



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: April 5, 2011

Approved

Date

4/5/11

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21, UNITS 41/42 AND UNIT 43 (AEA)

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

RECOMMENDATION

Adoption of a resolution:

- (a) To approve the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042, and authorizing the City Manager to execute an agreement with a term of July 1, 2011, through June 30, 2013.
- (b) To approve the terms of a collective bargaining agreement between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute an agreement with a term of July 1, 2011, through June 30, 2013.

OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in collective bargaining unit agreements between the City of San Jose and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 (AEA) for the period of July 1, 2011, through June 30, 2013.

EXECUTIVE SUMMARY

The City of San Jose and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43 reached Tentative

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Agreements on March 23, 2011, for Memoranda of Agreement (MOA) for the period of July 1, 2011, through June 30, 2013. The Tentative Agreements were ratified by the memberships on March 28, 2011.

The City Administration is recommending approval of the Tentative Agreements for MOAs for the period of July 1, 2011, to June 30, 2013. The agreements achieve a ten percent (10%) ongoing total compensation reduction (base pay and healthcare changes), changes to the disability leave supplement and vacation sellback programs, and side letters to continue negotiations on several reforms to include retirement for current and new employees, sick leave payout, Supplemental Retiree Benefit Reserve (SRBR), layoff procedures, subsidy for Public Transit, and contracting out.

BACKGROUND

In November 2010, the City Council in open session approved a goal of reducing the total ongoing employee compensation for all City employees by ten percent (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.

In addition to the 10% ongoing total compensation reduction approved in November 2010, the City Council approved the following reforms: retirement reform, including 2nd tier pension and retiree healthcare benefits for new hires; options for current employees; SRBR or "13th Check;" sick leave payout; disability leave supplement, vacation sellback and compensation structure.

The Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 41/42 and Unit 43, hereafter referred to as "AEA," represents approximately 200 full time budgeted positions in Fiscal Year 2010-2011. These bargaining units include employees in the classifications of Architect/Landscape Architect I/II, Association Engineer, Engineer I/II, Sanitary Engineer, Structure/Landscape Designer I/II, Engineering Geologist, Senior Architect/Landscape Architect and Senior Engineer.

In June 2010, AEA agreed to a 10% total compensation reduction. The first 5% ongoing reduction was achieved through additional retirement contributions to be made by employees represented by AEA to offset the City's retirement costs. The second 5% one-time total compensation reduction was achieved through additional retirement contributions and a base pay reduction. The ongoing and one-time additional retirement contributions made by employees represented by AEA to offset the City's retirement costs and the one-time base pay reduction will cease effective June 25, 2011, and the terms of the new agreements will replace the total compensation reduction on an ongoing basis.

The AEA agreements expire on June 30, 2011. The City commenced negotiations for successor Memoranda of Agreement (MOA) with five (5) bargaining units (including AEA) in January 2011. The City and AEA, along with two (2) other bargaining units, reached a Tentative Agreement on March 23, 2011, that achieves a 10% ongoing total compensation reduction and includes agreements to continue negotiations on other reforms that were approved by the City Council as listed above. The Tentative Agreements were ratified by the AEA membership on March 28, 2011.

ANALYSIS

A complete copy of the Tentative Agreements are attached. The following is a summary of the key provisions:

Term July 1, 2011 – June 30, 2013

Base Pay Reduction – Ongoing Effective June 26, 2011, all salary ranges for employees represented by AEA shall be decreased by approximately 10.1%. All employees represented by AEA shall receive a 10.1% base pay reduction.

Effective June 25, 2011, the City will cease one-time and ongoing additional employee retirement contributions that offset the City's retirement contribution rates and stop one-time base rate concessions made in Fiscal Year 2010-2011.

Healthcare Cost Sharing Currently, the City pays ninety percent (90%) of the full premium cost of the lowest cost plan for employee or for employee and dependent coverage, and the employee pays ten percent (10%) of the premium for the lowest priced plan for employee or employee and dependent coverage.

Effective pay date July 1, 2011, 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 percent (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.

Effective pay date July 1, 2011, a \$25 co-pay plan shall be implemented for all HMO plans, including the following changes:

- 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 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 fifty percent (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:

	<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>
If eligible for family coverage:	\$272.74	\$23.75
If NOT eligible for family coverage:	\$109.54	\$23.75

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Effective pay date July 1, 2011, employees who qualify for and participate in payment-in-lieu of health and/or dental insurance program will receive the following per pay period:

	<u>Health-In-Lieu</u>	<u>Dental-In-Lieu</u>
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.

**Healthcare
Dual Coverage**

Effective pay date July 1, 2011, 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.

Vacation Sellback

Effective December 25, 2011, reduce vacation sellback eligibility from a maximum of 120 hours to a maximum of 60 hours for AEA (Unit 43), and from a maximum of 96 hours to a maximum of 48 hours for AEA (Unit 41/42). Employees must submit an irrevocable election form to Payroll on or before November 26, 2011, to be eligible to sell back accrued vacation in 2012.

Effective the first pay period of payroll calendar year 2013, the vacation sellback program will be eliminated and no employees will be eligible to sell back any accrued vacation hours.

Disability Leave

Effective June 26, 2011, reduce the maximum disability supplemental pay benefit from nine (9) calendar months to three (3) calendar months (520 hours).

Effective June 24, 2012, disability leave supplement will be eliminated.

Employees will be allowed to integrate accrued vacation and accrued sick leave.

Side Letters

- Retirement Reform – The City and AEA agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.
- Sick Leave Payout – The City and AEA agree to continue meeting and conferring on sick leave payout for current and future employees.
- Layoff – Either the City or AEA may provide notice to the other of its request to meet and confer on modifications, if any, to the City's layoff process and procedures.

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- Supplemental Retiree Benefit Reserve (SRBR) – The City and AEA agree to discuss the SRBR program in the Federated City Employees' Retirement System.
- Subsidy for Public Transit – The City and AEA agree to discuss the programs available to employees that provide subsidy for public transit.
- Contracting Out – The City agrees to meet and confer with AEA prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in a material reduction of work or would have significant adverse impact on bargaining unit work.
- Grievance - AEA agrees to withdraw the grievance that was advanced to arbitration with regard to the additional retirement contributions as calculated by the City under the agreement reached between the City and AEA for Fiscal Year 2010-2011 with prejudice and forego any other remedy.

Reopener

- Total Compensation – In the event the City reaches a settlement with any other employee unit covering the period of the agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, the agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

The provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including step and/or merit increases), received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award.

- Vacation Sellback – In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sellback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sellback, the agreement will reopen on the subject of Vacation Sellback.
- Disability Leave Supplement (DLS) – In the event the City reaches a settlement with any other employee unit, excluding employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, the agreement will reopen on the subject of DLS.

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EVALUATION AND FOLLOW-UP

None.

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 1. This memorandum will be posted on the City's website for the April 19, 2011, Council Agenda.

COORDINATION

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

COST IMPLICATIONS

For Fiscal Year 2010-2011, AEA agreed to concessions that achieved a 10% total compensation reduction, 5% ongoing and 5% one-time. These concessions included ongoing and one-time additional retirement contributions to offset the City's retirement costs and a base pay reduction. Effective June 25, 2011, the concessions agreed to in Fiscal Year 2010-2011 will cease and will be replaced with the concessions in the new agreement.

The terms of the Tentative Agreement, which make the 5% one-time total compensation reduction ongoing, generate additional ongoing savings of approximately \$1.7 million in all funds and approximately \$300,000 in the General Fund. These savings are based on the 2011-2012 Base Budget as of April 4, 2011. These savings do not assume any recommended reductions in AEA positions, adjustments necessary to maintain the annual required retirement contributions, and the associated loss of overhead from other funds as well as associated loss of fees and charges revenue that will likely be included as part of the Proposed and Adopted Budget process. The budgetary savings will be assumed in the 2011-2012 Proposed Operating Budget scheduled for release on May

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2, 2011. These savings do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

CEQA

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions.



Alex Gurza
Director of Employee Relations

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

Attachment

**CITY OF SAN JOSE
AND
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA UNIT 41/42)
TENTATIVE AGREEMENT**

PERIOD OF MEMORANDUM OF AGREEMENT

July 1, 2011 – June 30, 2013 (See attached)

WAGES

See attached

HEALTHCARE COST SHARING

See attached

HEALTHCARE CO-PAYS

See attached

HEALTH AND DENTAL IN LIEU

See attached

HEALTHCARE DUAL COVERAGE

See attached

DISABILITY LEAVE SUPPLEMENT

See attached

VACATION SELLBACK

See attached

SIDE LETTERS

- Retirement Benefits for current and new employees (See attached)
- Layoff (See attached)
- Supplemental Retiree Benefit Reserve (SRBR) (See attached)
- Subsidy for Public Transit (See attached)
- Sick Leave Payout (See attached)
- Contracting Out (See attached)
- Grievance - Fiscal Year 2010-2011 Additional Retirement Contributions (See attached)

CITY OF SAN JOSE
AND
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA UNIT 41/42)
TENTATIVE AGREEMENT

REOPENER

1. Total Compensation

In the event that the City reaches a settlement with any other employee unit covering the time period of this Agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, this agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

This provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including any step and/or merit increases), as authorized by the City Council on November 25, 2010, received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award that is the result of contested issues resolved only via a full evidentiary hearing and substantive briefing.

2. Vacation Sellback

In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sellback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sellback, this agreement will reopen on the subject of Vacation Sellback and the parties will meet and confer to determine the provisions of the Vacation Sellback program for payroll calendar year 2013.

3. Disability Leave Supplement (DLS)

In the event the City reaches a settlement with any other employee unit, excluding any employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, this agreement will reopen on the subject of DLS and the parties will meet and confer to determine the provisions of the DLS program for the time period between June 24, 2012, and the term of this agreement.

FOR THE CITY:

Marcy Rodriguez

For The Union:

Tom Mukherjee 3/23/2011
Nancy J. Detiowski 3/23/11

CITY OF SAN JOSE
AND
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA UNIT 41/42)
TENTATIVE AGREEMENT

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Senior Executive Analyst

FOR THE UNION:

John Mukhar 3/23/2011
John Mukhar Date
President
Association of Engineers and Architects,
IFPTE, Local 21 (AEA Unit 41/42)

Nancy Ostrowski 3/23/11
Nancy Ostrowski Date
Senior Labor Representative
IFPTE, Local 21

PERIOD OF MEMORANDUM OF AGREEMENT

Proposed Language:

This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2013. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

This contract expires on June 30, 2013. It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

This language is intended to replace the language in:

- Article 2 of the AEA (41/42) Memorandum of Agreement

*FOR THE CITY:
Marilyn Rodriguez*

*For the Union:
Tom Mukherjee 3/23/2011
Nancy J. Detrowicki 3/23/11*

2011 CITY OF SAN JOSE – AEA (Unit 41/42)

CITY PROPOSAL – WAGES

Proposed Language:

Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to AEA (Unit 41/42) shall be decreased by approximately 10.1%. This will result in the top and bottom of the range of all classifications represented by AEA (Unit 41/42) being 10.1% lower. All employees will receive a 10.1% base pay reduction.

This language is intended to replace the language in:

- *Article 10.1 through Article 10.1.6 of the AEA (Unit 41/42) Memorandum of Agreement.*

Note:

The City will “undo” one-time and ongoing additional employee retirement contributions that offset the City’s retirement contribution rates and stop “one-time” base rate concessions made in Fiscal Year 2010-2011 effective June 25, 2011.

*FOR THE CITY:
Nancy Rodriguez*

*For the Union:
Jon Muckers 3/23/2011
Nancy J. Detrowick 3/23/11*

CITY PROPOSAL – HEALTHCARE COST SHARING

Proposed Language:

Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) 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.

This language shall be added under:

- Article 11.1.2 of the AEA Memorandum of Agreement, Units 41/42 (replaces current Articles 11.1.2, 11.1.3 and 11.1.4)

FOR THE CITY:

Maureen Rodriguez

For the Union:

Nancy J. Ostrowski 3/23/11

Jon Muklas 3/23/2011
JM

CITY PROPOSAL – HEALTHCARE CO-PAYS

Proposed Language:

Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

This language shall be added under:

- Article 11.1.5 of the AEA Memorandum of Agreement, Units 41/42 (replaces current Article 11.1.5)

FOR THE CITY:

Maalby Rodriguez

For the Union:

Jon Mukherjee 3/23/2011
Tanya J. Ostrowski 3/23/11

2011 CITY OF SAN JOSE – AEA (Unit 41/42)

CITY PROPOSAL – HEALTH AND DENTAL IN LIEU

Proposed Language:

Effective pay date July 1, 2011, employees who qualify for and participate in the 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 language shall be added under:

- Article 11.3.2 of the AEA Memorandum of Agreement, Units 41/42 (replaces current Article 11.3.2)

FOR THE CITY:

Gracey Rouders

For the Union:

John Markers 3/23/2011

Nancy J. Ottowick 3/23/11

CITY PROPOSAL – HEALTHCARE DUAL COVERAGE

Proposed Language:

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.

This language shall be added under:

- Article 11.1.6 of the AEA Memorandum of Agreement (Units 41/42) as a new Section

Proposed Language:

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.

This language shall be added under:

- Article 11.2.3 of the AEA Memorandum of Agreement (Units 41/42) as a new Section

FOR THE CITY:
Marilyn Rodriguez

For the Union:
Tom Muthan 3/23/2011
Nancy J. Detomski 3/23/11

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Proposed Language:

8.6 Disability Leave

8.6.1 Disability Leave Supplement Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Workers' Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary. Effective June 24, 2012, employees shall no longer be eligible to receive DLS.

8.6.2 Eligibility for Disability Leave Supplement A full-time employee who is required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division I or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in Section 8.6.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

8.6.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Workers' Compensation Section. In no event may DLS exceed the limit specified in Section 8.6.6.

8.6.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability If the Workers' Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.

8.6.4 Ineligible Causes for Disability Leave An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from:

- An act of gross negligence of such employee
- Any work voluntarily undertaken by employee from which he/she has been prohibited from engaging in as determined by a City physician, prior to the date of injury.

- 8.6.5 Ineligibility if Offer and Decline of Modified Duty DLS shall not be provided if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he/she is physically qualified.
- 8.6.6 Maximum Term of Disability Leave Supplement The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which he/she is disabled for one of the following time periods, whichever is shortest:
- The time the employee is medically required to be absent due to a work-related injury or illness, after the required three day waiting period.
 - The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
 - Effective June 26, 2011, an employee will be eligible to receive DLS for a maximum of three (3) months (or 520 hours if not continually absent) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, 2011, will no longer be eligible to receive DLS.
- 8.6.7 Time Limit for DLS Eligibility Effective June 26, 2011, after 520 hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which he/she is claiming DLS.
- 8.6.8 Disability Leave Supplement is in Lieu of Regular Compensation Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.
- 8.6.9 Requirement of Evidence Proving Temporary Disability The Director of Finance is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director. The Director may require the employee to submit to a medical examination by a physician selected by the City.
- 8.6.10 Termination of Disability Leave An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of accrued vacation and of Sick Leave as

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provided in Section 8.3 and with Workers' Compensation may be separated from City service.

8.6.11 Integration After the maximum time limit specified in Article 8.6.6, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, and (2) accrued Sick Leave once Vacation has been exhausted.

- In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

This language is intended to:

- *Replace Article 8.6 through Article 8.6.10, and eliminate Article 8.3.3 and Article 8.3.5, in the AEA (Units 41/42) Memorandum of Agreement.*

*FOR THE CITY:
Walter Rodriguez*

For the Union:

*Nancy J. Detrowaki 3/23/11
for Mulhern 3/23/2011
[Signature]*

CITY PROPOSAL – VACATION SELLBACK

Proposed Language:

8.2.2 Employees shall not be allowed to accrue vacation in excess of two (2) times their annual vacation accrual rate. Once the maximum accumulation has occurred, vacation will cease to accrue until the employee's vacation balance has fallen under their maximum vacation accrual amount. Any employee who is already above two (2) times their annual vacation rate will cease from accruing vacation until they have used enough vacation to bring them below their maximum accrual amount.

8.2.2.1 Employees may elect to sell back up to a maximum of ninety-six (96) hours of accrued vacation. Effective December 25, 2011, employees may elect to sell back up to a maximum of forty-eight (48) hours of vacation accrued in 2012 and in accordance with Section 8.2.2.2 below.

8.2.2.2 Internal Revenue Service (IRS) regulations require the City to report and withhold taxes on the value of the vacation time an employee is **eligible** to sell back. In order to ensure compliance with the IRS requirements and to avoid unanticipated tax consequences for 2012:

- Employees must elect the number of vacation hours they will sell back during 2012, up to the maximum of forty-eight (48) hours, by November 26, 2011. If an employee does not submit an irrevocable election form to Payroll on or before November 26, 2011, the employee will not be eligible to sell back any vacation hours during 2012.
- The election to sell back vacation hours in 2012 is **irrevocable**. This means that employees must sell back the elected number of accrued vacation hours during 2012.
- Employees can elect to sell back only vacation hours accrued during 2012, and any vacation hours accrued and carried over prior to 2012 are not eligible for sell back in 2012.
- Any vacation hours accrued in 2012 will not be available for use until the employee's accrued vacation hours in 2012 equal the number of hours the employee has elected to sell back. Then, only those vacation hours accrued in 2012 over the number of hours the employee elected to sell back in 2012 will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.

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- Employees may use any vacation hours accrued and carried over prior to 2012, subject to the normal rules of requesting use of vacation. Any vacation hours accrued and carried over prior to 2012 are not eligible for sell back.

8.2.3 Effective the beginning of the first payperiod of payroll calendar year 2013, employees will no longer be eligible to sell back any accrued vacation hours. This means that the Vacation Sellback program is eliminated.

This language is intended to replace the language in:

- Article 8.2.2 through Article 8.2.3 in the AEA (Unit 41/42) Memorandum of Agreement.

*FOR THE CITY:
Cristina Rodriguez*

*For the Union:
Jon Muldon 3/23/2011
Nancy J. Ostrowski 3/23/11*

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

RETIREMENT REFORM

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 41/42) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or AEA Unit 41/42 may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or AEA Unit 41/42 receives notice from the other. The City and AEA Unit 41/42 shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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. In such event, neither party waives any legal rights.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 41/42.

FOR THE CITY:

FOR AEA Unit 41/42:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

Jon Mark Heron 3/23/2011
AMH

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

LAYOFF

The City or the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 41/42) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or AEA Unit 41/42 receives notice from the other. The City and AEA Unit 41/42 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR AEA Unit 41/42:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

Jon Markson 3/23/2011
Date

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 41/42) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or AEA Unit 41/42 may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or AEA Unit 41/42 receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and AEA Unit 41/42 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AEA Unit 41/42:

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

Jon Markham 3/23/2011
Jon Markham

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

SUBSIDY FOR PUBLIC TRANSIT

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 41/42) agree to discuss the programs available to employees that provide subsidy for public transit. Discussions shall include, but not be limited to, modifications to the programs, voucher amounts and elimination of the programs.

Either the City or AEA Unit 41/42 may provide notice to the other of its request to discuss the programs available to employees that provide subsidies for public transit. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or AEA Unit 41/42 receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and AEA Unit 41/42 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 41/42

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AEA Unit 41/42:

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

John M. Nathan 3/23/2011
John M. Nathan

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

SICK LEAVE PAYOUT

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 41/42) agree to continue meeting and conferring on sick leave payout (Article 8.4 through Article 8.4.1.6) for current and future employees.

Either the City or AEA Unit 41/42 may provide notice to the other of its request to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or AEA Unit 41/42 receives notice from the other. The City and AEA Unit 41/42 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 41/42.

FOR THE CITY:

FOR AEA Unit 41/42:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

John Markher 3/23/2011
John Markher

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

CONTRACTING OUT

The City agrees to meet and confer with AEA Unit 41/42 prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 41/42.

FOR THE CITY:

FOR AEA:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

John Muckhan 3/23/2011
John Muckhan

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 41/42)

GRIEVANCE

On October 21, 2010, the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 41/42), filed a grievance and advanced it to arbitration related to the additional retirement contributions being made by employees represented by AEA Unit 41/42. Per the agreement for Fiscal Year 2010-2011 between the City and AEA Unit 41/42, employees represented by AEA Unit 41/42 were to make additional retirement contributions to reduce the City's required retirement contributions as part of a total compensation reduction. As the additional retirement contributions to be made by employees represented by AEA Unit 41/42 could not be immediately implemented, AEA Unit 41/42 subsequently challenged the additional retirement contributions as calculated by the City.

As part of the overall agreement on a successor Memorandum of Agreement, AEA Unit 41/42 agrees to withdraw the grievance that was advanced to arbitration with regard to the additional retirement contributions with prejudice and forego any other remedy, including, but not limited to, litigation regarding the additional retirement contributions as calculated by the City.

This Agreement is tentative and shall become effective only as part of the overall agreement on a successor agreement between the City and AEA Unit 41/42.

FOR THE CITY:

FOR AEA Unit 41/42:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 41/42)

Jon Markson 3/23/2011
Jon Markson

**CITY OF SAN JOSE
AND
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA UNIT 43)
TENTATIVE AGREEMENT**

PERIOD OF MEMORANDUM OF AGREEMENT

July 1, 2011 – June 30, 2013 (See attached)

WAGES

See attached

HEALTHCARE COST SHARING

See attached

HEALTHCARE CO-PAYS

See attached

HEALTH AND DENTAL IN LIEU

See attached

HEALTHCARE DUAL COVERAGE

See attached

DISABILITY LEAVE SUPPLEMENT

See attached

VACATION SELLBACK

See attached

SIDE LETTERS

- Retirement Benefits for current and new employees (See attached)
- Layoff (See attached)
- Supplemental Retiree Benefit Reserve (SRBR) (See attached)
- Subsidy for Public Transit (See attached)
- Sick Leave Payout (See attached)
- Contracting Out (See attached)
- Grievance – Fiscal Year 2010-2011 Additional Retirement Contributions (See attached)

CITY OF SAN JOSE
AND
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA UNIT 43)
TENTATIVE AGREEMENT

REOPENER

1. Total Compensation

In the event that the City reaches a settlement with any other employee unit covering the time period of this Agreement that has an ongoing total compensation reduction of less than ten percent (10%), in any form or manner, this agreement will reopen on the subject of total compensation and the parties will meet and confer to determine how the difference between a 10% ongoing total compensation reduction and the lesser amount agreed to with any other employee unit will be provided.

This provision will also apply in the event the City reaches a settlement which does not include the roll back of any general wage increase (not including any step and/or merit increases), as authorized by the City Council on November 25, 2010, received by any employee unit in Fiscal Year 2010-2011.

This provision will not apply to any changes made to any employee unit which occurs as the result of an interest arbitration award that is the result of contested issues resolved only via a full evidentiary hearing and substantive briefing.

2. Vacation Sellback

In the event the City reaches a settlement with any other employee unit eligible to sell back accrued vacation hours that does not eliminate the Vacation Sellback program effective the beginning of the first pay period of payroll calendar year 2013, absent other equivalent concessions received from such employee unit in lieu of eliminating Vacation Sellback, this agreement will reopen on the subject of Vacation Sellback and the parties will meet and confer to determine the provisions of the Vacation Sellback program for payroll calendar year 2013.

3. Disability Leave Supplement (DLS)

In the event the City reaches a settlement with any other employee unit, excluding any employees covered by Labor Code Section 4850, that does not eliminate DLS effective June 24, 2012, this agreement will reopen on the subject of DLS and the parties will meet and confer to determine the provisions of the DLS program for the time period between June 24, 2012, and the term of this agreement.

For Union:
John M. Clark 3/23/2011
Nancy J. Detenewski 3/23/11

CITY OF SAN JOSE
AND
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21 (AEA UNIT 43)
TENTATIVE AGREEMENT

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodríguez Date
Senior Executive Analyst

FOR THE UNION:

John Mukhar 3/23/2011
John Mukhar Date
President *JM*
Association of Engineers and Architects,
IFPTE, Local 21 (AEA Unit 43)

Nancy Ostrowski 3/23/11
Nancy Ostrowski Date
Senior Labor Representative
IFPTE, Local 21

PERIOD OF MEMORANDUM OF AGREEMENT

Proposed Language:

This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2013. No amendment or change to the provisions of this Agreement shall be valid or binding unless reduced to writing and signed by duly authorized representative(s) of the parties.

This contract expires on June 30, 2013. It is mutually agreed that the first meeting of the parties will be held no later than fifteen (15) calendar days after the City or Association receives notice from the other, which may be any date after January 1 of the year in which the current contract terminates.

This language is intended to replace the language in:

- Article 2 of the AEA (43) Memorandum of Agreement

FOR THE CITY:

Guacelo Rodriguez

For Union:

For Union at 3/23/2011
gkj

Henry J. Ostrowski 3/23/11

CITY PROPOSAL – WAGES

Proposed Language:

Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to AEA (Unit 43) shall be decreased by approximately 10.1%. This will result in the top and bottom of the range of all classifications represented by AEA (Unit 43) being 10.1% lower. All employees will receive a 10.1% base pay reduction.

This language is intended to replace the language in:

- *Article 10.1 through Article 10.1.6 of the AEA (Unit 43) Memorandum of Agreement.*

Note:

The City will “undo” one-time and ongoing additional employee retirement contributions that offset the City’s retirement contribution rates and stop “one-time” base rate concessions made in Fiscal Year 2010-2011 effective June 25, 2011.

FOR THE CITY:

Gracely Rodriguez

For Union:

Jon Mukherjee 3/23/2011

Nancy J. Ostrowski 3/23/11

2011 CITY OF SAN JOSE – AEA (Unit 43)

CITY PROPOSAL – HEALTHCARE COST SHARING

Proposed Language:

Effective pay date July 1, 2011, the City pays eighty-five percent (85%) of the cost of the lowest priced plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) 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.

This language shall be added under:

- *Article 11.1.2 of the AEA Memorandum of Agreement, Unit 43 (replaces current Articles 11.1.2, 11.1.3 and 11.1.4)*

FOR THE CITY:

Shelly Rodriguez

For Union:

John Mulhens 3/23/2011
WJF

Nancy J. Ostrowski 3/23/11

CITY PROPOSAL – HEALTHCARE CO-PAYS

Proposed Language:

Effective pay date July 1, 2011, a \$25 Co-pay plan shall be implemented for all HMO plans, including the following changes:

- a. Office Visit Co-pay shall be increased to \$25
- b. Prescription Co-pay shall be increased to \$10 for generic and \$25 for brand name
- c. Emergency Room Co-pay shall be increased to \$100
- d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100

This language shall be added under:

- Article 11.1.5 of the AEA Memorandum of Agreement, Unit 43 (replaces current Article 11.1.5)

FOR THE CITY:

Maureen Rodriguez

For Union:

For Mark on 3/23/2011
af
Kathy J. Detwiler 3/23/11

2011 CITY OF SAN JOSE – AEA (Unit 43)

CITY PROPOSAL – HEALTH AND DENTAL IN LIEU

Proposed Language:

Effective pay date July 1, 2011, employees who qualify for and participate in the 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 language shall be added under:

- *Article 11.3.2 of the AEA Memorandum of Agreement, Unit 43 (replaces current Article 11.3.2)*

FOR THE CITY:

Gracey Rodusson

For the Union:

John M. Nichols 3/23/2011
Naf

Nancy J. Ostrowski 3/23/11

CITY PROPOSAL – HEALTHCARE DUAL COVERAGE

Proposed Language:

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.

This language shall be added under:

- Article 11.1.6 of the AEA Memorandum of Agreement (Unit 43) as a new Section

Proposed Language:

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.

This language shall be added under:

- Article 11.2.3 of the AEA Memorandum of Agreement (Unit 43) as a new Section

FOR THE CITY:

Chaeby Rodriguez

For the Union:

John Markgraf 3/23/2011
Henry J. Ostrowski 3/23/11

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Proposed Language:

8.6 Disability Leave

8.6.1 Disability Leave Supplement Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Workers' Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary. Effective June 24, 2012, employees shall no longer be eligible to receive DLS.

8.6.2 Eligibility for Disability Leave Supplement A full-time employee who is required to be absent from work due to a job-related injury or industrial illness who receives WCTD payments pursuant to Division 1 or Division 4 of the California Labor Code is eligible for DLS, excluding ineligible causes listed in Section 8.6.4. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

8.6.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Workers' Compensation Section. In no event may DLS exceed the limit specified in Section 8.6.6.

8.6.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability If the Workers' Compensation Appeals Board of the State of California or any judicial court should determine that the employee is not entitled to Temporary Disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the City must be returned to the City within one year.

8.6.4 Ineligible Causes for Disability Leave An employee shall not be eligible for disability leave, and shall not receive DLS if the injury or illness that causes the absence results from:

- An act of gross negligence of such employee
- Any work voluntarily undertaken by employee from which he/she has been prohibited from engaging in as determined by a City physician, prior to the date of injury.

- 8.6.5 Ineligibility if Offer and Decline of Modified Duty DLS shall not be provided if the City offers the employee employment at identical or similar salary, within the employee's medical limitations, and the employee refuses or fails to accept duty for which he/she is physically qualified.
- 8.6.6 Maximum Term of Disability Leave Supplement The employee will receive DLS benefits equal to the amount of money which, when added to the WCTD equals 85% of what the employee would have earned at the position from which he/she is disabled for one of the following time periods, whichever is shortest:
- The time the employee is medically required to be absent due to a work-related injury or illness, after the required three day waiting period.
 - The period of time WCTD is payable to the employee under the Workers' Compensation provisions of Division 1 or Division 4 of the Labor Code of the State of California.
 - Effective June 26, 2011, an employee will be eligible to receive DLS for a maximum of three (3) months (or 520 hours if not continually absent) for any current or future work-related injury or illness. Any employee who has exceeded three (3) months (or 520 hours if not continually absent) as of June 26, 2011, will no longer be eligible to receive DLS.
- 8.6.7 Time Limit for DLS Eligibility Effective June 26, 2011, after 520 hours of DLS, the employee is entitled to no additional compensation for the injury or illness. No employee shall be eligible for DLS five (5) years after the date of the onset of the injury or illness for which he/she is claiming DLS.
- 8.6.8 Disability Leave Supplement is in Lieu of Regular Compensation Employees who receive WCTD and DLS compensation do not receive their regular salary. DLS as described in this Article is in lieu of regular compensation.
- 8.6.9 Requirement of Evidence Proving Temporary Disability The Director of Finance is responsible for determining eligibility for DLS. In making this determination, the Director may require the employee to provide proof of injury or illness, proof that the injury or illness will last, and proof of other relevant matters as determined by the Director. The Director may require the employee to submit to a medical examination by a physician selected by the City.
- 8.6.10 Termination of Disability Leave An employee who is unable to return to full time regular duty following the expiration of any and all leave provided in this Article and the integration of accrued vacation and of Sick Leave as

2011 CITY OF SAN JOSE – AEA (Unit 43)

provided in Section 8.3 and with Workers' Compensation may be separated from City service.

8.6.11 Integration After the maximum time limit specified in Article 8.6.6, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, and (2) accrued Sick Leave once Vacation has been exhausted.

- In no event shall an employee receive an amount, including any Workers' Compensation Temporary Disability payments, in excess of the employee's regular base salary.

This language is intended to:

- *Replace Article 8.6 through Article 8.6.10, and eliminate Article 8.3.3 and Article 8.3.5, in the AEA (Unit 43) Memorandum of Agreement.*

FOR THE CITY:

Grace Rodriguez

For the Union:

Jon Munkher 3/23/2011
RF
Gregory J. Ostrowski
3/23/11

CITY PROPOSAL – VACATION SELLBACK

Proposed Language:

8.2.2 Employees shall not be allowed to accrue vacation in excess of two (2) times their annual vacation accrual rate. Once the maximum accumulation has occurred, vacation will cease to accrue until the employee's vacation balance has fallen under their maximum vacation accrual amount. Any employee who is already above two (2) times their annual vacation rate will cease from accruing vacation until they have used enough vacation to bring them below their maximum accrual amount.

8.2.2.1 Employees may elect to sell back up to a maximum of one hundred twenty (120) hours of accrued vacation. Effective December 25, 2011, employees may elect to sell back up to a maximum of sixty (60) hours of vacation accrued in 2012 and in accordance with Section 8.2.2.2 below.

8.2.2.2 Internal Revenue Service (IRS) regulations require the City to report and withhold taxes on the value of the vacation time an employee is **eligible** to sell back. In order to ensure compliance with the IRS requirements and to avoid unanticipated tax consequences for 2012:

- Employees must elect the number of vacation hours they will sell back during 2012, up to the maximum of sixty (60) hours, by November 26, 2011. If an employee does not submit an irrevocable election form to Payroll on or before November 26, 2011, the employee will not be eligible to sell back any vacation hours during 2012.
- The election to sell back vacation hours in 2012 is **irrevocable**. This means that employees must sell back the elected number of accrued vacation hours during 2012.
- Employees can elect to sell back only vacation hours accrued during 2012, and any vacation hours accrued and carried over prior to 2012 are not eligible for sell back in 2012.
- Any vacation hours accrued in 2012 will not be available for use until the employee's accrued vacation hours in 2012 equal the number of hours the employee has elected to sell back. Then, only those vacation hours accrued in 2012 over the number of hours the employee elected to sell back in 2012 will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.

2011 CITY OF SAN JOSE – AEA (Unit 43)

- Employees may use any vacation hours accrued and carried over prior to 2012, subject to the normal rules of requesting use of vacation. Any vacation hours accrued and carried over prior to 2012 are not eligible for sell back.

8.2.3 Effective the beginning of the first payperiod of payroll calendar year 2013, employees will no longer be eligible to sell back any accrued vacation hours. This means that the Vacation Sellback program is eliminated.

This language is intended to replace the language in:

- Article 8.2.2 through Article 8.2.3 in the AEA (Unit 43) Memorandum of Agreement.

FOR THE CITY:

Maureen Rodriguez

For the Union:

Nancy J. Ostrowski 3/23/11
Tom Munkhan 3/23/2011
MS

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

RETIREMENT REFORM

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 43) agree to continue meeting and conferring on pension and retiree healthcare benefits for current and future employees, including but not limited to healthcare benefits. The negotiations may include modification of healthcare (medical and dental) plans available to current employees, including but not limited to plan design.

Either the City or AEA Unit 43 may provide notice to the other of its request to continue to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or AEA Unit 43 receives notice from the other. The City and AEA Unit 43 shall continue to meet and confer in good faith in an effort to reach a mutual agreement.

If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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. In such event, neither party waives any legal rights.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 43.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AEA Unit 43:

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

John Mulhern 3/23/2011
John Mulhern

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

LAYOFF

The City or the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 43) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure, including the provisions of the Layoff article in the Memorandum of Agreement. Upon such notice, the parties shall meet within ten (10) calendar days after the City or AEA Unit 43 receives notice from the other. The City and AEA Unit 43 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR AEA Unit 43:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

Jon Munkhorst 3/23/2011
Jon Munkhorst

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 43) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or AEA Unit 43 may provide notice to the other of its request to discuss the SRBR program. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or AEA Unit 43 receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and AEA Unit 43 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor Memorandum of Agreement.

FOR THE CITY:

FOR AEA Unit 43:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

Jon M. Khan 3/23/2011
[Signature]

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

SUBSIDY FOR PUBLIC TRANSIT

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 43) agree to discuss the programs available to employees that provide subsidy for public transit. Discussions shall include, but not be limited to, modifications to the programs, voucher amounts and elimination of the programs.

Either the City or AEA Unit 43 may provide notice to the other of its request to discuss the programs available to employees that provide subsidies for public transit. Upon such notice, the parties shall continue these discussions within ten (10) calendar days after the City or AEA Unit 43 receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and AEA Unit 43 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 43.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AEA Unit 43:

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

John W. Kuchar 3/23/2011
JK

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

SICK LEAVE PAYOUT

The City and the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 43) agree to continue meeting and conferring on sick leave payout (Article 8.4 through Article 8.4.1.6) for current and future employees.

Either the City or AEA Unit 43 may provide notice to the other of its request to meet and confer. Upon such notice, the parties shall continue these negotiations within ten (10) calendar days after the City or AEA Unit 43 receives notice from the other. The City and AEA Unit 43 shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties are at impasse and no agreement is reached, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367. The parties understand that this means that, notwithstanding any other provision in any successor Memorandum of Agreement, 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.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 43.

FOR THE CITY:

FOR AEA Unit 43:

Aracely Rodríguez 3/23/11
Aracely Rodríguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

Jon Mukhan 3/23/2011
Ref

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

CONTRACTING OUT

The City agrees to meet and confer with AEA Unit 43 prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

This Agreement is tentative and shall become effective only as part of the overall agreement on, and only during the term of, a successor agreement between the City and AEA Unit 43.

FOR THE CITY:

FOR AEA:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

Jon Munkat 3/23/2011
[Signature]

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21
(AEA Unit 43)

GRIEVANCE

On October 21, 2010, the Association of Engineers and Architects, IFPTE Local 21 (AEA Unit 43), filed a grievance and advanced it to arbitration related to the additional retirement contributions being made by employees represented by AEA Unit 43. Per the agreement for Fiscal Year 2010-2011 between the City and AEA Unit 43, employees represented by AEA Unit 43 were to make additional retirement contributions to reduce the City's required retirement contributions as part of a total compensation reduction. As the additional retirement contributions to be made by employees represented by AEA Unit 43 could not be immediately implemented, AEA Unit 43 subsequently challenged the additional retirement contributions as calculated by the City.

As part of the overall agreement on a successor Memorandum of Agreement, AEA Unit 43 agrees to withdraw the grievance that was advanced to arbitration with regard to the additional retirement contributions with prejudice and forego any other remedy, including, but not limited to, litigation regarding the additional retirement contributions as calculated by the City.

This Agreement is tentative and shall become effective only as part of the overall agreement on a successor agreement between the City and AEA Unit 43.

FOR THE CITY:

Aracely Rodriguez 3/23/11
Aracely Rodriguez Date
Office of Employee Relations

FOR AEA Unit 43:

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
Association of Engineers and Architects,
IFPTE Local 21 (AEA Unit 43)

Jon Munkhan 3/23/2011
JM