



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer Schembri

**SUBJECT:** SEE BELOW

**DATE:** June 19, 2020

Approved

Date

6/19/2020

**SUBJECT: APPROVAL OF THE TERMS OF THE SIDE LETTER AGREEMENTS AND AN ORDINANCE TO AMEND THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN AND THE 1975 FEDERATED EMPLOYEES' RETIREMENT PLAN REGARDING REPAYMENT OF THE REHIRED TIER 1 MEMBER AMORTIZATION INTEREST COSTS**

## **RECOMMENDATION**

- (a) Adopt a resolution to approve the terms of the two Side Letter Agreements (Agreements) between the City of San Jose (City) and the eleven bargaining units related to the Rehired Tier 1 employees interest costs.
- (b) Approve an ordinance to amend Section 3.2820 of Chapter 3.28 and Section 3.36.410 of Chapter 3.36 of Title 3 of the San Jose Municipal Code regarding Rehired Tier 1 Member Amortization Interest Costs to clarify certain provisions of the Alternative Pension Reform Settlement Framework Agreement with the City's employee bargaining units.

## **OUTCOME**

Council approval of this item will result in the City paying a one-time lump sum payment that has been calculated by the Retirement Boards' actuary to satisfy the present value of the future member interest payments.

## **BACKGROUND**

As part of Measure B, employees who were previously Tier 1 members, but left City employment, were required to become Tier 2 members upon re-employment with the City. Members of both the Police and Fire Department Retirement Plan and the Federated City Employees' Retirement System had several people fall into this category of reclassified employee.

In 2015, the City and the eleven (11) bargaining units agreed in the Alternative Pension Reform Framework Agreements that anyone who came back to the City as Tier 2, but retained their Tier 1 contributions in the retirement funds, would be able to be reclassified retroactively to Tier 1. Based on the initial terms of the Agreements, the members and the City split the costs to place the employees retroactively into Tier 1 on a 1:1 ratio. This also includes any interest costs associated with the repayment amounts. The Retirements Boards determined that the interest rate would be set to mirror the discount rate of 6.75%.

The City and the 11 bargaining units reached a side letter agreement that Rehired Tier 1 Employees are individually responsible for their portion of the costs, including any unfunded liability, of transitioning from Tier 2 to Tier 1, and each signed individual agreements confirming his or her obligations. The employees of each retirement plan pay a Retirement Board-approved additional contribution rate each pay period to pay down the individual balances owed. The Federated Retirement Plan's additional contribution rate is 3.0% and the Police and Fire Retirement Plan's additional contribution rate is 1.96%. The employees pay this additional contribution rate on different individual amortization periods, depending on how long the Rehired Tier 1 Employee was in Tier 2 prior to being transitioned back to Tier 1.

The Retirement Boards approved an annual statement to be provided to the Rehired Tier 1 employees to ensure there is awareness of the repayment amounts each employee owes. The 2019 Annual Report showed several members were accruing more interest than they were paying down in balance principal, as shown below:

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Member Balance on 3/24/2019 \$ 46,197.00

Member Payments

<u>Payment Date</u>	<u>Amount</u>
4/12/2019	\$ 0.00
4/26/2019	\$ 101.25
5/10/2019	\$ 101.25
5/24/2019	\$ 101.25
6/7/2019	\$ 101.25
6/21/2019	\$ 101.25

Total Payments: \$ (506.25)

Interest at 6.75% \$ 813.97

Member Balance on 6/30/2019 \$ 46,504.72

If an employee does not pay their individual amortization amount before leaving City service, they either have to pay the entire balance within 60 days of termination or have a pro-rated pension benefit based on their leftover balance. Because it was not the intent that some employees balance would increase each year, it was determined that the City would pay future interest costs so that employees can begin to pay down the principal amounts owed without their balances increasing each year due to interest.

Based on this information, the City and the eleven bargaining units agreed to Side Letter Agreements dated June 3, 2020 (Police and Fire) and June 11, 2020 (Federated) that would allow the City to pay any future interest costs from the effective date of the Municipal Code changes to allow employees to begin to pay the principal of their amortization balances. (See Attachments A and B).

**ANALYSIS**

The City and the 11 bargaining units agreed in the attached Side Letters Agreements to amend the [original side letters](#) and Ordinance adopted by City Council on December 4, 2018, to state that the interest on the total UAL increase will be paid for by the City, on behalf of the Rehired Tier 1 Member, beginning with the first pay period after the adoption of the attached Ordinance in a lump sum amount.

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Each Retirement Board contracts with an actuary and both boards contract with Cheiron. Cheiron provided an estimate to the City of the costs associated with the present value of the future member interest payments. The estimated cost for the Federated Plan's Tier 1 Rehired employees is \$193,000 and the estimated costs for the Police and Fire Plan's Tier 1 Rehired employees is \$114,000. The total lump sum estimated cost is \$307,000. It is important to note that the estimates provided were based on a May 1, 2020 implementation date. In light of the effective date of the Ordinance projected to be in July, the City will be asking for an updated cost from the Boards' actuary. It is unlikely that the cost will vary significantly as the implementation date will only change by approximately three months.

### **CONCLUSION**

The Council action taken today will approve lump sum payments to be made to the Federated City Employees' Retirement Plan and the Police and Fire Department Retirement Plan to pay the present value of the Rehired Tier 1 Members amortization interest costs.

### **EVALUATION AND FOLLOW-UP**

If the Council approves the proposed Ordinance for publication, the Ordinance will be placed on the Council agenda for final approval on June 30, 2020, and become effective 30 days later.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the June 23, 2020 Council Meeting.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney and Budget Offices.

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### **COMMISSION RECOMMENDATION/INPUT**

The Ordinance was provided to the Police and Fire Department Plan Retirement Board for its June 4, 2020 meeting and to the Federated City Employees' Retirement Plan Board for its June 18, 2020 meeting for review and comment. The Boards' counsel has provided comments that were incorporated into the Ordinance.

### **COST SUMMARY/IMPLICATIONS**

The Retirement Boards' actuary, Cheiron, calculated the estimated present value of the interest payments to be a total of \$307,000 (\$193,000 for Federated and \$114,000 for Police and Fire). Cheiron will be asked to provide an updated calculation of the present value of the future interest. If the result is a significant change to the estimated cost, the City will notify the City Council. As the costs are widely distributed across City departments, these interest payments are expected to be absorbed within existing departmental appropriations. The Administration will monitor all expenditure appropriations during the fiscal year, and, if necessary, recommend any adjustments as part of a future budget process.

### **CEQA**

CEQA: Not a Project, File No. PP17-008, General Procedure or Policy Making.



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Resources

For questions, please contact Cheryl Parkman, Assistant to the City Manager, at (408) 535-8152.