

**SENT VIA EMAIL**

February 11, 2015

Paul Kelly  
President, POA  
1151 N. Fourth Street  
San Jose, CA 95112

**Re: Measure B**

Dear Paul:

As we have previously discussed, the City is looking forward to working with you in order to settle the issues surrounding Measure B. The City is committed to explore ways to achieve a global settlement involving both changes to Measure B and resolution of the related litigation and administrative actions, including an openness to working on a solution that would take place in 2015.

During the past five years, all City employees made sacrifices to help the City address its significant budget deficits, including reductions in total compensation. Despite these sacrifices, however, the City still had to reduce its workforce and its services significantly in order to bring the budget into balance. Measure B was intended to achieve additional savings to begin restoration of those services.

As you know, we have already achieved approximately \$18M in annual General Fund savings from the elimination of the Supplemental Retiree Benefit Reserve ("SRBR" or the "13<sup>th</sup> Check") as well as the implementation of a second tier of retirement benefits for new employees. In addition, changes in retiree healthcare have also provided the City with an approximate \$7M in additional General Fund savings. These savings have assisted in helping to bring our General Fund budget in balance and we have slowly begun to restore pay to City employees and make some limited investments in critical service areas. Unfortunately, however, there is limited capacity to make significant progress in service restoration to the levels the organization would like to provide and the community deserves.

With that reality, the City Council's goal continues to be to restore services to at least the levels as of January 1, 2011, in the areas of police, fire, community centers, libraries, and street maintenance. In addition, the City Council also adopted a Police Sworn Staffing Restoration Strategy as part of their adoption of the 2014-2015 Budget. Although there was no General Fund funding toward street maintenance at the time the January 1, 2011 goal was developed, significant additional funding is required to keep our pavement condition from further deterioration. As discussed at the January 20, 2015 and February 3, 2015, public Study Sessions, approximately \$83M is needed to meet these objectives:

<b>Ongoing Funding Needs</b>	
January 1, 2011 Service Levels	\$ 37 M
Police Sworn Staffing Restoration Strategy (12 additional positions to reach 1,250 sworn positions)	\$ 2 M
Street Maintenance	\$44 M
<b>Total General Fund</b>	<b>\$ 83 M</b>

The City currently estimates that if Measure B were fully implemented, there would be an additional \$49M in General Fund savings to help fund these services through the implementation of a Tier 1 additional contributions/opt-in program (after four years) (\$46 million in estimated savings) and instituting a disability workers' compensation offset (\$3 million in estimated savings).

However, in the interest of exploring ways to settle the issues surrounding Measure B, the City Council has significantly lowered the additional savings expectations from Measure B from \$46M to \$25M and is committed to exploring additional funding sources to make up the balance to \$83M. It is recognized that this will need to be a multi-year approach; it is not expected that the funding needed nor the service restoration can be achieved in one year.

If the current savings for retiree healthcare and the elimination of SRBR are continued, the following is one proposed solution:

<b>Proposed Solutions to Address \$83 M in Funding Needs</b>	
2016 ¼ % Sales Tax ( <i>w/ potential sunset after 9 to 15 years</i> )	\$38 M
City Share for Streets from 2016 VTA Sales Tax Measure	\$10 M
Retiree Healthcare Cost Savings	\$ 5 M
Institute Disability Workers' Compensation Offset	\$3 M
Police Tier 2 Savings ( <i>Discounted from Estimated \$3 Million</i> )	<u>\$ 2 M</u>
<b>Proposed Other Solutions Subtotal</b>	<b>\$ 58 M</b>
<b>Target Additional Savings for Measure B Negotiations (In addition to the \$25M already achieved)</b>	<b><u>\$ 25 M</u></b>
<b>Subtotal</b>	
<b>Total Proposed Solutions to Address Funding Needs</b>	<b>\$83 M</b>

We are committed to working collaboratively with our bargaining units to achieve this savings goal. We respectfully request and welcome for consideration additional ideas to achieve the savings and a global resolution. In addition to lowering the anticipated additional savings goal from Measure B, the City would also like to include the following topics as part of a global settlement of Measure B:

- A compromise regarding the revised definition of disability
- An agreement on an offset for Workers' Compensation for POA and IAFF employees who leave City service on a disability retirement, as already existing for non-sworn employees.
- Discussion regarding increasing the Tier 2 benefit
- Continue the elimination of the Supplemental Retiree Benefit Reserve (SRBR)
- Willingness to discuss foregoing the emergency provisions related to the Cost of Living Adjustment (COLA).
- Continue to address the significant issues surrounding Retiree Healthcare in hopes that we can achieve at least \$5M in General Fund savings.

These elements are open to discussion and we look forward to meeting with you at the bargaining table as we work together to achieve the global settlement all parties would like to see. Your input in this effort is critical.

We have received a request from the POA and IAFF to be allowed to speak to the City Council in closed session. As has been discussed with the attorneys for the bargaining units who made that suggestion, that is not a legal purpose for which the Council can meet in closed session.

An alternative is for the bargaining units to participate in in our Labor Negotiations Updates which occur every Tuesday morning in the Council Chambers prior to the City Council adjourning in closed session. We would also welcome your presence to speak and/or present at the Pension Study Session that is currently scheduled on March 16, 2015, at 1:30 pm, with an extended time period for comment and/or presentation.

As you know, there is currently a stipulation in place that holds in abeyance the additional 4% in wage reductions as well as the revised definition of disability for Tier 1 employees until July 1, 2015. The City is open to working towards a solution that could take place in 2015 and is willing to discuss options to do that as part of an overall agreement. However, we believe that these are very complex discussions and want to ensure that the parties have time to work through all issues. Therefore, the City is interested in extending the stipulation to delay the wage reductions and revised disability definition for Tier 1 until January 1, 2017. We believe extending this stipulation will lower the significant concerns on the part of our employees regarding a potential 4% pay decrease in July 2015.

We request the bargaining units who are subject to the litigation to agree to the extension so that we can avoid the 4% wage reduction to our workforce. We have received communication from Gregg Adam, the attorney for the POA, on behalf of the bargaining units who are part of the litigation, that the Unions will not agree to an extension of the stipulation. We ask that you reconsider the City's offer to extend the stipulation. We are open to considering extending the stipulation to any shorter length of time if you believe extending to January 1, 2017, is either unwarranted or unnecessary.

Re: Measure B  
February 11, 2015  
Page 4 of 4

We look forward to beginning negotiations promptly in order to achieve a global settlement and put this litigation behind us. If there are any remaining issues that are preventing the bargaining units from beginning negotiations, please let us know so we can seek resolution as soon as possible.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Norberto Duenas". The signature is fluid and cursive, with a long horizontal stroke at the end.

Norberto Duenas  
Interim City Manager

c: Jennifer Schembri, Interim Director of Employee Relations  
Charles Sakai, Labor Consultant  
Gregg Adam, Carroll, Burdick & McDonough LLP