

# CITY OF SUNNYVALE

*The Heart of Silicon Valley™*

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January 24, 2017

Santa Clara County Civil Grand Jury  
Superior Court  
Attn: Tamara L. Davis, Deputy Manager, Jury Services  
191 North First Street  
San Jose, CA 95113

**RECEIVED**

JAN 27 2017

**CIVIL GRAND JURY**

**RE: December 21, 2016 Request Regarding 2011-12 Report, "Analysis of Pension and Other Post-Employment Benefits"**

Dear Ms. Davis:

This letter is in response to your email dated December 21, 2016, requesting follow-up on certain items related to the report titled "Analysis of Pension and Other Post-Employment Benefits," prepared by the 2011-12 Santa Clara County Civil Grand Jury. As noted in your letter, on August 23, 2012 the City of Sunnyvale ("City") provided a response to that report, consistent with the requirements of Penal Code section 933.05.

Generally, the responses in the City's August 2012 response remain accurate, with the exception of the two issues noted below.

First, as noted in the original response, the City is a member of CalPERS; CalPERS rules for pensions are governed by state law and cannot be changed at the local level. In 2013, state law was amended when the Public Employees' Pension Reform Act ("PEPRA") was enacted. This law, which applies to the City as a member of CalPERS, substantially changed the pension landscape for CalPERS employers and new CalPERS members (employees newly hired by CalPERS member agencies on or after January 1, 2013), and provided solutions that addressed many of the issues raised in the 2012 report as well as other prevailing concerns in 2012 related to public pensions in California. As an example, five of the six findings applicable to the City are addressed (fully or partially) with the passage of PEPRA. CalPERS maintains an excellent web page which provides detailed summaries and information regarding PEPRA, which is among the best resources for general education and information on that law:

<https://www.calpers.ca.gov/page/employers/policies-and-procedures/pension-reform-impacts> .

Second, in the four years since the 2012 report was issued, the City has analyzed and chosen not to fully implement recommendation 4A, which suggested that cities should require all employees to pay the maximum employee contribution rate of a given plan. New hires subject to PEPRA pay one half of the normal cost as required by law. For employees not subject to PEPRA ("Tiers 1 and 2"), however, changing the contribution is subject to bargaining, and negotiation strategies are informed by actuarial information received annually. While the City agrees in concept that employees paying the full amount of the employee PERS share is a

good principle, to date, the City has only partially implemented recommendation 4A for Tiers 1 and 2, with employees currently paying 4% of the employee share (7 or 8 percent depending on the applicable CalPERS formula). The City Council approved this approach during several recently concluded labor negotiations, finding that it was appropriate at this time given (1) the complexity of bargaining during a positive economic business cycle, and (2) information provided by the City's actuary demonstrating that granting employees a commensurate salary increase for paying more of the employee PERS share (a typical demand in negotiations coming out of the recession and common outcome in many agencies) would actually cost the City more in the long-run and result in a greater increase to the City's unfunded liability over maintaining the employee-paid share at 4%. In basic terms, the greater the increase to salaries, the larger the final pension benefit becomes, so controlling the salary increase has a greater impact to the City's bottom line than controlling the employee contribution.

To ensure transparency for the purpose of departing from the City's original pension strategy, the City's actuarial firm, Bartel & Associates, made presentations to bargaining groups and the City Council, and presented at forums where employees were invited to listen to their findings and conclusions. In addition, the City of Sunnyvale is known nationally for its 20-year financial planning, and determined that over the next 20 years, the number of active Tier 1 and Tier 2 employees will substantially decrease, thereby reducing the normal cost for this set of employees without unnecessarily increasing the unfunded liability for the next 50 years. In fact, an action to continue implementation would work in contrast to the goals expressed in the Grand jury report.

We trust this responds to your inquiry. The letter was referred to the City Manager's Office from the Mayor for response. The City Manager's Office, rather than the City Council, treated your letter as an information request and prepared this response.<sup>1</sup> If the authority for your request requires a different response, please advise us of that authority.

Sincerely,



Deanna J. Santana  
City Manager

cc: Mayor Glenn Hendricks  
City Council  
City Attorney  
Director of Human Resources  
Director of Finance

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<sup>1</sup> The December 2016 letter does not indicate that the current Grand Jury prepared a report on this issue to Penal Code section 933 that would require a response approved by the City Council under Penal Code section 933.05, and Penal Code section 939.9 does not permit a grand jury to adopt as its own recommendation the recommendation of another grand jury without a separate investigation.