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Direct Dial Number

July 25, 2011

Alex Gurza, Deputy City Manager
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113



**Re: IAFF Local 230, SJPOA and City of San Jose
(Pension Reform Negotiations)**

Dear Alex:

At our last meeting on July 13, you asked whether Local 230 was willing to discuss possible alterations in pension benefits for active and retired members of the San Jose Police and Fire Retirement Plan.

I write to confirm my response that Local 230 is not categorically ruling out from negotiations any particular changes. But Local 230 recognizes that there are constitutional limitations on the power of the parties to effect invested pension rights and benefits.

For example, in 2008 the Jones Day law firm, by written memorandum to Richard Doyle, City Attorney for the City of San Jose, provided a detailed and erudite explanation of the vested rights doctrine. Among the points made in this memorandum is the key conclusion, succinctly stated on page 21 as follows:

California law is consistent with analogous private sector cases, [citations omitted] as well as cases in other states dealing with public employment rights, [citations omitted] which have followed the rule that vested contractual rights may not be bargained away without the consent of the employee.

Local 230 is open to consider any and all ideas and proposals for dealing with the challenge before us regarding pension reform. As I stated during our meeting on the 13th, and as I reiterate now, if the City possesses any particular legal authority or published opinion to support any particular proposal to change benefits for current active employees or annuitants, please provide copies to us.

Within the context of the vested right doctrine, Local 230 had on the table since February of this year a proposal for a restructured opt-in benefit package for current employees. The City has costed that proposal by identifying the impact to normal cost and unfunded actuarially accrued liability, and we would like to see the details that cost out.

Similarly, we now request that you identify what portion of the existing unfunded actuarially accrued liability may be apportioned to current active and retired firefighters for the City of San Jose. This request for information is important since we need to understand the "nut" figure that the parties essentially must consider and address.

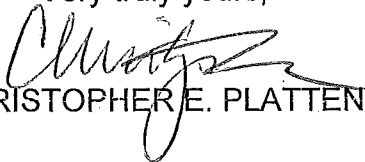
It is also important to know this figure is since my review of the videotape of the June 24, 2011 council meeting indicates that the pension challenge before us must be addressed not only as pension reform, but also in terms of alternative budget approaches and proposals for enhanced revenue.

In addition, we request any cost out that the City has done relative to the ballot measure proposal that you provided to us on July 13, 2011.

In summary, Local 230 requests that you provide us with (1) any legal authority in support of any proposal the City wishes to make regarding changes in benefits to current actives or retired firefighters, indicating that those changes are lawful under the vested rights doctrine; (2) a complete breakdown of the City's actuarial cost out of Local 230's February, 2011 opt-in proposal; (3) an explanation of that segment of the UAAL attributed to current active firefighters and annuitants; and (4) a cost out of the ballot measure proposal provided to us on July 13th.

As you know, I will be on vacation until August 10, 2011. I look forward to receiving a complete response to this information request upon my return,

Very truly yours,


CHRISTOPHER E. PLATTEN

CEP:Imt

cc: Robert Sapien, President IAFF Local 230
Jeff Welch, Vice President IAFF Local 230
Sean Kaldor, IAFF Local 230
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