RD:SSH
6/7/10

RESOLUTION NO

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING IMPLEMENTATION OF THE TERMS CONTAINED IN THE CITY'S LAST, BEST AND FINAL OFFER TO THE CITY ASSOCIATION OF MANAGEMENT PERSONNEL, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21 (CAMP), EFFECTIVE JUNE 27, 2010

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the implementation of the City of San José's Last, Best and Final Offer to the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP) is hereby approved. The City Manager is hereby authorized to implement the terms of the City of San José's Last, Best and Final Offer on CAMP, effective June 27, 2010.

2. The terms of the City of San José's Last, Best and Final Offer to CAMP dated May 27, 2010 are set out and described in the memorandum to the Mayor and City Council from the Director of Employee Relations, dated June 4, 2010, attached hereto as Attachment A, and incorporated in this Resolution.

ADOPTED this _____ day of _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
CHUCK REED
Mayor

ATTEST:

_____
LEE PRICE, MMC
City Clerk

T-118118 \ 664884 doc
Council Agenda: 6-15-10
Item No.: 3.2
DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.

ATTACHMENT A

COUNCIL AGENDA: 06/15/10
ITEM: 3.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: June 4, 2010

Approved

Date 6/4/10

SUBJECT: **APPROVAL OF IMPLEMENTATION OF TERMS CONTAINED IN THE CITY'S LAST, BEST AND FINAL OFFER TO THE CITY ASSOCIATION OF MANAGEMENT PERSONNEL, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, (CAMP)**

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution approving the implementation of the terms of the City's Last, Best and Final Offer for employees represented by the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21, (CAMP), effective June 27, 2010.

OUTCOME

Adoption of the resolution and authorization to implement the terms contained in the City's Last, Best and Final Offer for employees represented by CAMP, effective June 27, 2010. Implementation of terms does not result in implementation of a Memorandum of Agreement (MOA).

BACKGROUND

In November 2009, the City Council in open session approved a goal of reducing the total ongoing employee compensation by 5%. In March 2010, the City Council approved the Mayor's Budget Message, which expanded the goal to include an additional 5% in personnel cost savings, including ongoing or one-time savings. As a result, the goal was to achieve a total compensation reduction of 10%. "Total compensation" is the total cost to the City of pay and benefits, including base pay, retirement contributions, health insurance and other benefits. Total compensation is calculated using budgeted salary and fringe benefit costs for the bargaining unit.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

The City of San Jose has a labor agreement with the City Association of Management Personnel (CAMP), which expires June 30, 2010. CAMP currently represents approximately 393 full time budgeted positions. This unit includes employees such as Senior Analysts and Program Managers.

CAMP was first contacted to begin negotiations in February 2010 and negotiations commenced in April 2010. The City and CAMP have met approximately five (5) times. The parties reached impasse on May 12, 2010, and began the impasse procedures under Employee-Employer Relations Resolution No. 39367, which is engaging in mediation. On May 19, 2010, the parties engaged in the mediation process. Unfortunately, the parties were unable to reach agreement.

The City provided CAMP with its Last, Best and Final Offer on May 27, 2010, which is attached.

Pursuant to the Meyers-Milias-Brown Act under California Government Code Section 3505.4, if after meeting and conferring in good faith, an impasse has been reached between the public agency and the recognized employee organization, and impasse procedures, where applicable, have been exhausted, a public agency that is not required to proceed to interest arbitration may implement its last, best and final offer, but shall not implement a memorandum of understanding.

CAMP has been notified that this item was being placed on the Council Agenda for implementation of the terms contained in the City's Last, Best and Final Offer for employees represented by CAMP.

ANALYSIS

The following is a summary of the terms contained in the City's Last, Best and Final Offer that would be implemented for employees represented by CAMP:

Wages	Reduce current base pay by approximately 4.70% effective June 27, 2010. This will result in both the top and bottom of the pay range being reduced by approximately 4.70%.
Healthcare Cost Sharing	Currently, the City pays ninety (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten (10%) of the premium for the lowest priced plan for employee or employee and dependent coverage. Effective June 27, 2010, the City will pay eighty five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen (15%) of the premium for the lowest priced plan for employee or employee and dependent coverage.
Healthcare HMO Plan Design	The current HMO Plan Design provides for $10 office visit co-pay, $5 generic and $10 brand name prescription co-pays, and a $50 emergency room co-pay.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Effective July 1, 2010, co-pays for all available HMO plans shall be as follows:

a. $25 office visit co-pay
b. $10 generic/$25 brand name prescription co-pay
c. $100 emergency room co-pay
d. $100 inpatient/outpatient procedure co-pay

Healthcare Dual Coverage

Effective July 1, 2010, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependent of another City employee or retiree.

Healthcare Payment-In-Lieu

Currently, employees who have other health and/or dental coverage are eligible for a health-in-lieu and/or dental-in-lieu amount of 50% of the City's premium. This results in a formula that increases as the City's costs towards healthcare increases. The current in-lieu amounts are as follows:

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	250.31	24.44
If NOT eligible for family coverage:	100.54	24.44

Effective June 27, 2010, employees who qualify for and participate in payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	221.84	19.95
If NOT eligible for family coverage:	89.09	19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed NOT eligible for family coverage.

This changes the current formula from a percentage to a fixed dollar amount and will reduce the increases in the health in-lieu program in the future.

Disability Leave Supplement

Reduce maximum supplemental pay benefit from nine (9) calendar months (1560 hours) to six (6) calendar months (1040 hours).

Sick Leave Payout

Effective June 27, 2010, modify calculation of payout from a maximum of 75% of final hourly rate for accruals between 800 and 1200 hours, to a maximum of 60% of final hourly rate for accruals between 400 and 1200 hours for current employees. Distribution of payouts for employees who retire before June 27, 2010, shall be made no later than February 1, 2011.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

For employees hired on or after June 27, 2010, modify calculation of payout to a maximum of 750 hours at 25% of final hourly rate. Employees who do not retire directly from active City service will no longer be eligible for this benefit.

For employees who separate from City service on or before June 26, 2010, and who have 15 years of service, they will receive a sick leave payout upon their retirement at the rate that was available at the time of their separation.

Employees would be eligible for only one sick leave payout while employed by the City, including breaks in employment.

Retirement Cost Mitigation

CAMP shall commence meeting and conferring on retiree healthcare benefits for future employees, a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees within 15 calendar days after the City provides notification to CAMP. Any changes to pension costs and benefits for current employees will be in accordance with applicable law.

Ineligibility if Offer and Decline of Modified Duty

Employees shall be voluntarily separated from City service if the City offers the employee temporary modified duty at identical or similar rate of pay, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he or she is physically qualified. Any such separations will comply with the ADA.

Additional Retirement Contribution

Effective June 27, 2010 through June 28, 2011, employees will make an additional retirement contribution in the amount of 7.5% of pensionable compensation, and this amount will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability. This additional employee retirement contribution would be in addition to the employee retirement contribution rates as approved by the Federated City Employees' Retirement System Board.

In the event the additional retirement contribution can not be implemented or is ceased for any reason, employees would instead have their base pay temporarily reduced by the equivalent amount of 5% in total compensation.

EVALUATION AND FOLLOW-UP

Other than adoptions of retirement contribution ordinances, staff does not anticipate any follow-up actions necessary at this time.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

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)**

This item meets Criterion 2. This memorandum will be posted on the City's website for the June 15, 2010, Council Agenda.

COORDINATION

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

COST IMPLICATIONS

These terms meet the goal of a 10% total compensation reduction, including 5% in an ongoing total compensation reduction and another 5% in a one-time total compensation reduction. The implementation of these terms will reduce the total compensation for employees represented by the City Association of Management Personnel (CAMP). The calculated savings to the City is approximately $5.59 million in all funds and approximately $2.6 million in the General Fund. These cost savings are projected based on the Fiscal Year 2010-2011 Base Budget. It should be noted, however, that the actual amount of General Fund and all funds savings would need to be adjusted to reflect the City Manager's 2010-2011 Proposed Operating Budget as amended/approved by the City Council, any associated impacts on revenue from lower overhead or other reimbursements, any adjustments to the cost-recovery fee program, and the actual healthcare costs for each individual employee based upon eligibility, elections for coverage and the associated funding source.

Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachments

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

2010 CAMP NEGOTIATIONS
LAST, BEST AND FINAL OFFER

TERM

Term: July 1, 2010 – June 30, 2011

PAY

See Attached (City Proposal #2)

HEALTH INSURANCE COST SHARING

See Attached (City Proposal #3)

HEALTH INSURANCE PLAN DESIGN

See Attached (City Proposal #4)

HEALTH INSURANCE DUAL COVERAGE

See Attached (City Proposal #5)

HEALTH INSURANCE- HEALTH IN LIEU

See Attached (City Proposal #6)

SICK LEAVE PAYOUT

See Attached (City Proposal #8)

RETIREMENT COST MITIGATION

See Attached (City Proposal #10 & #11)

DISABILITY LEAVE SUPPLEMENT

See Attached (City Proposal #12)

INELIGIBILITY IF OFFER AND DECLINE OF MODIFIED DUTY

See Attached (City Proposal #13)

ADDITIONAL 5% TOTAL COMPENSATION REDUCTION (ONE-TIME)

See Attached (City Proposal #15)

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #2 - PAY

Proposed Language

SALARY

- ~~Each employee shall receive a general wage increase of 3.75% effective June 29, 2008.~~

  - ~~The pay range for the classification of Parking/Ground Transportation Administrator shall be aligned to be equivalent to the Senior Analyst pay range effective June 29, 2008.~~

  - ~~The pay range for the classification of Contract Compliance Coordinator shall be aligned to be equivalent to the Senior Analyst pay range effective June 29, 2008~~

- ~~Each employee shall receive a general wage increase of 1.5% effective June 28, 2009.~~

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to CAMP, shall be decreased by approximately 4.70%. This will result in the top and bottom of the range of all classifications represented by CAMP being 4.70% lower. All employees will receive a 4.70% base pay reduction.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #3- HEALTH INSURANCE COST SHARING FORMULA

Proposed Language

HEALTH INSURANCE

~~The City pays 90% of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays 10% of the premium for the lowest priced plan up to a maximum of $150 per month. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.~~

Effective January 1, 2009, the City pays 90% of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays 10% of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

Effective June 27, 2010, the City shall pay eighty-five percent (85%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #4- HEALTH INSURANCE PLAN DESIGN

Proposed Language

Effective January 1, 2009, the following plan design changes shall be implemented for all HMO plans:

- Office visit co-pay: $10
- Prescription co-pay: $5 for generic and $10 for brand name (The Blue Shield HMO will continue to include $15 non-formulary drug co-pay.)
- Emergency Room co-pay: $50

Effective July 1, 2010, the following plan design changes shall be implemented for all HMO plans:

- Office visit co-pay shall be increased to $25
- Prescription co-pay shall be increased to $10 for generic and $25 for brand name
- Emergency Room co-pay shall be increased to $100
- Inpatient/Outpatient procedure Co-pay shall be increased to $100

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #5- HEALTH INSURANCE DUAL COVERAGE

Proposed Language

HEALTH INSURANCE

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

DENTAL INSURANCE

An employee may not be simultaneously covered by City-provided dental benefits as a City employee, and as a dependent of another City employee or retiree.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #6- MODIFICATIONS TO HEALTH IN LIEU

Proposed Language

HEALTH AND DENTAL IN LIEU

The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have alternative health and/or dental insurance coverage to drop the City's insurance and receive a payment in lieu equal to one-half of the City's contribution toward health and/or dental coverage.

Effective June 27, 2010, employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive the following per payperiod:~~:~~

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	$221.84	$19.95
If NOT eligible for family coverage	$89.09	$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may choose, during open enrollment or within thirty (30) days of a qualifying event, to drop health and/or dental coverage and receive a payment in-lieu ~~equal to one-half of the City's contribution toward health and/or dental coverage~~. To qualify, the employee must prove acceptable alternate group coverage and work 35+ hours/week.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #8- SICK LEAVE PAYOUT

Proposed Language

SICK LEAVE PAYOUT

Members of the Federated City Employees' Retirement System who retire with at least fifteen (15) years of service are eligible to receive, upon retirement directly from City service, payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 399 Hours	50% of final hourly rate
400 – 799 Hours	60% of final hourly rate
800 – 1,200 Hours	75% of final hourly rate

Distribution of payouts to eligible employees in accordance with the above, who retire before June 27, 2010, shall be made no later than February 1, 2011.

Effective June 27, 2010, members of the Federated City Employees' Retirement System who retire with at least fifteen (15) years of service are eligible to receive, upon retirement directly from City service, payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 399 Hours	50% of final hourly rate
400 – 1200 Hours	60% of final hourly rate

Effective June 27, 2010, ~~I~~if employee's balance is greater than 1,200 hours, employee is also eligible for a payout of ~~75~~60% of the value of sick leave in excess of 1,200 hours that is earned but unused during the two (2) years prior to retirement. This provision shall not be applicable to employees hired on or after June 27, 2010.

Employees hired by the City on or after June 27, 2010, and who are eligible for distribution of payouts, shall receive a payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 750 Hours	25% of final hourly rate

Employees who separate from City service on or before June 26, 2010, and who have 15 years of service, shall be eligible for a sick leave payout upon retirement at the rate that was available at the time of their separation.

Employees are only eligible for one sick leave payout while employed by the City of San Jose, including breaks in employment.

*Part-time and temporary employees **are not eligible** for this benefit.*

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #10 & #11 – RETIREMENT COST MITIGATION

Proposed Language

RETIREE HEALTHCARE FUNDING

The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this section.

The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.

It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

The City will establish a qualified trust ("Trust") ~~before June 27, 2010~~. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

~~HEALTHCARE COST MITIGATION~~ RETIREMENT BENEFITS REOPENER

The parties agree to commence meeting and conferring ~~between January 1, 2011, and January 19, 2011~~within fifteen (15) calendar days of the City providing written notice to CAMP, on retiree healthcare benefits for future employees, ~~and~~ a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees.

The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested represented bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than fifteen (15) calendar days after the City provides written notice to CAMP~~January 19, 2011~~ with or without participation of any other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.

If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this means that the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. ~~The City agrees that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, 2011.~~

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #12 – DISABILITY LEAVE

Proposed Language

DISABILITY LEAVE

If required to be absent from work due to a work related illness or injury, employees may receive a supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of ~~nine (9)~~six (6) months (~~274 days or 1560~~1040 hours if used intermittently).

*Part-time and temporary employees **are not eligible** for this benefit.*

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #13 –INELIGIBILITY IF OFFER AND DECLINE OF MODIFIED DUTY

Proposed Language

DISABILITY LEAVE

An employee shall be voluntarily separated from City service if the City offers the employee temporary modified duty at identical or similar rate of pay, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he or she is physically qualified.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

CITY PROPOSAL #15 – ADDITIONAL 5% TOTAL COMPENSATION REDUCTION (ONE-TIME)

Proposed Language

ADDITIONAL RETIREMENT CONTRIBUTION

Effective June 27, 2010 through June 28, 2011, all employees will make an additional retirement contribution in the amount of 7.5% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability, which includes the current service deficiency and prior service deficiency for basic retirement benefits and current service deficiency and prior service deficiency for the cost-of-living (COL) retirement benefit. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board. The intent of this additional retirement contribution by employees is to reduce the City's required pension retirement contribution rate by a commensurate 7.5% of pensionable compensation, as illustrated below:

Federated (Fiscal Year 2010-2011)			
	City	Employee	Total
Current Contribution Rates	29.59%	10.30%	39.89%
Contribution Rates With Additional Employee Contributions	22.09%	17.80%	39.89%

Note: Additional contributions made by employees do not affect the retiree healthcare rates

These contributions shall be treated in the same manner as any other employee contributions. Accordingly, the intent of these additional payments will be made on a pre-tax basis through payroll deductions pursuant to IRS Code Section 414(h)(2) and will be subject to withdrawal, return and redeposit in the same manner as any other employee contributions.

In the event that the additional employee contributions are not implemented by June 27, 2010, the additional employee contribution will increase to make up for the missed contributions. For each pay period commencing after June 27, 2010, in which the additional employee contribution rate is not increased, the additional dollar amount that would have been contributed had the increased rate been implemented on June 27, 2010, will be divided by the number of missed pay periods and that amount will be collected over the same number of pay periods after the increased rate has been implemented. For example, if the additional contributions do not begin until August 22, 2010 (pay period #18) the employee contributions for each of the subsequent four (4) pay periods would include both the contribution for the current pay period and a contribution for one (1) missed pay period.

The parties understand that in order to implement this provision, an amendment must be made to the Federated City Employees' Retirement System that requires an ordinance amending the San Jose Municipal Code. In addition, the parties understand that the City will request that the Federated City Employees'

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Retirement System Board have its actuary confirm that an increase of the employee contribution of 7.5% will reduce the City's contribution rate by 7.5%.

In the event that these additional employee retirement contributions are not implemented for any reason by September 1, 2010, or are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary confirms that the City's contribution rate could not be reduced by the same 7.5%, no additional employee contributions shall be required and the equivalent amount of 5% of total compensation would be taken as a temporary base pay reduction with retroactive deductions taken as described above.

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

ATTACHMENT A

COUNCIL AGENDA: 06/15/10
ITEM: 3.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: June 4, 2010

Approved

Date 6/4/10

SUBJECT: **APPROVAL OF IMPLEMENTATION OF TERMS CONTAINED IN THE CITY'S LAST, BEST AND FINAL OFFER TO THE CITY ASSOCIATION OF MANAGEMENT PERSONNEL, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, (CAMP)**

COUNCIL DISTRICT: N/A
SNI AREA: N/A

RECOMMENDATION

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OUTCOME

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BACKGROUND

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DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

The City of San Jose has a labor agreement with the City Association of Management Personnel (CAMP), which expires June 30, 2010. CAMP currently represents approximately 393 full time budgeted positions. This unit includes employees such as Senior Analysts and Program Managers.

CAMP was first contacted to begin negotiations in February 2010 and negotiations commenced in April 2010. The City and CAMP have met approximately five (5) times. The parties reached impasse on May 12, 2010, and began the impasse procedures under Employee-Employer Relations Resolution No. 39367, which is engaging in mediation. On May 19, 2010, the parties engaged in the mediation process. Unfortunately, the parties were unable to reach agreement.

The City provided CAMP with its Last, Best and Final Offer on May 27, 2010, which is attached.

Pursuant to the Meyers-Milias-Brown Act under California Government Code Section 3505.4, if after meeting and conferring in good faith, an impasse has been reached between the public agency and the recognized employee organization, and impasse procedures, where applicable, have been exhausted, a public agency that is not required to proceed to interest arbitration may implement its last, best and final offer, but shall not implement a memorandum of understanding.

CAMP has been notified that this item was being placed on the Council Agenda for implementation of the terms contained in the City's Last, Best and Final Offer for employees represented by CAMP.

ANALYSIS

The following is a summary of the terms contained in the City's Last, Best and Final Offer that would be implemented for employees represented by CAMP:

Wages	Reduce current base pay by approximately 4.70% effective June 27, 2010. This will result in both the top and bottom of the pay range being reduced by approximately 4.70%.
Healthcare Cost Sharing	Currently, the City pays ninety (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten (10%) of the premium for the lowest priced plan for employee or employee and dependent coverage. Effective June 27, 2010, the City will pay eighty five percent (85%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee will pay fifteen (15%) of the premium for the lowest priced plan for employee or employee and dependent coverage.
Healthcare HMO Plan Design	The current HMO Plan Design provides for $10 office visit co-pay, $5 generic and $10 brand name prescription co-pays, and a $50 emergency room co-pay.

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Effective July 1, 2010, co-pays for all available HMO plans shall be as follows:

a. $25 office visit co-pay
b. $10 generic/$25 brand name prescription co-pay
c. $100 emergency room co-pay
d. $100 inpatient/outpatient procedure co-pay

Healthcare Dual Coverage

Effective July 1, 2010, employees may no longer be simultaneously covered by City-provided medical and/or dental benefits as a City employee and as a dependent of another City employee or retiree.

Healthcare Payment-In-Lieu

Currently, employees who have other health and/or dental coverage are eligible for a health-in-lieu and/or dental-in-lieu amount of 50% of the City's premium. This results in a formula that increases as the City's costs towards healthcare increases. The current in-lieu amounts are as follows:

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	250.31	24.44
If NOT eligible for family coverage:	100.54	24.44

Effective June 27, 2010, employees who qualify for and participate in payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	221.84	19.95
If NOT eligible for family coverage:	89.09	19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed NOT eligible for family coverage.

This changes the current formula from a percentage to a fixed dollar amount and will reduce the increases in the health in-lieu program in the future.

Disability Leave Supplement

Reduce maximum supplemental pay benefit from nine (9) calendar months (1560 hours) to six (6) calendar months (1040 hours).

Sick Leave Payout

Effective June 27, 2010, modify calculation of payout from a maximum of 75% of final hourly rate for accruals between 800 and 1200 hours, to a maximum of 60% of final hourly rate for accruals between 400 and 1200 hours for current employees. Distribution of payouts for employees who retire before June 27, 2010, shall be made no later than February 1, 2011.

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For employees hired on or after June 27, 2010, modify calculation of payout to a maximum of 750 hours at 25% of final hourly rate. Employees who do not retire directly from active City service will no longer be eligible for this benefit.

For employees who separate from City service on or before June 26, 2010, and who have 15 years of service, they will receive a sick leave payout upon their retirement at the rate that was available at the time of their separation.

Employees would be eligible for only one sick leave payout while employed by the City, including breaks in employment.

Retirement Cost Mitigation

CAMP shall commence meeting and conferring on retiree healthcare benefits for future employees, a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees within 15 calendar days after the City provides notification to CAMP. Any changes to pension costs and benefits for current employees will be in accordance with applicable law.

Ineligibility if Offer and Decline of Modified Duty

Employees shall be voluntarily separated from City service if the City offers the employee temporary modified duty at identical or similar rate of pay, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he or she is physically qualified. Any such separations will comply with the ADA.

Additional Retirement Contribution

Effective June 27, 2010 through June 28, 2011, employees will make an additional retirement contribution in the amount of 7.5% of pensionable compensation, and this amount will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability. This additional employee retirement contribution would be in addition to the employee retirement contribution rates as approved by the Federated City Employees' Retirement System Board.

In the event the additional retirement contribution can not be implemented or is ceased for any reason, employees would instead have their base pay temporarily reduced by the equivalent amount of 5% in total compensation.

EVALUATION AND FOLLOW-UP

Other than adoptions of retirement contribution ordinances, staff does not anticipate any follow-up actions necessary at this time.

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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)**

This item meets Criterion 2. This memorandum will be posted on the City's website for the June 15, 2010, Council Agenda.

COORDINATION

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

COST IMPLICATIONS

These terms meet the goal of a 10% total compensation reduction, including 5% in an ongoing total compensation reduction and another 5% in a one-time total compensation reduction. The implementation of these terms will reduce the total compensation for employees represented by the City Association of Management Personnel (CAMP). The calculated savings to the City is approximately $5.59 million in all funds and approximately $2.6 million in the General Fund. These cost savings are projected based on the Fiscal Year 2010-2011 Base Budget. It should be noted, however, that the actual amount of General Fund and all funds savings would need to be adjusted to reflect the City Manager's 2010-2011 Proposed Operating Budget as amended/approved by the City Council, any associated impacts on revenue from lower overhead or other reimbursements, any adjustments to the cost-recovery fee program, and the actual healthcare costs for each individual employee based upon eligibility, elections for coverage and the associated funding source.

Alex Gurza
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations, at (408) 535-8150.

Attachments

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

2010 CAMP NEGOTIATIONS
LAST, BEST AND FINAL OFFER

TERM

Term: July 1, 2010 – June 30, 2011

PAY

See Attached (City Proposal #2)

HEALTH INSURANCE COST SHARING

See Attached (City Proposal #3)

HEALTH INSURANCE PLAN DESIGN

See Attached (City Proposal #4)

HEALTH INSURANCE DUAL COVERAGE

See Attached (City Proposal #5)

HEALTH INSURANCE- HEALTH IN LIEU

See Attached (City Proposal #6)

SICK LEAVE PAYOUT

See Attached (City Proposal #8)

RETIREMENT COST MITIGATION

See Attached (City Proposal #10 & #11)

DISABILITY LEAVE SUPPLEMENT

See Attached (City Proposal #12)

INELIGIBILITY IF OFFER AND DECLINE OF MODIFIED DUTY

See Attached (City Proposal #13)

ADDITIONAL 5% TOTAL COMPENSATION REDUCTION (ONE-TIME)

See Attached (City Proposal #15)

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CITY PROPOSAL #2 - PAY

Proposed Language

SALARY

- ~~Each employee shall receive a general wage increase of 3.75% effective June 29, 2008.~~

  - ~~The pay range for the classification of Parking/Ground Transportation Administrator shall be aligned to be equivalent to the Senior Analyst pay range effective June 29, 2008.~~

  - ~~The pay range for the classification of Contract Compliance Coordinator shall be aligned to be equivalent to the Senior Analyst pay range effective June 29, 2008~~

- ~~Each employee shall receive a general wage increase of 1.5% effective June 28, 2009.~~

Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to CAMP, shall be decreased by approximately 4.70%. This will result in the top and bottom of the range of all classifications represented by CAMP being 4.70% lower. All employees will receive a 4.70% base pay reduction.

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CITY PROPOSAL #3- HEALTH INSURANCE COST SHARING FORMULA

Proposed Language

HEALTH INSURANCE

~~The City pays 90% of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays 10% of the premium for the lowest priced plan up to a maximum of $150 per month. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.~~

Effective January 1, 2009, the City pays 90% of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays 10% of the premium for the lowest priced plan. If the employee selects a plan other than the lowest priced plan, the employee pays the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan.

Effective June 27, 2010, the City shall pay eighty-five percent (85%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay fifteen percent (15%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.

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CITY PROPOSAL #4- HEALTH INSURANCE PLAN DESIGN

Proposed Language

Effective January 1, 2009, the following plan design changes shall be implemented for all HMO plans:

- Office visit co-pay: $10
- Prescription co-pay: $5 for generic and $10 for brand name (The Blue Shield HMO will continue to include $15 non-formulary drug co-pay.)
- Emergency Room co-pay: $50

Effective July 1, 2010, the following plan design changes shall be implemented for all HMO plans:

- Office visit co-pay shall be increased to $25
- Prescription co-pay shall be increased to $10 for generic and $25 for brand name
- Emergency Room co-pay shall be increased to $100
- Inpatient/Outpatient procedure Co-pay shall be increased to $100

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CITY PROPOSAL #5- HEALTH INSURANCE DUAL COVERAGE

Proposed Language

HEALTH INSURANCE

An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

DENTAL INSURANCE

An employee may not be simultaneously covered by City-provided dental benefits as a City employee, and as a dependent of another City employee or retiree.

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CITY PROPOSAL #6- MODIFICATIONS TO HEALTH IN LIEU

Proposed Language

HEALTH AND DENTAL IN LIEU

The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have alternative health and/or dental insurance coverage to drop the City's insurance and receive a payment in lieu equal to one-half of the City's contribution toward health and/or dental coverage.

Effective June 27, 2010, employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive the following per payperiod:~~:~~

	Health In-Lieu	Dental In-Lieu
If eligible for family coverage:	$221.84	$19.95
If NOT eligible for family coverage	$89.09	$19.95

A City employee who receives healthcare coverage as a dependent of another City employee or retiree shall be deemed not eligible for family coverage.

An employee may choose, during open enrollment or within thirty (30) days of a qualifying event, to drop health and/or dental coverage and receive a payment in-lieu ~~equal to one-half of the City's contribution toward health and/or dental coverage~~. To qualify, the employee must prove acceptable alternate group coverage and work 35+ hours/week.

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CITY PROPOSAL #8- SICK LEAVE PAYOUT

Proposed Language

SICK LEAVE PAYOUT

Members of the Federated City Employees' Retirement System who retire with at least fifteen (15) years of service are eligible to receive, upon retirement directly from City service, payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 399 Hours	50% of final hourly rate
400 – 799 Hours	60% of final hourly rate
800 – 1,200 Hours	75% of final hourly rate

Distribution of payouts to eligible employees in accordance with the above, who retire before June 27, 2010, shall be made no later than February 1, 2011.

Effective June 27, 2010, members of the Federated City Employees' Retirement System who retire with at least fifteen (15) years of service are eligible to receive, upon retirement directly from City service, payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 399 Hours	50% of final hourly rate
400 – 1200 Hours	60% of final hourly rate

Effective June 27, 2010, ~~I~~if employee's balance is greater than 1,200 hours, employee is also eligible for a payout of ~~75~~60% of the value of sick leave in excess of 1,200 hours that is earned but unused during the two (2) years prior to retirement. This provision shall not be applicable to employees hired on or after June 27, 2010.

Employees hired by the City on or after June 27, 2010, and who are eligible for distribution of payouts, shall receive a payout for a portion of their unused earned sick leave at the rate of:

Accrued Sick Leave Hours	Sick Leave Payout
0 – 750 Hours	25% of final hourly rate

Employees who separate from City service on or before June 26, 2010, and who have 15 years of service, shall be eligible for a sick leave payout upon retirement at the rate that was available at the time of their separation.

Employees are only eligible for one sick leave payout while employed by the City of San Jose, including breaks in employment.

*Part-time and temporary employees **are not eligible** for this benefit.*

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CITY PROPOSAL #10 & #11 – RETIREMENT COST MITIGATION

Proposed Language

RETIREE HEALTHCARE FUNDING

The City and the Employee Organization agree to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this section.

The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.

It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be divided into five steps (using a straight line method), each to be effective on the first pay period of the City's fiscal year in each succeeding year. The first increment of the phase-in shall be effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of each increase may vary upward or downward. The City and Employee Organization agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, the City and plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

The City will establish a qualified trust ("Trust") ~~before June 27, 2010~~. Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

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~~HEALTHCARE COST MITIGATION~~ RETIREMENT BENEFITS REOPENER

The parties agree to commence meeting and conferring ~~between January 1, 2011, and January 19, 2011~~within fifteen (15) calendar days of the City providing written notice to CAMP, on retiree healthcare benefits for future employees, ~~and~~ a medical reimbursement program for future retirees, and pension benefit/costs for current and future employees.

The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested represented bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than fifteen (15) calendar days after the City provides written notice to CAMP~~January 19, 2011~~ with or without participation of any other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.

If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this means that the City will have the right to unilaterally implement in the event that no agreement is reached at the conclusion of negotiations and mandatory impasse procedures. ~~The City agrees that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, 2011.~~

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CITY PROPOSAL #12 – DISABILITY LEAVE

Proposed Language

DISABILITY LEAVE

If required to be absent from work due to a work related illness or injury, employees may receive a supplement which, when added to the Workers' Compensation Temporary Disability, equals 85% of the employees' base salary, up to a maximum of ~~nine (9)~~six (6) months (~~274 days or 1560~~1040 hours if used intermittently).

*Part-time and temporary employees **are not eligible** for this benefit.*

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CITY PROPOSAL #13 –INELIGIBILITY IF OFFER AND DECLINE OF MODIFIED DUTY

Proposed Language

DISABILITY LEAVE

An employee shall be voluntarily separated from City service if the City offers the employee temporary modified duty at identical or similar rate of pay, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he or she is physically qualified.

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CITY PROPOSAL #15 – ADDITIONAL 5% TOTAL COMPENSATION REDUCTION (ONE-TIME)

Proposed Language

ADDITIONAL RETIREMENT CONTRIBUTION

Effective June 27, 2010 through June 28, 2011, all employees will make an additional retirement contribution in the amount of 7.5% of pensionable compensation, and the amounts so contributed will be applied to reduce the contributions that the City would otherwise be required to make during that time period for the pension unfunded liability, which includes the current service deficiency and prior service deficiency for basic retirement benefits and current service deficiency and prior service deficiency for the cost-of-living (COL) retirement benefit. This additional employee retirement contribution would be in addition to the employee retirement contribution rates that have been approved by the Federated City Employees' Retirement System Board. The intent of this additional retirement contribution by employees is to reduce the City's required pension retirement contribution rate by a commensurate 7.5% of pensionable compensation, as illustrated below:

Federated (Fiscal Year 2010-2011)			
	City	Employee	Total
Current Contribution Rates	29.59%	10.30%	39.89%
Contribution Rates With Additional Employee Contributions	22.09%	17.80%	39.89%

Note: Additional contributions made by employees do not affect the retiree healthcare rates

These contributions shall be treated in the same manner as any other employee contributions. Accordingly, the intent of these additional payments will be made on a pre-tax basis through payroll deductions pursuant to IRS Code Section 414(h)(2) and will be subject to withdrawal, return and redeposit in the same manner as any other employee contributions.

In the event that the additional employee contributions are not implemented by June 27, 2010, the additional employee contribution will increase to make up for the missed contributions. For each pay period commencing after June 27, 2010, in which the additional employee contribution rate is not increased, the additional dollar amount that would have been contributed had the increased rate been implemented on June 27, 2010, will be divided by the number of missed pay periods and that amount will be collected over the same number of pay periods after the increased rate has been implemented. For example, if the additional contributions do not begin until August 22, 2010 (pay period #18) the employee contributions for each of the subsequent four (4) pay periods would include both the contribution for the current pay period and a contribution for one (1) missed pay period.

The parties understand that in order to implement this provision, an amendment must be made to the Federated City Employees' Retirement System that requires an ordinance amending the San Jose Municipal Code. In addition, the parties understand that the City will request that the Federated City Employees'

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Retirement System Board have its actuary confirm that an increase of the employee contribution of 7.5% will reduce the City's contribution rate by 7.5%.

In the event that these additional employee retirement contributions are not implemented for any reason by September 1, 2010, or are ceased for any reason thereafter, or the Federated City Employees' Retirement System Board's actuary confirms that the City's contribution rate could not be reduced by the same 7.5%, no additional employee contributions shall be required and the equivalent amount of 5% of total compensation would be taken as a temporary base pay reduction with retroactive deductions taken as described above.

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