
7.75%	42.1%	73.5%
7.1%	50.7%	66.7%
6.2%	62.6%	58.3%
4.5%	80.9%	45.1%

Two key points in Table 2 are:

- According to this analysis, there is only a 42.1% chance of meeting or exceeding an assumed investment rate of 7.75% as highlighted in the table. It should be noted that the ROI assumption was recently reduced to 7.5%.
- Dropping down to a more conservative 6.2% investment rate (still higher than the 6.1% average for the last ten years) is recommended by many leading economists and recognized financial experts. The corresponding funded ratio reduction would result in increases to unfunded liabilities and significantly higher ARC costs.

Sunnyvale projects this modest CalPERS-approved reduction of 0.25% in assumed ROI will increase its ARC by 2.3% of payroll for MISC employees and 3.8% of payroll for Public Safety employees, totaling nearly a $3M increase per year in ARC payments. As shown in Table 3, Sunnyvale's pension cost was just over $25M. So, a $3M increase represents a 12% increase. CalPERS and pension experts we spoke with asserted that the cost of each additional 0.25% reduction in assumed ROI is not linear and warned extrapolating this cost increase would result in underestimating the total cost impact.

Unfunded Liability & Funded Ratio

Unfunded Liability is the unfunded obligation for prior benefits, measured as the difference between the accrued liability and plan assets. When using the actuarial value of plan assets, it is also referred to as the Unfunded Actuarial Accrued Liability (UAAL). In everyday language, it is the difference between the cost of the benefits already earned and the amount currently paid; it is the amount due.

[18] As of June 30, 2011

Table 3: Unfunded liability for pension and OPEB for all large cities shows the total for these nine cities is nearly $7B

FY 2010 Unfunded Liabilities (Not in Risk Pool)[19]				Debt per Resident
City	Pension	OPEB	Total	
Santa Clara County	$1,455,835,322	$1,300,000,000	$2,755,835,322	$1,547
Cupertino	$18,581,728	$18,069,366	$36,651,094	$629
Gilroy	$35,100,000	$4,900,000	$40,000,000	$819
Milpitas	$70,166,975	$31,230,798	$101,397,773	$1,518
Mountain View	$104,121,296	$29,396,467	$133,517,763	$1,803
Palo Alto	$153,941,000	$105,045,000	$258,986,000	$4,021
San Jose[20]	$1,434,696,471	$1,706,081,881	$3,140,778,352	$3,320
Santa Clara	$223,667,947	$23,855,000	$247,522,947	$2,125
Sunnyvale	$149,300,000	$92,800,000	$242,100,000	$1,728
Total	**$3,645,410,739**	**$3,311,378,512**	**$6,956,789,251**	

The Funded ratio is the market value of assets at a specified date, over the accrued actuarial liability as of the same date. While technically accurate, these definitions provide no insight into the causes of what have become large unfunded liabilities and correspondingly low-funded ratios. The Grand Jury learned from CalPERS that the three primary reasons for unfunded liabilities are the following:

- 70% of the unfunded liabilities is attributable to market performance
- 15% of the unfunded liabilities is attributable to retroactive benefit enhancements
- 15% of the unfunded liabilities is attributable to other actuarial assumption changes.

The percentages shown above are "rule of thumb" values according to the CalPERS representatives; individual City percentages will vary.

Key Survey Results

With the basic concepts of public pension benefits understood, the Grand Jury prepared a survey to gather information from the Cities. Survey responses and all supplemental data provided by the Cities were analyzed to answer the following questions:

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[19] Numbers reflect data provided in survey responses.

[20] Excluding Mayor and Council Member Plan.

- What is the total amount of unfunded liabilities?
- What is the total cost each year to provide Benefits and at what rate is the cost going up per year?
- Why are OPEB funded ratios so low?
- When were Benefit enhancements enacted and how do they impact unfunded liability?
- What progress is being made to control escalating costs?
- Why are public Benefits so different from private sector Benefits?
- Do vacation, holiday and sick leave policies in the public sector differ from those that are commonly found in the private sector?

Unfunded Liability (Large Debts)

Table 3 tabulates the unfunded liability for both pension and OPEB for all large cities not belonging to a risk pool and shows the total unfunded liability for these nine cities is nearly $7B. Cities having fewer than 100 employees in a given pension plan (Campbell, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, and Saratoga) are not included because they belong either entirely or in part to a risk pool. CalPERS currently does not provide this information to the Cities in the risk pool. Los Gatos and Morgan Hill, for instance, do not know their portion of a $3,515,314,403 unfunded liability associated with the Public Safety risk pool to which they belong. While Monte Sereno and Los Altos Hills did offer an approximation of their portion of the risk pool liability, CalPERS representatives recommended against using the estimation and as a result are not included in Table 3. The Grand Jury has learned the Government Accounting Standard Board (GASB) is considering a policy change to require the Cities in the risk pool[21] to report individual unfunded liability. Many Cities surveyed focused primarily on minimizing the ARC payments, the short-term cost due, as opposed to addressing the larger, endemic problem of its unfunded liability. This is problematic because minimizing ARC payments today at the expense of addressing the growing unfunded liability means shifting the costs to the future, hoping market improvements will solve the problem. If the market does not improve, taxpayers may face increased taxes or reduced services in the future.

Using 2010 census data obtained from http://www.sccgov.org together with the data in Table 3, it is possible to estimate the amount owed by each resident to pay down current Benefit debts in the Cities. For example, each resident of San Jose owes $3,320 to the city. As residents of the County, they also owe an additional $1,547 to the

[21] See Appendix C Glossary for definition.

County.[22] But while this would pay down the current debt and significantly reduce ARC payments, it does not guarantee staying out of debt going forward.

High Cost of Benefits (ARC) . . . and Getting Higher

The accumulated City cost of providing annual Benefits in FY2010 was $667,215,205 as shown in Table 4. While it is useful to know the annual cost of providing Benefits it is not possible to judge whether or not any City is paying a disproportionate cost due to the size variance of the Cites (large Cities are expected to pay more because they have more employees). For this reason, the Grand Jury chose to compare the Cities by expressing the ARC as a percent of payroll. Cities and pension experts agreed the Grand Jury's method of making this calculation was correct. That said, the same values shown in Table 4 are also shown in Figure 2 expressed as percent of payroll separating pension, OPEB and Social Security as applicable.

Table 4: Countywide total cost of providing annual Benefits in FY2010 is $667,215,205

City	Pension Cost[23]	OPEB Cost[24]	Social Security Cost[25]	Total
Santa Clara County	$235,630,042	$90,000,000	$65,136,430	$390,766,472
Campbell	$2,728,302	$206,220		$2,934,522
Cupertino	$1,841,350	$7,616,760		$9,458,110
Gilroy	$4,900,000	$186,334		$5,086,334
Los Altos	$1,842,949	$19,505		$1,862,454
Los Altos Hills	$190,021	$203,000		$393,021
Los Gatos	$2,958,209	$949,845		$3,908,054
Milpitas	$7,164,473	$3,356,836		$10,521,309
Monte Sereno	$125,713	$0	$37,863	$163,576
Morgan Hill	$2,763,818	$15,119		$2,778,937
Mountain View	$8,929,685	$4,376,387		$13,306,072
Palo Alto	$19,964,080	$9,019,000		$28,983,080
San Jose	$106,881,000	$34,147,000		$141,028,000
Santa Clara	$20,257,754	$2,115,643	$3,494,639	$25,868,036
Saratoga	$917,228	NA		$917,228
Sunnyvale	$25,300,000	$3,940,000		$29,240,000
Total	$442,394,624	$156,151,649	$68,668,932	$667,215,205

[22] Note these figures are per resident, not per household, and exclude an additional state pension liability all California residents bear, which is outside the scope of this report.

[23] Many Cities, but not all, provided separable "sidefund" expenditures from ARC.

[24] May include money spent over and above ARC payment.

[25] Only MISC employees in Santa Clara County, Monte Sereno and Santa Clara participate in Social Security.

As shown in Figure 2, the cities of Campbell, Los Altos, Monte Sereno, Morgan Hill and Saratoga pay less than 20% of payroll towards Benefits while the remaining cities pay more than 20%. Cupertino, Palo Alto and Sunnyvale pay in excess of 30% of payroll towards Benefits. The survey results further indicated that Mountain View is noteworthy because it offers similar plans as Cupertino, Palo Alto and Sunnyvale but at lower cost to the city through cost sharing with employees who pay the entire employee contribution (8% for MISC and 9% for Public Safety) plus some negotiated portion of that city's cost in the range of 1.5% to 6.8% depending on job type. Cupertino, Palo Alto and Sunnyvale in contrast to Mountain View, pay some portion of the employee contribution with Sunnyvale contributing the most (7% of the required 8% for MISC employees and 8% of the 9% for Public Safety employees).

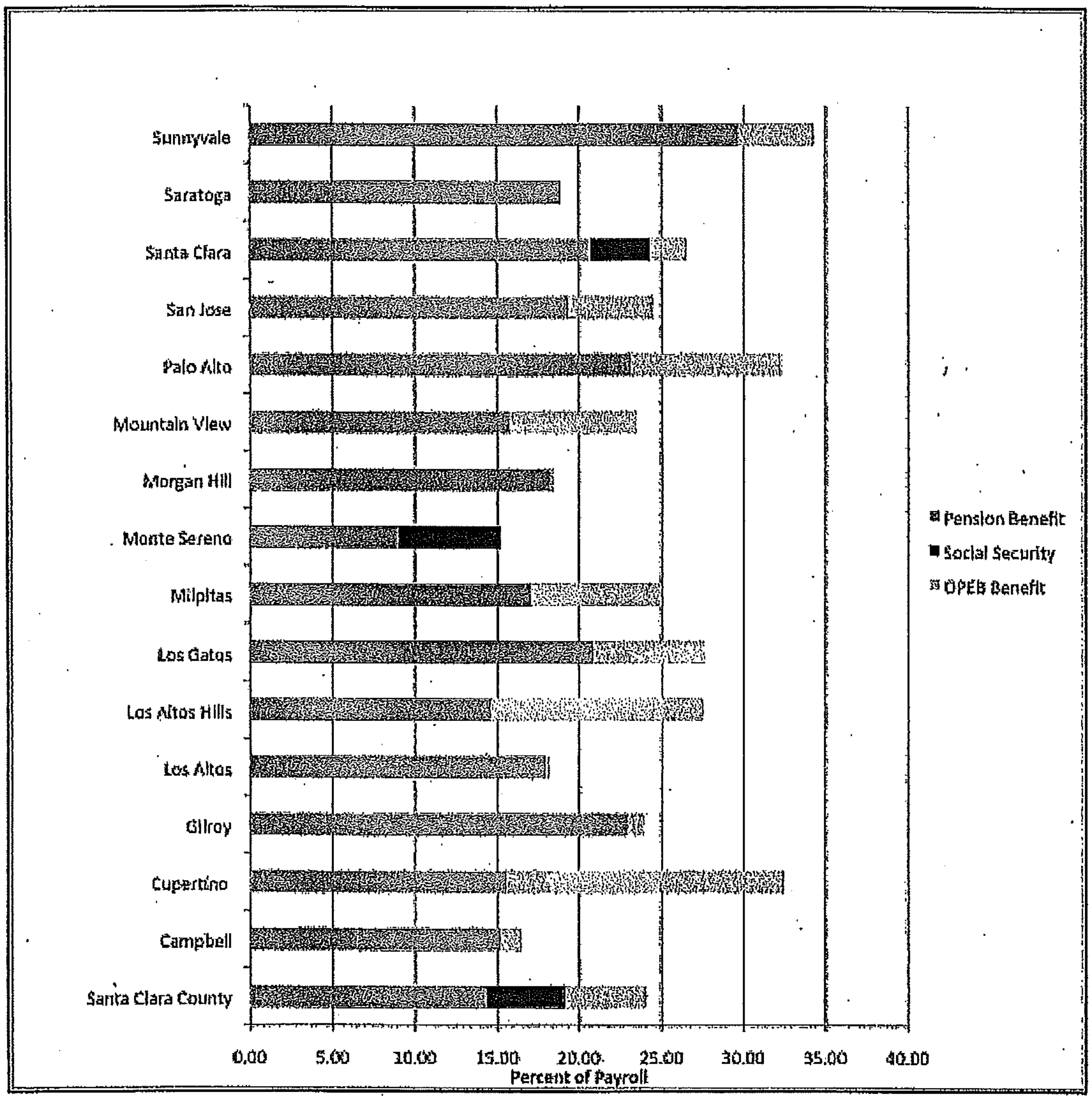

Figure 2: FY 2010 Benefit Ranking by Percent of Payroll

Comparing the Sunnyvale pension costs expressed in percent of payroll to Mountain View (same plans) demonstrates that employee contributions toward the cost of pensions is just as effective at keeping the cost under control as curtailing the level of pension benefits being offered. Mountain View actually compares favorably to other cities offering lower benefits. Table 5 summarizes the Cities' plan(s) and the amount contributed by employees.

For those Cities that elected to participate in Social Security (MISC employees in the City of Santa Clara, Santa Clara County and Monte Sereno), the cost to the city has been added to reflect the total amount the city is paying toward employee Benefits.

The survey responses conveyed how much pension and OPEB were expected to rise during the next five to ten years. Most Cities responded using projections from the latest actuarial valuations, which estimate contributions as a percentage of payroll rather than in dollars. In the case of pension, these valuations are performed by CalPERS and in the case of OPEB, the valuations are performed by an actuary firm under contract to the City. All Cities' Benefits costs are trending up, in spite of optimistic assumptions regarding the ROI that has been shown to be of paramount importance. Projected San Jose cost increases are discussed separately in subsequent sections.

Unfunded Retroactive Pension Benefit Enhancements

When a City amends its contract with labor unions to increase the pension formula (e.g., 2% @ 55 to 2.5% @ 55) the increased benefits apply retroactively to all prior years of service. The retroactive application of the increase results in an increase in the unfunded liability and requires an increase in ARC payments by the City. The reason for the increase in ARC payments can be illustrated by this example:

> Assume an employee has worked for twenty-five years and has paid into the system all those years. The City leaders now approve a retroactive benefit enhancement without funding the retroactive period. Immediately the employee and employer have effectively underpaid for the enhanced unfunded benefits portion for the previous twenty-five years. The difference between what was actually paid and what should have been paid to provide the enhanced benefit adds to unfunded liability, which increases ARC payments. This is now a new liability to the taxpayer.

In question three of the Grand Jury questionnaire (Appendix B), Cities were asked to list any significant pension benefit changes that have been made over the past ten years. Table 5 summarizes the responses received by the Grand Jury. As the table shows, most Cities have increased pension benefits within the last ten years. When asked how much these benefit increases changed Unfunded Liability, most cities provided the CalPERS provided answer of 15%. However, Cupertino stated that benefit changes are responsible for 26% of their Unfunded Liability and the City of Santa Clara cited 24.6%.

Table 5: Pension Benefit Plan Changes

Name of City/County	1st Tier Plan: Year of increase	Original Plan	Benefit Increase	Employee Paid Contribution FY 2011 (Per Survey Responses)	2nd Tier Plan: Plan Name	Year Adopted	Employee Paid Contribution
County of Santa Clara	2007	MISC 2%@55	MISC to 2.5%@55	3.931 to 5%	None		
County of Santa Clara	2001	Public Safety 2%@50	Public Safety to 3%@50	0.5 to 9%	None		
Campbell	2002	MISC 2%@55	MISC to 2.5%@55	7%	MISC 2%@60	2011	7%
Campbell	2001	Public Safety 2%@50	Public Safety to 3%@50	8%	Public Safety 2%@50	2010	9%
Cupertino	2007	MISC 2%@55	MISC to 2.7%@55	2%	None		
Gilroy	2006	MISC 2%@55	MISC to 2.5%@55	8%	None		
Gilroy	2002	Police 2%@50	Police to 3%@50	9%	Police 2%@50	2011	9%
Gilroy	2007	Fire 2%@50	Fire to 3%@55	9%	Fire 2%@55	2011	7%
Los Altos	2004	MISC 2%@55	MISC to 2.7%@55	1%	None		
Los Altos	2003	Public Safety 2%@50	Public Safety to 3%@50	1%	None		
Los Altos Hills*		MISC 2%@55	None	0%	MISC 2%@60	2011	7%
Los Gatos	2008	MISC 2%@55	MISC to 2.5%@55	8%	2%@60	2012	7%
Los Gatos	2001	Public Safety 2.5%@55	Public Safety to 3%@60	9%	None		
Milpitas	2002	MISC 2%@55	MISC to 2.7%@55	8%	2%@60	2011	9%
Milpitas	2000	Public Safety 2%@50	Public Safety to 3%@50	9%	None		
Monte Sereno*		MISC 2%@55	No pension benefit changes	0%	None		
Morgan Hill	2006	MISC 2%@55	MISC to 2.5%@55	1-8%	None		
Morgan Hill	2002	Public Safety 2%@50	Public Safety Increase to 3%@50	9%	None		
Mountain View	2007	MISC 2%@55	MISC Increase to 2.7%@55	8%+	None		
Mountain View	2001	Public Safety 2%@50	Public Safety Increase to 3%@50	9%+	None		
Palo Alto	2007	MISC 2%@55	MISC Increase to 2.7%@55	2%-5.7%	2%@60	2010	2%
Palo Alto	2002	Public Safety 2%@50	Public Safety Increase to 3%@50	0%-9%	None		
San Jose		Federated 2.5%@55		4.68%	None		
San Jose		Public Safety 3%@50		10.50%	None		
Santa Clara	2006	MISC 2%@55	MISC Increase to 2.7%@55	8%	None		
Santa Clara	2000	Public Safety 2%@50	Public Safety to 3%@50	9%-11.25%	None		
Saratoga*		2%@55	No pension benefit changes	7%	None		
Sunnyvale	2007	MISC 2%@55	MISC Increase to 2.7%@55	1%	None		
Sunnyvale	2001	Public Safety 2%@50	Public Safety Increase to 3%@50	1%-3%	None		

** These cities contract out for public safety services, avoiding a direct benefit liability.*

Cities told the Grand Jury that as recently as 2003, and in 2007 for Campbell and Los Altos Hills, their plans were over funded. Assuming this trend would continue, Cities thought they could enhance Benefits without significantly increasing their costs. Analysis was performed to prove the enhancements could be funded. In hindsight, this did not prove to be the case because the analysis assumed the optimistic ROI would be achieved.

The County and a few of the cities attempted to recover some of the increased cost by increasing the employee paid contributions and by eliminating previously enhanced menu options. The Grand Jury learned that in some cases adequate funding was not in place to pay for the enhanced pension benefits at the time they were granted. Without solid plans to fund increases in pension benefit plans, Cities pushed the impact of these increases to future generations of taxpayers.

Nearly every City demonstrated an historical pattern of granting unfunded benefit enhancements as discussed here. This practice is beginning to change with the adoption by a few cities of second tier[26] plans that extend retirement age and reduce Benefit costs.

Table 5 shows that eight cities have adopted second tier plans. Other Cities may be in the process of adopting second tier plans but cannot report this fact because of ongoing union negotiations. Note that all new second tier plans continue to be the defined benefit type; none have adopted any form of defined contribution elements. While the creation of second tier plans will reduce the cost of providing pension benefits,[27] these savings will not materialize for many years. All risks associated with market losses remain with the Cities, and ultimately the taxpayers. Increasing employee contribution rates, subject to labor agreements, is the most effective method of controlling cost in the shortest amount of time.

<u>Low OPEB Funded Ratios</u>

As shown in Table 6, OPEB-funded ratios are low. These OPEB low-funded ratios and corresponding high unfunded liabilities are of concern to the Grand Jury. Cities are required to "pay forward"[28] for pensions, but not for OPEB. As a result, many cities only pay the minimum required to cover the current annual OPEB cost; no extra is paid to defray the cost of all current employees when they retire. The Cities referred to this as the "pay-as-you-go" strategy and results in very low-funded ratios—even zero percent. This strategy has resulted in San Jose's OPEB being $1,706,081,881 underfunded (refer back to Figure 2 for a comparison of San Jose's underfunded status relative to other cities and the County)

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[26] See Appendix C Glossary for definition.

[27] At the time of this report, the Grand Jury is not aware that Cities are considering OPEB changes in second tier plans.

[28] See Appendix C Glossary for definition.

Table 6: OPEB Funded Ratio

City	FY 2010 OPEB Funded Ratio[29]
Santa Clara County	10.10%
Campbell	4.00%
Cupertino[30]	0%
Gilroy	0%
Los Altos	0%
Los Altos Hills	23.40%
Los Gatos	2.70%
Milpitas	24.13%
Monte Sereno	0%
Morgan Hill	0%
Mountain View	55.90%
Palo Alto	19.00%
San Jose[31]	12.00%/6.00%
Santa Clara	22.80%
Saratoga	N/A
Sunnyvale[32]	0%

Mountain View, Sunnyvale and Cupertino are commended for having begun to implement a "pay forward" strategy, which demonstrates fiscal responsibility. One San Jose public official interviewed stated that the reason San Jose was not fully funding OPEB is that it could not be done without significant curtailment of services, effectively shifting the burden of payment to future generations.

Public Benefit Comparison to Private Sector Benefits

To put pubic employee Benefits into perspective, consider the average pension for Public Safety employees in Palo Alto retiring between the ages of 51 and 54 with 30 years of service is $108,000. In Sunnyvale, the same employee receives almost $102,000 per year. The most common pension plans offered to public employees who spend their entire career in the public sector not only discourage employees from

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[29] Some 2010 data is derived from 2009 Actuarial Valuations

[30] In 2010 and 2011 the city made payments of nearly $6.5M in excess of ARC to bring this up to 35.6%

[31] San Jose has separate OPEB funds for its employees

[32] In 2011 the city paid $32M in excess of ARC but impact on funded ratio has not yet been determined via actuarial evaluation

continuing to work beyond the age of 50 or 55, they penalize them for doing so. The CalPERS reported average pension of under $30,000 per year is misleading because it fails to recognize persons who receive multiple pensions. The Grand Jury learned that some employees actually earn more in retirement than they did while employed. Further, the ratio of active employees to retirees was found to be three to two.[33] With budget constraints leading to staffing reductions and as the baby boom generation approaches retirement age, this ratio is expected to continue downward, placing additional financial burdens on the Cities.

Public benefits are overwhelmingly of the defined benefit type (refer to Appendix C for the differences between defined benefits and defined contributions). While some private sector companies continue to offer defined benefits, the clear trend in the private sector is to transition away from defined benefits in favor of defined contributions, thereby transferring the risks associated with market performance from the employer to the employee. An additional advantage of the defined contribution is that it leads to less volatile City budgets over time because the cost of providing benefits is constant, not varying over time to compensate for market performance.

Determining in any meaningful way what might be considered "standard" private sector benefits for the purposes of comparing to public sector was clearly outside the scope of this investigation. That said, Bureau of Labor Statistics surveys show the majority of private pensions include participation in Social Security and a defined contribution plan such as a 401k. The employee and employer each contribute 6.2% of salary (currently up to $110,100 in salary) per year, to pay for Social Security benefits.

While the particulars of 401k plans vary widely, the surveys show that the majority of employees receive some form of matched savings plan described as follows. For every dollar the employee contributes to their own 401k, the employer will contribute some amount: 50 cents or less for most employees. Employees may be limited to the amount they can contribute and employers limit the amount they contribute by specifying that employer contributions cannot exceed a set percent of salary: four percent or less for most employees. As described, the majority of private sector employees contribute more than 50% of the total cost toward their own pensions (exactly 50% in the case of Social Security and greater than 50% of the 401k since an employer only contributes a portion of every dollar the employee contributes). Using 65 as a traditional retirement age, the differences between public and private benefits are summarized in Table 7.

The Grand Jury reviewed the survey results and observed the following for all first tier plan employees:

- All Public Safety employees, except Gilroy fire,[34] qualify for full retirement benefits no later than age fifty (assuming at least five years of service)

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[33] Half the Cities surveyed currently have more retirees than employees.

[34] Gilroy fire receives the same at age fifty-five rather than age fifty.

- All Public Safety employees, except Gilroy fire,[35] with thirty years of service credit receive no less than 90% of their salary in retirement, not considering annual COLA increases.

- All MISC employees qualify for retirement benefits no later than age fifty-five (assuming at least five years of service)

Table 7: Sample comparison of MISC Public versus Private Benefits[36]

Attributes	Public[37]	Private[38]
Percent of salary contributed by employee toward Benefits	7 - 8%	14 - 16%
Age pension may be drawn without an age-related reduction in eligible amount	55	65
Employee contribution for every dollar of employer contribution	50¢[39]	$1.40[40]
Retirement Income expressed as a percent of salary (assuming the retiree reaches full plan benefit age and works 35 or 45 years, respectively)	87.5%	66%[41]
Who bears the risk if market underperforms?	Taxpayer	Employee
Is subsidized retiree healthcare available?	Generally Yes	Generally No

- The majority[42] of MISC employees who work 35 years receive 87.5% of their salary in retirement before annual COLA increases.

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[35] Gilroy fire receives the same benefits at thirty-five years service rather than thirty years.

[36] The table is intended for comparison; it is not representative of all situations.

[37] Represented by participant in 2.5%@55.

[38] Represented by participant in Social Security and 401k Savings plan where employee contributes 8% salary and employer matches 50 cents per dollar.

[39] Based on CalPERS data for 2011. Actual varies by city; can be as high as 50¢ or as low as 5¢.

[40] Based on the Bureau of Labor statistics.

[41] This number assumes a $750K in retirement savings.

[42] Los Altos Hills, Monte Sereno and Saratoga are exceptions receiving 70% of salary.

In consideration of these statistics, and as shown in Table 7, the Grand Jury concludes:

- Full pension is attained at an earlier age in the public sector than in the private sector – some by ten years or more

- Pension earned, expressed as a percentage of salary, is greater in the public sector than in the private sector even after adjustment to account for non-participation in Social Security

- Employees in the public sector contribute less towards their pension plans than their private-sector counterparts

- Taxpayers in the public sector bear the risk of ROI and actuarial assumptions associated with the pension plan, whereas employees in the private sector bear the risk of market performance.

The Grand Jury acknowledges wages and salaries are a large portion of Cities' budgets, and when salaries escalate this further exacerbates budget shortfalls. It may be asserted that public sector salaries are lower than their private sector counterparts, thus, justifying more generous public benefits. Readers can explore whether this assertion is true by accessing publically available salary data.

Accrued Sick Leave Can Be Reimbursed

In general, the survey revealed no significant differences between the Cities in regard to holiday, vacation and sick leave policies. However, it is noted that all Cities surveyed except Gilroy, Monte Sereno, and Sunnyvale either reimburse for accrued unused sick time or permit it to be converted into service time for purposes of determining pension. Often reimbursement is at discounted rates and other times the amount of sick time that can be accrued is capped. Gilroy, Monte Sereno and Sunnyvale responded "No" to the survey question asking if accrued sick time is paid upon retirement, without proffering whether or not it could be converted into service time. However, the Grand Jury learned that sick time conversion to service credit is a common CalPERS benefit for all members of risk pools.

The survey revealed that the City of Santa Clara grants fire personnel on 24-hour shifts 288 hours of sick leave per year. Up to 96 hours per year can be accrued and paid (discounted to 75% of their hourly wage equivalent) for employees with 25 or more years of service.

San Jose's Plan

San Jose is the only city that does not use CalPERS to provide pension benefits (with the exception of the Mayor and Council members who get benefits in accordance with CalPERS 2%@55 plan). San Jose public employees have two independent plans: Federated and Public Safety. Federated Plan members are equivalent to those in a CalPERS Miscellaneous Plan. Public Safety members (police and fire) in San Jose are identical to Public Safety members in other Cities. The San Jose Federated and Public Safety plans share commonality with CalPERS 2.5%@55 and 3.0%@50 respectively with the following key differences:

- COLA is a guaranteed 3% compared to CalPERS' not-to-exceed 2%
- Employee-to-employer contribution ratio of three to eight (3:8)
- Money is invested and managed by the two governing Boards (the Federated Plan Retirement Board and the Public Safety Retirement Board) rather than by CalPERS, and San Jose performs its actuarial valuations independent of CalPERS
- San Jose participates in a Supplemental Retiree Benefit Reserve (SRBR) program.

Each of the major differences cited above is discussed in more detail below.

<u>3% Guaranteed COLA</u>

San Jose provides a guaranteed 3% COLA increase every year compared to a CalPERS base COLA which is "not to exceed an accumulated 2% per year".[43] The Grand Jury is unable to quantify the additional cost of increasing COLA. As mentioned previously, CalPERS does provide menu options for increased COLA (including 3%), but no other Cities have opted for this increase, citing cost as a reason.

<u>Three-to-Eight (3:8) Employee Contribution Ratio</u>

For every eight dollars San Jose spends on the Normal Cost of providing benefits (excluding the Past Service Cost portion of benefits that the employer pays entirely[44]) employees contribute $3-dollars. This differs substantially from CalPERS, which sets employee contribution as a percent of salary between 7% and 9% depending on the plan. As noted in Table 5, many Cities pay much of the employee contribution on behalf of the employees, further complicating any comparison. As noted in *Methodology,* the Grand Jury is reluctant to interpolate the data provided. The San Jose survey response shows that Federated employees pay 4.68% (of payroll) toward pension, which compares to CalPERS' MISC plan at 8%. San Jose's Public Safety employees pay approximately 10.5% (of payroll) toward pension, which compares to CalPERS' Public Safety plan at 9%.

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[43] As a function of inflation, CalPERS COLA has a clause protecting retirees from losing more than 20% of their buying power in retirement which could result in increases greater than 2%. When CPI is less than the 2% promised, CalPERS COLA also entails "banking" of COLA as unneeded credits that can be applied when CPI is greater than 2%. This results in annual COLA increase in excess of 2% when the CPI exceeds 2%.

[44] The ratio of Past Service Cost to Normal Cost (expressed in Percent Payroll) for Federated and Public Safety are: 15.58/12.76 and 22/27 respectively

From a cost perspective, there is insufficient data to determine if the 3:8 ratio results in net savings or increased cost to San Jose, compared to the CalPERS plan. However, excluding Past Service Cost from any form of employee cost sharing does result in San Jose paying a higher portion of the cost of providing Benefits.

Self-Managed Investing

The Federated and Public Safety Boards independently manage approximately $2B in assets each (approximately $4B total). Both currently assume a 7.5% ROI, similar to the recently adopted CalPERS ROI. As with CalPERS, these investment returns are expected to pay the majority of the costs for providing benefits. It is critical, therefore, to compare the actual investment performance to what is actuarially assumed, and it is useful to compare San Jose's investment performance to CalPERS.

As was shown in Figure 1, both Federated and Public Safety ROI for the last ten years has been below the actuarial assumptions but slightly better than what CalPERS did in the same time period. San Jose did not provide ROI data for 2011. The DJIA is shown in the figure for comparison purposes and is intended to show that both San Jose and CalPERS outperformed the general market (represented by DJIA) by a wide margin, yet still fell below the optimistic actuarial assumptions so critical to economic viability.

The largest advantage of managing one's own plans would seem to be the added flexibility it affords the city in tailoring retirement formulas to meet the needs and means of the city. Although there is little evidence the city is using this advantage in the current first tier plans (as noted, San Jose plans are both very similar to CalPERS plans offered), this advantage may be utilized if and when second tier plans are developed.

Supplemental Retiree Benefit Reserve (SRBR)

Recall from Table 3 that the combined pension unfunded liability for both the Federated Plan and the Public Safety Plan is $1,434,696,471. As has already been discussed and demonstrated, the largest single contributor to this is when the achieved ROI falls short of the actuarially assumed ROI. With this in mind, it is difficult to comprehend how responsible financial management would allow withdrawal of any portion of excess ROI whenever the market actually does out-perform the expected rate to be used to pay dividends in the form of an additional "thirteenth check"[45] to retirees. But this is exactly what the SRBR does. In the case of the Federated Plan, the market must only exceed the expected rate in a single year to permit withdrawal of a portion of the excess ROI for that year. For the same thing to happen in the Public Safety plan, the running five-year average must exceed the expected return rate to permit withdrawal.

[45] Generally, a windfall dividend payment.

It should be noted that San Jose has temporarily suspended the SRBR payouts. Although San Jose has suspended payouts, the funds remain in the account and San Jose has not used the payout to pay down its underfunded liability. In fact, the suspension merely delays eventual payment to retirees in the form of even larger "thirteenth checks." A better use for these excess funds might be to retain them to pay down the underfunded Benefits, as long as an underfunded liability exists.

Why Such Variance with Estimated Future Benefit Costs?

Much has been written regarding the predicted ARC cost for San Jose in FY 2015/2016. Published estimates vary in the range of $400M to as much as $650M. The latter figure represents a more than doubling of the current ARC of $245M per year—a rate of increase not seen in any of the other Cities.

The Grand Jury interviewed several key personnel associated closely with these predictions to determine why there is so much variability in the estimates. In particular, the Grand Jury wanted to answer the following questions:

- Were these predictions based on sound, factual data?
- Does $650M represent a worst case number or could it be higher?

The Grand Jury learned that a large set of assumptions factor into any actuarial valuation and many of these assumptions have complex interdependencies with one another. The actuarial valuation itself is a rigorous, precise mathematical calculation based upon these assumptions.

The ARC value can vary, from 400M to $650M or higher, when assumptions are adjusted. Just two of those actuarial assumption changes, by themselves, account for $120M of the $250M difference between the high and low estimate. These two assumption changes are:

- Longer life expectancy of Public Safety employees[46] than previously assumed
- Lower ROI rate.

Key personnel associated with making actuarial predictions gave an example where increasing the life expectancy of police and fire to be closer to the life expectancy of miscellaneous employees would increase the cost by approximately $40M. This is a reasonable assumption change to consider since it reflects demographic changes that CalPERS also has begun to reflect. In another assumption query, if the ROI were

[46] CalPERS has been recognizing this trend and several Cities cited this as being a contributor to unfunded liability

lowered by a whole percentage point to 6.5%, more in line with actual ROI for the last ten years, this would contribute an additional $80M to the cost of ARC. Importantly, the rationale for exploring a lower ROI was not to bring it into agreement with recent earnings history, but to move San Jose's portfolio from one of high risk and high volatility to a position of low risk and low volatility.

The $650M per year cost estimate is not a worst case number. Pension experts the Grand Jury interviewed stated that other actuarial assumption changes, within reason and easily justified, would result in ARC costs even higher than $650M per year. The Grand Jury understands that exploring these actuarial assumptions is justified. They help bring attention to the severity of the Benefits crisis and abate the trend of pushing financial problems to future generations of taxpayers.

Conclusions

Very optimistic actuarial assumptions result in lower ARC costs, leading to insufficient funding and causing unfunded liabilities. The most critical of these is the ROI, which is generally assumed to be 7.5%[47]. The actual ROI for the last ten years has been 6.1%. This underperformance is the largest contributor to the Cities' combined unfunded liability of over $7B. Future taxpayers are responsible for paying benefits that are being earned and collected today. Lowering the expected ROI—as recommended by leading economists and recognized financial experts—significantly increases ARC and further exacerbates attainment of balanced budgets. Public employee Benefits, especially after being enhanced retroactively, have been shown to be more generous than those found in the private sector and at an earlier retirement age. The amount a public employee contributes toward benefits is shown to generally be less than an employee in the private sector. As a result of lower public employee contribution rates toward their retirement, increasingly large ARC costs must be funded by taxpayer dollars. Ignoring this largesse will result in increased taxes combined with reduced services.

Average pensions are often cited in the range of $30,000, but these statistics can be misleading. For instance, they include persons whose careers lasted five years or part-time employees with longer service periods. Likewise, it can include employees who work an entire career in the public sector but for different public entities over the course of their careers. Each city that the employee worked for pays only its pro-rated portion of the retirees pension. Thus, the employee's actual pension is larger than the portion attributable to each public entity.

Tier 2 plans that Cities are implementing offer a modest reduction to the future liability, but do not significantly impact the unfunded liability in the short term. To address the short-term cost of the public Benefit crisis, possible solutions may be found in two

[47] Some OPEB ROI are at lower values.

elements of private sector benefits. The first is the need to reduce the level of benefits to be more comparable to those found in the private sector, inclusive of extending retirement age. Second, public employees must contribute a greater share towards their Benefits, particularly those employees who receive enhanced Benefits. Such solutions will reduce the burden the unfunded Benefits have placed upon current and future taxpayers.

As to the question of defined benefits versus defined contributions, public Benefits continue to be based on a defined benefit model versus the defined contribution model that private industry has moved toward. The defined contribution model works well in the public sector. It offers a working solution to the public sector as a means of reducing the risk of high-cost defined benefit plans. Benefit plans are heavily subsidized by pubic sector employers compared to the contributions of private sector employers.

The Grand Jury concludes that until significant modifications are enacted, there is no doubt that the escalating cost of providing Benefits at the current level is interfering with the delivery of essential City services and the ultimate cost to the taxpayers is an unbearable burden. These costs are already impacting delivery of essential services as demonstrated by San Jose reducing police and fire department staffing levels, closing libraries or not opening those newly built, curtailing hours of community centers, and not repairing pot-holed city streets. Other cities in the County are likely to face similar challenges as long as high cost benefit plans face an underfunding liability. Understanding how Cities created this problem through unfunded retroactive benefit enhancements, compounded by poor ROI, helps taxpayers understand that the problem will not go away on its own.

Findings and Recommendations

When the term Cities is used below, it includes the following: Santa Clara County; the cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, San Jose , Santa Clara, Saratoga, Sunnyvale; and the towns of Los Altos Hills and Los Gatos.

Finding 1

Public sector employees are eligible for retirement at least 10 years earlier than is common for private sector employees.

Recommendation 1

The Cities should adopt pension plans to extend the retirement age beyond current retirement plan ages.

Finding 2

Campbell, Gilroy, Los Altos Hills, Los Gatos, Milpitas and Palo Alto have adopted second tier plans that offer reduced Benefits, which help reduce future costs, but further changes are needed to address today's unfunded liability. Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale have not adopted second tier plans.

Recommendation 2A

Santa Clara County and the cities of Cupertino, Los Altos, Monte Sereno, Morgan Hill, Mountain View, San Jose, Santa Clara, Saratoga and Sunnyvale should work to implement second tier plans.

Recommendation 2B

For Gilroy, Los Gatos, Milpitas and Palo Alto, which have not implemented second tier plans for MISC and Public Safety second tier plans should be implemented for both plans.

Recommendation 2C

All Cities' new tier of plans should close the unfunded liability burden they have pushed to future generations. The new tier should include raising the retirement age, increasing employee contributions, and adopting pension plan caps that ensure pensions do not exceed salary at retirement.

Finding 3

Retroactive Benefit enhancements were enacted by Cities using overly optimistic ROI and actuarial assumptions without adequate funding in place to pay for them.

Recommendation 3

The Cities should adopt policies that do not permit Benefit enhancements unless sufficient monies are deposited, such as in an irrevocable trust, concurrent with enacting the enhancement, to prevent an increase in unfunded liability.

Finding 4

The Cities are making an overly generous contribution toward the cost of providing Benefits.

Recommendation 4A

The Cities should require all employees to pay the maximum employee contribution rate of a given plan.

Recommendation 4B

The Cities should require employees to pay some portion of the Past Service Cost associated with the unfunded liability, in proportion to the Benefits being offered.

Finding 5

The Cities are not fully funding OPEB benefits as evidenced by large unfunded liabilities and small funded ratios.

Recommendation 5

The Cities, should immediately work toward implementing policy changes and adopting measures aimed at making full OPEB ARC payments as soon as possible.

Finding 6

The City of San Jose permits the transfer of pension trust fund money, when ROI exceeds expectations, to the SRBR, despite the fact that the pension trust funds are underfunded.

Recommendation 6

The City of San Jose should eliminate the SRBR program or amend the SRBR program to prevent withdrawal of pension trust money whenever the pension-funded ratio is less than 100%.

Finding 7

The Cities' defined benefit pension plan costs are volatile. Defined contribution plan costs are predictable and therefore more manageable by the Cities.

Recommendation 7

The Cities should transition from defined benefit plans to defined contribution plans as the new tier plans are implemented.

Appendix A: Documents Reviewed

Report Name	Report Date	Document Source
Santa Clara County Comprehensive Annual Financial Report (CAFR)	30-Jun-10	www.sccgov.org/
Santa Clara County Comprehensive Annual Financial Report (CAFR)	30-Jun-11	www.sccgov.org/
City of Campbell CAFR	30-Jun-10	www.ci.campbell.ca.us/
City of Campbell CAFR	30-Jun-11	www.ci.campbell.ca.us/
City of Cupertino CAFR	30-Jun-10	www.cupertino.org/
City of Cupertino CAFR	30-Jun-11	www.cupertino.org/
City of Gilroy CAFR	30-Jun-10	www.cityofgilroy.org/
City of Gilroy CAFR	30-Jun-11	www.cityofgilroy.org/
City of Los Altos CAFR	30-Jun-10	www.ci.los-altos.ca.us/
City of Los Altos CAFR	30-Jun-11	www.ci.los-altos.ca.us/
Town of Los Altos Hills CAFR	30-Jun-10	www.losaltoshills.ca.gov/
Town of Los Gatos CAFR	30-Jun-10	www.town.los-gatos.ca.us/
City of Milpitas CAFR	30-Jun-10	www.ci.milpitas.ca.gov/
City of Monte Sereno CAFR	30-Jun-10	Monte Sereno city hall
City of Morgan Hill CAFR	30-Jun-10	www.morgan-hill.ca.gov/
City of Morgan Hill CAFR	30-Jun-11	www.morgan-hill.ca.gov/
City of Mountain View CAFR	30-Jun-10	www.ci.mtnview.ca.us/
City of Mountain View CAFR	30-Jun-11	www.ci.mtnview.ca.us/
City of Palo Alto CAFR (Revised December 21, 2010)	30-Jun-10	www.cityofpaloalto.org/
City of San Jose CAFR	30-Jun-10	www.sanjoseca.gov/
City of Santa Clara CAFR	30-Jun-10	www.santaclaraca.gov/
City of Saratoga CAFR	30-Jun-10	www.saratoga.ca.us/
City of Sunnyvale CAFR	30-Jun-10	www.sunnyvale.ca.gov/
Pension Sustainability: Rising Pension Costs Threaten the City's Ability to Maintain Service Levels - Alternatives For A Sustainable Future	29-Sep-10	www.sanjoseca.gov/auditor
Cities Must Rein in Unsustainable Employee Costs (Santa Clara County Grand Jury Report)	30-Jun-10	http://www.scscourt.org/court_divisions/civil/cgj/grand_jury.shtml
Running on Empty (San Mateo County Grand Jury Report)	30-Jun-11	www.sanmateocourt.org/court_divisions/grand_jury/
National Compensation Survey: Employee Benefits in Private Industry in the Untited States, 2005	1-May-07	www.bls.gov/ncs/home.htm
A Preliminary Analysis of Governor Brown's Twelve Point Pension Reform Plan (Prepared by CalPERS)	30-Nov-11	www.calpers.ca.gov/eip-docs/preliminary-analysis.pdf
CalPers Pension Benefit Primer	1-Oct-09	www.calpersresponds.com/downloads/Pension_Primer.pdf
More Pension Math: Funded Status, Benefits, and Spending Trends for California's Largest Independent Public Employee Pension Systems	21-Feb-12	www.cacs.org/images/dynamic/articleAttachments/7.pdf
Statement No. 45 of the Governmental Accounting Standards Board	30-Jun-04	Santa Clara County Finance Agency

Appendix B: Grand Jury Survey

Instructions: Please complete the questions below. The questionnaire consists of three sections: Section 1 covers questions regarding Pension Benefits, Section 2 covers questions regarding Other Post Employment Benefits and Section 3 covers questions regarding vacation and sick leave payout policy at time of retirement. Insert your responses directly into this file and return it in your email reply.

Please respond by Dec 19th to this questionnaire for both the fiscal year ending 6-30-2010 and the fiscal year ending 6-30-2011. If you have questions or require additional time, please reply via email as quickly as possible to allow sufficient time to resolve issues. Thank you.

Section 1: PENSION

1. How many defined pension plans do you have? Please identify them by name and answer all subsequent questions for each identified plan name.
2. Does CalPERS administer your pension fund? If not, please identify and describe the manner in which the pension plan is being administered.
3. Please provide a description of each defined pension plan that you provide to your employees.
   - At what age is an employee eligible for a pension?
   - How many years must an employee work to be vested for a pension?
   - Are employees required to make contributions to their own accounts? If so, what percent of their salary is paid toward their pension? Is there any annual or lifetime employee contribution cap?
   - Does the plan include cost-of-living allowance increases post retirement?
4. For each identified plan, what percent of an employee's income is earned toward retirement each year of employment?
   - For each identified plan, is there an identified maximum salary percent cap that can be earned in retirement?
5. Do plan participants contribute to Social Security?
6. For each identified plan, describe the formula for determining final compensation used in factoring a retiree's pension. Include number of months that income is averaged, whether or not overtime is included or excluded from this calculation, and whether or not any other form of employee payments other than base salary are included in the formula (awards, bonuses, travel compensation, etc.).
7. How much money was contributed in each of the last two fiscal years toward pensions (not including employee contributions)?
   - What percent was this of total payroll?
8. How much pension money was paid out in each of the last two fiscal years to retirees?
   - How many retired employees are currently collecting benefits?
   - How many active employees are there currently?
   - How many employees are within five years of being eligible for retirement?
9. For each plan, please identify and quantify all significant actuarial assumptions used in evaluation of ARC to include:
   a) Amortization period
   b) Investment rate of return
   c) Projected salary increases
   d) Overall payroll growth
   e) Inflation factor
   f) Smoothing duration
   g) Other, if applicable
10. What is the unfunded liability of each identified plan for the fiscal years 2010 and 2011?
11. Please indicate the major reasons for the unfunded liability. For each reason provided, indicate the approximate percentage of contribution to total unfunded liability.
12. What is the funded ratio of each identified plan for the fiscal years 2010 and 2011?
13. When was the last time the funds have been funded at the level of 100% or higher?
14. Have pension contributions ever been reduced from calculated ARC payments?
    - What year was the last time this happened?
15. Please summarize any significant changes to pension benefits over the last ten years for each plan.
    - For each, indicate if this was a pension benefit enhancement or reduction.
16. Please provide any evidence that indicates how projected pension costs are expected to change in the next 5 to 10 years. (Page referencing within an included URL or separate attachment with appropriate material is an acceptable response.)

17. Please provide any evidence of the strategies that are in work to reduce the rate of pension escalation. (Page referencing within an included URL or separate attachment with appropriate material is an acceptable response.)
18. For each plan, please provide evidence as to how pension fund past performance is doing relative to assumed performance for the last ten years. (Page referencing within an included URL or separate attachment with appropriate material is an acceptable response.)

Section 2: OTHER POST EMPLOYMENT BENEFITS

1. How many defined benefit plans do you have? Please identify them by name and answer all subsequent questions for each identified plan name.
2. Does CalPERS administer your OPEB fund? If not, please identify and describe the nature of the OPEB benefit plan being used.
3. Please provide a description of the OPEB benefits to include:
   - At what age is an employee eligible for a OPEB benefits?
   - How many years must an employee work to be vested for a OPEB benefits?
   - Are employees required to make contributions to their own OPEB benefits? If so, how much?
   - Are OPEB benefits limited to employees only or do they include additional family members? Identify any additional family members qualifying for OPEB benefits.
4. Is OPEB generally offering health care benefits (defined benefit) or is it making contributions (defined contribution) toward health care?
   - Are there caps in what is paid?
   - Who is at risk for escalating health costs; the employee or the employer?
5. How much money was contributed in each of the last two fiscal years to OPEB (not including any employee contribution)?
   - What percent of total payroll cost was this?
6. How much money was paid out in each of the last two fiscal years in OPEB benefits?
   - How many retired employees are currently collecting OPEB benefits?
   - How many current employees are there? (If the number of current employees is different here than provided above, please explain the difference.)
7. Please identify and quantify all significant actuarial assumptions used in evaluation of ARC to include:
   a) Amortization period
   b) Investment rate of return
   c) Projected health care increases
   d) Inflation factor
   e) Smoothing duration
   f) Other, if applicable
8. What is the OPEB unfunded liability of each identified plan for the fiscal years 2010 and 2011?
9. Please indicate the major reasons for the unfunded liability. For each reason provided, indicate the approximate percentage of contribution to total unfunded liability.
10. What is the funded ratio of each identified OPEB plan for the fiscal years 2010 and 2011?
11. When was the last time the funds have been funded at the level of 100% or higher?
12. Have OPEB contributions ever been reduced from calculated ARC payments?
    - What year was the last time this happened?
13. Please summarize any significant changes to OPEB benefits over the last ten years. For each, indicate if this was a benefit enhancement or reduction.
14. Please provide any evidence that indicates how much OPEB benefit costs are expected to rise in the next 5 to 10 years. (Page referencing within an included URL or separate attachment with appropriate material is an acceptable response.)
15. Please provide any evidence of plans that are in work to reduce future OPEB costs? (Page referencing within an included URL or separate attachment with appropriate material is an acceptable response.)
16. Please provide any evidence as to how OPEB fund past performance is doing relative to assumed performance? (Page referencing within an included URL or separate attachment with appropriate material is an acceptable response.)

Appendix B: Grand Jury Survey - continued

Section 3: VACATION AND SICK LEAVE ACCRUAL POLICIES

1. Please describe vacation policy to include:
   - How many vacation days are granted at what seniority levels?
   - Is there any limit to the amount of vacation time that can be accrued?
   - Is unused vacation paid upon retirement?
2. Please describe sick leave policy to include:
   - Is there any limit to the number of sick days allowed per year?
   - Is there any limit to the amount of sick days that can be accrued?
   - Are unused sick days paid upon retirement?

Appendix C: Glossary of Terms & Acronyms

Actuarial Assumptions: Assumptions representing expectations about future events (e.g. expected investment returns on plan assets, member retirement and mortality rates, future salary increases, or inflation) which are used by actuaries to calculate pension liabilities and contribution rates.

Actuarial Valuation: Technical reports conducted by actuaries that measure retirement plans' assets and liabilities to determine funding progress. They also measure current costs and contribution requirements to determine how much employers and employees should contribute to maintain appropriate benefit funding progress.

Actuary: Professionals who analyze the financial consequences of risk by using mathematics, statistics, and financial theory to study uncertain future events, particularly those of concern to insurance and pension programs. Pension actuaries analyze probabilities related to the demographics of the members in a pension plan (e.g., the likelihood of retirement, disability, and death) and economic factors that may affect the value of benefits or the value of assets held in a pension plan's trust (e.g., investment return rate, inflation rate, rate of salary increases).

Actuarial Accrued Liability (AAL): The value of benefits promised to employees and retirees for services already provided. This concept applies to both the pension liability and retiree health care liabilities.

Annual Required Contribution (ARC): The amount of money that actuaries calculate the employer needs to contribute to the retirement plan during the current year for benefits to be fully funded over time. Generally CalPERS uses a 30 year period.

CAFR: Acronym for Comprehensive Annual Financial Report

CalPERS: Acronym for California Public Employees' Retirement System

Defined Benefit: Promised fixed sum paid or service rendered. The assets in a defined benefit plan are held by the employer who incurs all investments risks. See also defined contribution.

Defined Contribution: Contributions made by an employer to an individual employees investment account such as a 401k. All investment gains or losses are those of the employee, not the employer. See also defined benefit.

Employer Paid Member Contribution (EPMC): A program whereby the city pays employee contribution in a manner in which the amount paid is considered income for the purposes of determining pension. As exemplified by one city, "For example, an employee with a $100K income and a 7% EPMC retires using a salary of $107K per year rather than $100K per year."

Experience Gains/Losses: Gains or losses that arise from the difference between actuarial assumptions about the future and actual outcomes in an organization's pension plan.

First tier (1st tier) plans: Benefits promised to all employees prior to the implementation of a second tier plan. First tier plans have generally been enhanced; contributing to the cost escalation. See also "second tier" in the Glossary.

Appendix C: Glossary of Terms & Acronyms - continued

Funded Ratio: The market value of assets divided by the accrued liability. Funded ratio is a measure of the economic soundness of a fund.

Market Gains/Losses: Gains or losses that arise from an increase or decrease in the market value of a plan's assets, including stock, real property, and investments.

Miscellaneous (MISC) employee/plan: Public employees who are not sworn police or fire. The term MISC generally is used to describe a pension plan. The city of San Jose refers to these employees as belonging to a Federated plan rather than a MISC plan.

Normal Cost: That portion of the ARC (see above) which is based solely on the value of the benefits being offered.

OPEB: Acronym for Other Post Employment Benefits. OPEB benefits are primarily health care benefits but can include other benefits such as life insurance.

Opt In Plan: Term used to designate an employee elective benefit plan; employees choose between maintaining current benefits but at an increased employee contribution rate or elect to receive lower benefits and avoid increases to employee contribution rates.

Risk Pool: In 2005 CalPERS created risk pools to aggregate small cities (generally defined as having less than 100 employees) into large pools to eliminate statistical anomalies associated with small sample sizes and gain reporting efficiencies.

ROI: Acronym for Return on Investment. See also Market Gains/Losses.

Public Safety Employees: Most police and fire personnel. Other public employees are generally referred to as miscellaneous employees (see above) and may include some members of police and fire departments.

Second tier (2nd tier) plans: Benefits promised to all employees hired after the date of implementing a plan with reduced benefits. Second tier plans generally have reduced benefits and lower costs. See also "first tier" in the Glossary.

Sidefund: Generally the unfunded liability that existed prior to entering a risk pool. A city is responsible for their entire sidefund plus their portion of the risk pool. Sidefund repayment can be accelerated. Some cities did not separate sidefund monies from ARC while others did.

Smoothing of Gains/Losses: Actuarial method of spreading, or smoothing, market gains and losses over a period of time. The purpose of smoothing is to minimize short-term, year-to-year contribution rate fluctuations which may result from market swings. The smoothed asset value is also known as the actuarial value of assets.

Unfunded Liability: This is the unfunded obligation for prior benefit costs, measured as the difference between the accrued liability and plan assets. When using the actuarial value of plan assets, it is also referred to as the Unfunded Actuarial Accrued Liability (UAAL).

This report was **PASSED** and **ADOPTED** with a concurrence of at least 12 grand jurors on this 17th day of May, 2012.

Kathryn G. Janoff
Foreperson

Alfred P. Bicho
Foreperson pro tem

James T. Messano
Secretary

COUNCIL AGENDA: 08-28-12
ITEM:

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Hans F. Larsen

SUBJECT: 2012 STREET RESURFACING PROJECT

DATE: August 6, 2012

Approved [signature] Date 8/13/12

RECOMMENDATION

Report on bids and take appropriate action based on the evaluation of bids for the 2012 Street Resurfacing Project.

OUTCOME

Approval of this construction contract will help maintain and preserve approximately seven miles of streets in the Priority Street Network approved by Council in March 2012. Resurfacing these streets will improve their structure and ride quality, and extend the useful life of the streets in order to defer more costly reconstruction. Approval of a 10% contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the project.

BACKGROUND

The Department of Transportation (DOT) annually schedules streets to be resurfaced as part of the City's Pavement Maintenance Program. Resurfacing is the application of approximately two inches of asphalt concrete (AC) over the existing pavement resulting in a smooth surface and stronger road section. As part of the project, deteriorated areas of the pavement are repaired, damaged traffic detection loops are replaced, and the striping and markings are re-installed. This contract specifies a resurfacing treatment on approximately seven miles of streets in the Priority Street Network. Information provided by the City's computerized Pavement Management System is used to identify candidate streets for resurfacing. The final list of streets to receive resurfacing is established using the following criteria:

- Priority Network Streets that provide the maximum condition benefit to the entire street network
- Streets in suitable condition for resurfacing
- Streets not affected by current or future street related projects

- Relative location of street segments to create multiple, continuous segments, consistency within neighborhoods, and project efficiency
- Appropriate geographical distribution of street maintenance over a multiple year period

The following table contains the list of streets to be resurfaced.

2012 Street Resurfacing Project

CD	STREET NAME	FROM	TO
4	N 1ST ST	HWY 237	TASMAN DR
6	ALMADEN AV	ALMA AV	REED ST
5	CAPITOL AV	CAPITOL EXPWY	WILBUR AV
2	POUGHKEEPSIE RD	BLOSSOM HILL RD	COTTLE RD
3,6	SANTA CLARA ST	STOCKTON AV	GUADALUPE BRIDGE
7	TULLY RD	MONTEREY HWY	2000' E/O MONTEREY HWY

ANALYSIS

Bids for this project are scheduled to be opened on August 16, 2012. A supplemental memo reporting the bid results and recommending appropriate action based on a bid evaluation will be provided prior to the August 28, 2012 City Council meeting. Placing this item on the City Council agenda before the bid results are received and evaluated will save time and help ensure that the project is completed this construction season.

Council policy provides for a standard contingency of five percent on projects involving street resurfacing and sealing. Staff is requesting a 10% contingency for this project because the existing pavement conditions and location of underground utilities may be different than anticipated. The proposed 10% contingency will provide the funding necessary for the proper completion of the project. If an additional budget appropriation is required to fund any unanticipated work, it could result in delays to the project schedule and potentially increased costs associated with the delay. Therefore, it is recommended that a 10% contingency amount be approved for this project.

Construction is scheduled to begin in September 2012 and will be completed before the end of December 2012.

EVALUATION AND FOLLOW-UP

Staff will provide a report to the Transportation and Environment Committee on the topic of pavement maintenance which is scheduled for December 2012.

PUBLIC OUTREACH/INTEREST

☑ **Criterion 1:** Requires Council action on the use of public funds equal to $1 million or greater; **(Required: Website Posting)**

☐ **Criterion 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)**

☐ **Criterion 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)**

To solicit contractors, this project was listed on the City's Internet Bid Line and advertised in the *San José Post Record* and bid packages for this construction project were also provided to various contractor organizations and builders' exchanges. In addition, when the project commences, the contractor, as stated in the specifications, will provide advance notification regarding working hours, duration of project, and any appropriate schedule and lane closures to affected businesses and residents. To inform traveling motorists of upcoming construction activities and potential traffic delays, changeable message signs may be used on selected streets stating the schedule dates and time for work to occur on the street.

This placeholder award memo will be posted on the City's website for the Council agenda and the supplemental memo will be posted on line during the week of August 20, 2012.

COORDINATION

This memo has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

This project supports the Transportation and Aviation Services City Service Area goal to *Preserve and Improve Transportation Assets and Facilities* and aligns with the Pavement Maintenance Core Service goal of keeping the Priority Street Network in "good" condition.

COST IMPLICATIONS

1. COST OF PROJECT:

Project Delivery/Development	$415,000.00
Construction Contract	$4,150,000.00
Contingency	$415,000.00
TOTAL PROJECT COSTS:	$4,980,000.00

2. COST ELEMENTS OF CONSTRUCTION CONTRACT:

Adjust Manhole, Valves, Monuments	$103,926.00
Traffic Signals and Electrical Work	$24,320.00
Asphalt Concrete Pavement	$3,379,200.00
Concrete Work	$397,550.00
Traffic Striping/Markings	$112,204.00
Police Traffic Control and Misc. Items	$62,800.00
Fluctuations for Paving Asphalt (Binder) Compensation Adjustment for Price Index	$70,000.00
TOTAL CONSTRUCTION CONTRACT COSTS:	$4,150,000.00

3. SOURCE OF FUNDING: 465 - Construction Excise Tax Funds

4. FISCAL IMPACT: This project will have no net operating and maintenance costs to the General Fund.

BUDGET REFERENCE

The table below identifies the funding source for the contract recommended as part of this memo, including project delivery, construction, and contingency costs.

Fund #	Appn #	RC #	Appn. Name	Total Appn	Estimated Amt. for Contract	2012-2013 Proposed Capital Budget Page	Last Budget Action (Date, Ord. No.)
465	7440	171985	Pavement Maintenance-Measure B	$5,000,000	$4,565,000	V-683	06/19/2012, Ord. No. 29102
Total Current Funding Available =				**$5,000,000**	**$4,565,000**		

CEQA

Exempt, File No. PP11-035.

/s/
HANS F. LARSEN
Director of Transportation

For questions please contact Rene Cordero, Division Manager of Infrastructure Maintenance, at 794-1986.