



Sent to Council:

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City Manager's Office

Memorandum

**TO: HONORABLE MAYOR
AND CITY COUNCIL**

FROM: Nadine Nader

SUBJECT: Early Council Packet

DATE: April 5, 2011

Approved

Nadine Nader

Date

4/5/11

EARLY DISTRIBUTION COUNCIL PACKET FOR APRIL 19, 2011

Please find attached the Early Distribution Council Packet for the April 19, 2011 Council Meeting.

3.x 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).

Recommendation: Adopt a resolution:

- (a) Approving the terms of a collective bargaining agreement for the period of July 1, 2011, through June 30, 2013, between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Units 041 and 042.
- (b) Approving the terms of a collective bargaining agreement for the period of July 1, 2011, through June 30, 2013, between the City and the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043.

CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

3.x Approval of the Terms of an Agreement with the Association of Maintenance Supervisory Personnel (AMSP).

Recommendation: Adopt a resolution approving the terms of a collective bargaining agreement for the period of July 1, 2011, through June 30, 2013, between the City and the Association of Maintenance Supervisory Personnel (AMSP). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

3.x Approval of the Terms of an Agreement with the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP).

Recommendation: Adopt a resolution approving the terms of a collective bargaining agreement for the period of July 1, 2011, through June 30, 2013, between the City and the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21, (CAMP). CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

3.x Compensation and Benefit Changes for Executive Management and Professional Employees in Unit 99, Other Unrepresented Employees, and the City Manager.

Recommendation: Adopt a resolution approving compensation and benefit changes for executive management and professional employees in Unit 99, including the City Manager, and other unrepresented employees, effective June 26, 2011. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

7.x Actions Related to the Fuel Cell Utility Interconnections and Foundation Pad Design-Build Project.

Recommendation: Adopt a resolution:

- (a) Authorizing the Director of Environmental Services or his designee to award the contract for the Fuel Cell Foundation Platform and Utility Interconnections Design-Build Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,652,200 and approve a construction contingency with a maximum amount of \$248,000.
- (b) Authorizing the Director of Environmental Services or his designee to do either of the following:
 - (1) Decide any timely bid protest(s) and make the City's final determination as to lowest responsive and responsible bidder, or
 - (2) Reject all bids and re-bid the project.

CEQA: Exempt, File No. PP11-030. (Environmental Services/Public Works)

7.x Agreements with Harvest Power and CEC Grant Agreements for Biomass-to-Energy Technology Project.

Recommendation: Adopt a resolution that authorizes the City Manager to negotiate and execute:

- (a) An agreement with the California Energy Commission to provide grant funding in an amount up to \$1,900,000 for the initial feasibility study, and potential demonstration of a biomass-to-energy technology facility at the San Jose/Santa Clara Water Pollution Control Plant from April 20, 2011 through December 31, 2014, consistent with the business terms specified herein; and

- (b) An agreement with Harvest Power Inc. to prepare an initial feasibility study, and potential demonstration of a biomass-to-energy technology facility at the San Jose /Santa Clara Water Pollution Control Plant from April 20, 2011 through December 31, 2014 consistent with the business terms specified herein; and for an in-kind match to the California Energy Commission grant for an estimated value of \$4,095,530.

CEQA: Categorical Exemption, File No. PP10-130, CEQA Guidelines Section 15303(d), New Construction and Conversion of Small Structures. (Environmental Services)

These items will also be included in the Council Agenda Packet with item numbers.



NADINE NADER
Assistant to the City Manager



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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Subject: Approval of an Agreement with AEA (Units 41/42 and Unit 43)

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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:

Gracey Rodriguez

For The Union:

Tom Mulkhon 3/23/2011

Nancy J. Detlowke 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 J. 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. Ostrowski 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 Muckler 3/23/2011
Nancy J. Petrovski 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:

Marcy Rodriguez

For the Union:

Nancy J. Ostrowski 3/23/11
Jon Muklas 3/23/2011
NJ

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 Robinson

For the Union:

John M. Khar 3/23/2011
Nancy J. Octobowski 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 Rodgers

For the Union:

John Markson 3/23/2011

Nancy J. Ottowski 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:
John Mulholland 3/23/2011
Nancy 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

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:

Maureen Rodriguez

For the Union:

Nancy J. Ostrowski 3/23/11
Jon Mulchon 3/23/2011
NJM

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.

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

- 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:

Shirley Rodriguez

For the Union:

Jon Muck on 3/23/2011
Nancy J. Detrowicki 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 M. K. Heron 3/23/2011
NG

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:

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 Muckler 3/23/2011
JM

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)

John Muckler 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)

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:

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 M. Lyman 3/23/2011
John M. Lyman

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:

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 Michael 3/23/2011
John Michael

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:

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

**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 Mulvaney 3/23/2011
Nancy J. Detenche 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 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 43)

Nancy J. 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:

Gracely Rodriguez

For Union:

John Mulchat 3/23/2011
RMJ

Nancy 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:

Maely Rodriguez

For Union:

Jon Mukherjee 3/23/2011

Nancy J. Ostrowski 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, Unit 43 (replaces current Articles 11.1.2, 11.1.3 and 11.1.4)*

FOR THE CITY:

Michael Rodriguez

For Union:

John Mulhass 3/23/2011
NJF

Nancy J. Detkowski 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:

Chaeley Rodriguez

For Union:

John Markham 3/23/2011
Ray
Karey J. Oetowake 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:

Shirley Rodriguez

For the Union:

John M. McKee 3/23/2011

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:
Charles Rodriguez*

*For the Union:
John Mukherjee 3/23/2011
Henry J. Petrowski 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

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:

Esteban Rodriguez

For the Union:

Jon Mukher 3/23/2011
Nancy J. Ostrom 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:
Maceo Rodriguez*

For the Union:

*Nancy J. Ostrowski 3/23/11
Tom Munkhan 3/23/2011
MJK*

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 Mukherjee 3/23/2011
John Mukherjee

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 Markov 3/23/2011
Jef

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

Jon Mukhar 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. Kahan 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 Rodriguez 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 Markham 3/23/2011
Jef

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 Muchat 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 Mukher 3/23/2011
JM



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 MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

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

RECOMMENDATION

Adoption of a resolution approving the terms of a collective bargaining agreement between the City and the Association of Maintenance Supervisory Personnel (AMSP), 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 a collective bargaining agreement between the City of San Jose and the Association of Maintenance Supervisory Personnel (AMSP) for the period of July 1, 2011, through June 30, 2013.

EXECUTIVE SUMMARY

The City of San Jose and the Association of Maintenance Supervisory Personnel (AMSP) reached a Tentative Agreement on March 23, 2011, for a successor agreement. The Tentative Agreement was ratified by the membership on March 28, 2011.

The City Administration is recommending approval of the Tentative Agreement for the period of July 1, 2011, through June 30, 2013. The agreement achieves 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, the Supplement 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 the "13th Check;" sick leave payout; disability leave supplement; vacation sellback; and compensation structure.

The Association of Maintenance Supervisory Personnel, hereafter referred to as "AMSP," currently represents approximately seventy-nine (79) full time budgeted positions. This unit includes employees in classifications such as Maintenance Superintendent and Maintenance Supervisor. AMSP represents mid-management employees who receive management benefits and are eligible for overtime.

In June 2010, AMSP agreed to a 10% total compensation reduction. The first 5% ongoing total compensation reduction was achieved through additional retirement contributions to be made by employees represented by AMSP 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 AMSP 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 agreement will replace the total compensation reduction on an ongoing basis.

AMSP's current agreement expires on June 30, 2011. The City commenced negotiations for successor agreements with five (5) bargaining units, including AMSP, in January 2011. The City and AMSP, along with two (2) other bargaining units, reached Tentative Agreements 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 Agreement was ratified by the AMSP membership on March 28, 2011.

ANALYSIS

A complete copy of the Tentative Agreement is 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 employee represented by AMSP shall be decreased by approximately 10.1%. All employees represented by AMSP 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 pay 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 50% of the City's premium. This results in a formula that increases 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

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:

	<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 96 hours to a maximum of 48 hours. 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 AMSP 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 AMSP agree to continue meeting and conferring on sick leave payout for current and future employees.
- Layoff – Either the City or AMSP 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.
- Supplemental Retiree Benefit Reserve (SRBR) – The City and AMSP agree to discuss the SRBR program in the Federated City Employees’ Retirement System.

- Subsidy for Public Transit – The City and AMSP agree to discuss the programs available to employees that provide subsidy for public transit.
- Contracting Out – The City agrees to meet and confer with AMSP 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 – AMSP agrees to waive the right to file a grievance or any other judicial or administrative action with regard to the additional retirement contributions as calculated by the City under the agreement reached between the City and AMSP for Fiscal Year 2010-2011.

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.

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 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.

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, AMSP 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 for 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 \$590,000 in all funds and approximately \$175,000 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 AMSP 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 2, 2011. These savings do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

HONORABLE MAYOR AND CITY COUNCIL
April 5, 2011
Subject: Approval of an Agreement with AMSP
Page 7 of 7

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 MAINTENANCE SUPERVISORY PERSONNEL (AMSP)
TENTATIVE AGREEMENT**

TERM

July 1, 2011 – June 30, 2013

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 MAINTENANCE SUPERVISORY PERSONNEL (AMSP)
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:

Aracely Rodriguez

For AMSP

Walter P. [Signature] 3/23/2011

President

Phyllis L. Schuly 3/23/11
V.P.

CITY OF SAN JOSE
AND
ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)
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:

Dale Dapp 3/23/2011
Dale Dapp Date
President
Association of Maintenance
Supervisory Personnel (AMSP)

Phyllis L. Schulz 3/23/11
V.P. for AMSP

CITY PROPOSAL – WAGES

Proposed Language:

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

This language is intended to replace the language in:

- *The section entitled "Salary/Additional Retirement Contributions" in the AMSP Benefit & Compensation Summary*

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:
Gracey Rodriguez*

*For AMSP
Dale Thompson 3/23/2011
President*

*Phyllis G. Schulz 3/23/11
V.P. for AMSP*

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:

- *Health Insurance Section of the AMSP Compensation Summary (previous references to cost sharing will be deleted)*

*FOR THE CITY:
Anacely Rodriguez*

*For AMSP
Dale A. Schuly 3/23/2011
President*

*Phyllis L. Schuly 3/23/11
J.P.*

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:

- *Health Insurance Section of the AMSP Compensation Summary (previous references to co-pays will be deleted)*

FOR THE CITY:

Maely Rodriguez

For AMSP

Walter P. [Signature] 3/23/2011

President

Phyllis G. Schulz 3/23/11

V.P.

2011 CITY OF SAN JOSE – AMSP

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:

- Health and Dental In Lieu Section of the AMSP Compensation Summary

FOR THE CITY:

Gracey Roanburg

For AMSP

Mike P. Dwyer

3/23/2011

President

Phyllis G. Schulz 3/23/11

V.P.

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:

- *Health Insurance Section of the AMSP Compensation Summary*

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:

- *Dental Insurance Section of the AMSP Compensation Summary*

FOR THE CITY:

Isidoro Rodriguez

For AMSP

Walter A. Ojeda 3/23/2011
President

Phyllis Y. Schudy 3/23/11
V.P.

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Proposed Language:

Effective June 26, 2011, 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 three (3) months (520 hours if used intermittently) 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.

After the maximum time limit specified above, the integration of an employee's available leave will occur in the following order: (1) accrued Vacation hours, (2) earned Compensatory Time once Vacation has been exhausted, and (3) accrued Sick Leave once Vacation and Compensatory Time have both 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.

Effective June 24, 2012, employees shall no longer be eligible to receive DLS.

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

This language is intended to replace the language in:

- *The section entitled "Disability Leave" in the AMSP Benefit and Compensation Summary*

FOR THE CITY:

Gracey Rodriguez

For AMSP

Wade Kemp 3/23/2011

President

Phyllis Y. Schulz 3/23/11

V.P.

CITY PROPOSAL – VACATION SELLBACK

Proposed Language:

Employees may elect to sell back vacation for a maximum sell back of ninety-six (96) hours of accrued vacation per year.

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 the guidelines set below.

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.
- 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.

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:

- *The section entitled "Vacation Sellback" in the AMSP Benefit & Compensation Summary.*

*FOR THE CITY:
Luis Alvarez Rodriguez*

City of San Jose
March 23, 2011

*For AMSP
Mike P. [Signature] 3/23/2011
President
Phyllis J. Schuly
3/23/11 V.P.*

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

RETIREMENT REFORM

The City and the Association of Maintenance Supervisory Personnel (AMSP) 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 AMSP 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 AMSP receives notice from the other. The City and AMSP 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 AMSP.

FOR THE CITY:

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

FOR AMSP:

Phyllis G. Schulz 3/23/11
Date Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schulz 3/23/11
V.P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

LAYOFF

The City or the Association of Maintenance Supervisory Personnel (AMSP) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure. Upon such notice, the parties shall meet within ten (10) calendar days after the City or AMSP receives notice from the other. The City and AMSP 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 agreement between the City and AMSP, 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 AMSP.

FOR THE CITY:

FOR AMSP:

Aracely Rodriguez

Aracely Rodriguez

Office of Employee Relations

Date

[Signature]

Date Dapp

Association of Maintenance Supervisory
Personnel (AMSP)

3/23/2011

Date

Phyllis LaSchulz 3/23/11
V.P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Association of Maintenance Supervisory Personnel (AMSP) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or AMSP 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 AMSP receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and AMSP 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 agreement between the City and AMSP, 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 AMSP.

FOR THE CITY:

FOR AMSP:

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

[Signature] 3/23/2011
Date Dapp Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schulz 3/23/11
V.P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SUBSIDY FOR PUBLIC TRANSIT

The City and the Association of Maintenance Supervisory Personnel (AMSP) 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 AMSP 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 AMSP receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and AMSP 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 agreement between the City and AMSP, 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 AMSP.

FOR THE CITY:

FOR AMSP:

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

Dale Dapp 3/23/2011
Dale Dapp Date
Association of Maintenance Supervisory
Personnel (AMSP)

Plz His G. Schulz 3/23/11
V.P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

SICK LEAVE PAYOUT

The City and the Association of Maintenance Supervisory Personnel (AMSP) agree to continue meeting and conferring on sick leave payout (the section entitled "Sick Leave Payout") for current and future employees.

Either the City or AMSP 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 AMSP receives notice from the other. The City and AMSP 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 agreement between the City and AMSP, 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 AMSP.

FOR THE CITY:

FOR AMSP:

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

Debbie Papp 3/23/2011
Debbie Papp Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schuly 3/23/11
V. P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

CONTRACTING OUT

The City agrees to meet and confer with AMSP 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 AMSP.

FOR THE CITY:

FOR AMSP:

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

Dale Dapp 3/23/2011
Dale Dapp Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schulz 3/23/11
V.P. for AMSP

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

ASSOCIATION OF MAINTENANCE SUPERVISORY PERSONNEL (AMSP)

GRIEVANCE

Effective June 27, 2010, the Association of Maintenance Supervisory Personnel (AMSP) agreed to make additional retirement contributions. Per the agreement for Fiscal Year 2010-2011 between the City and AMSP, employees represented by AMSP 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 AMSP could not be immediately implemented, the additional retirement contributions were calculated by the City.

As part of the overall agreement on a successor agreement between the City and AMSP, AMSP agrees and hereby waives the right to file any and all grievances and any action, judicial or administrative, which may or may not have heretofore been instituted in regard to or in any way related to 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 AMSP.

FOR THE CITY:

FOR AMSP:

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

John Papp 3/23/2011
Date Dapp Date
Association of Maintenance Supervisory
Personnel (AMSP)

Phyllis G. Schuly 3/23/11
V.P. for AMSP



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 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 terms of a collective bargaining agreement between the City and the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP), 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 a collective bargaining agreement between the City of San Jose and the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP) for the period of July 1, 2011, through June 30, 2013.

EXECUTIVE SUMMARY

The City of San Jose and the City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21 (CAMP) reached a Tentative Agreement on March 23, 2011, for a successor Agreement. The Tentative Agreement was ratified by the membership on March 28, 2011.

The City Administration is recommending approval of the Tentative Agreement for an agreement for the period of July 1, 2011, through June 30, 2013. The agreement achieves 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, the Supplement 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 the "13th Check;" sick leave payout; disability leave supplement; vacation sellback; and compensation structure.

The City Association of Management Personnel, International Federation of Professional and Technical Engineers, Local 21, hereafter referred to as "CAMP," currently represents approximately three hundred forty-four (344) full time budgeted positions. This unit includes employees in classifications such as Airport Operations Manager, Airport Operations Superintendent, Animal Shelter Veterinarian, Arborist, Building Inspection Manager, Code Enforcement Supervisor, Community Services Supervisor, Construction Manager, Development Officer, Financial Analyst, Information Systems Analyst, Operations Manager, Parks Manager, Recreation Supervisor, Senior Accountant and Senior Analyst.

In June 2010, CAMP agreed to a 10% total compensation reduction. The first 5% in ongoing total compensation reduction was achieved through additional retirement contributions to be made by employees represented by CAMP to offset the City's retirement costs. The second 5% in 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 CAMP 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 agreement will replace the total compensation reduction on an ongoing basis.

CAMP's current agreement expires on June 30, 2011. The City commenced negotiations for successor agreements with five (5) bargaining units, including CAMP, in January 2011. The City and CAMP, along with two (2) other bargaining units, reached Tentative Agreements 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 Agreement was ratified by the CAMP membership on March 28, 2011.

ANALYSIS

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

Term	July 1, 2011 – June 30, 2013
Base Pay Reduction - Ongoing	<p>Effective June 26, 2011, all salary ranges for employee represented by CAMP shall be decreased by approximately 10.1%. All employees represented by CAMP shall receive a 10.1% base pay reduction.</p> <p>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 pay concessions made in Fiscal Year 2010-2011.</p>
Healthcare Cost Sharing	<p>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.</p> <p>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.</p>
Healthcare HMO Plan Design	<p>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.</p> <p>Effective pay date July 1, 2011, a \$25 co-pay plan shall be implemented for all HMO plans, including the following changes:</p> <ol style="list-style-type: none">a. \$25 office visit co-payb. \$10 generic/\$25 brand name prescription co-payc. \$100 emergency room co-payd. \$100 inpatient/outpatient procedure co-pay
Healthcare Payment-In-Lieu	<p>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 the City's costs towards healthcare increases. The current in-lieu amounts are as follows:</p>

	<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

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:

	<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 96 hours to a maximum of 48 hours. 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 CAMP 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 CAMP agree to continue meeting and conferring on sick leave payout for current and future employees.

- Layoff – Either the City or CAMP 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.
- Supplemental Retiree Benefit Reserve (SRBR) – The City and CAMP agree to discuss the SRBR program in the Federated City Employees' Retirement System.
- Subsidy for Public Transit – The City and CAMP agree to discuss the programs available to employees that provide subsidy for public transit.
- Contracting Out – The City agrees to meet and confer with CAMP 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 – CAMP agrees to withdraw the administrative grievance with regard to the additional retirement contributions as calculated by the City under the agreement reached between the City and CAMP 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.

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 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 agreement 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.

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, CAMP 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 for 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 \$2.8 million in all funds and approximately \$1.2 million 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 CAMP positions, adjustments necessary to maintain the annual required retirement contributions, and the associated loss of overhead and reimbursements 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 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
CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)
TENTATIVE AGREEMENT**

TERM

July 1, 2011 – June 30, 2013

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)

FOR THE CITY:

Gracely Rodriguez 3/23/11

March 23, 2011
Page 1 of 3

*For Union
Kathryn A. Cooper
Acting President
CAMP IFPTE Local 21
Kathryn J. Ostrowski 3/23/11*

CITY OF SAN JOSE
AND
CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)
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:

Charles Rodriguez 3/23/11

FOR UNION
Kathryn A. Cey
3.23.11
Acting President
CAMP IFPTE Local 21

Nancy J. Detrow
3/23/11

CITY OF SAN JOSE
AND
CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)
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:

Kathryn MacKenzie 3-23-11
Cay Denise MacKenzie Date
President *Kathryn*
City Association of Management *President*
Personnel, IFPTE, Local 21 (CAMP)

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

2011 CITY OF SAN JOSE – CAMP

CITY PROPOSAL – WAGES

Proposed Language:

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

This language is intended to replace the language in:

- *The section entitled "Salary/Additional Retirement Contributions" in the CAMP Benefit & Compensation Summary*

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:

Shaely Rodriguez 3/23/11

FOR UNION

Kathy Agon

3.23.11

Acting President

CAMP FEPE Local 21

Nancy J. Ostrowski
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:

- *Health Insurance Section of the CAMP Compensation Summary (previous references to cost sharing will be deleted)*

FOR THE CITY:

Wendy Rodriguez 3/23/11

For Union

Kathy A. Goo

3.23.11

*Acting President
CAMP Local 21*

Nancy J. Detrowski 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:

- Health Insurance Section of the CAMP Compensation Summary (previous references to co-pays will be deleted)

FOR THE CITY:

Vanessa Rodriguez 3/23/11

For Union

Cathy A. Gao

3-23-11

Acting President

CAMP Local 21

Nancy J. Ostrowski 3/23/11

2011 CITY OF SAN JOSE – CAMP

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:

- Health and Dental In Lieu Section of the CAMP Compensation Summary

FOR THE CITY:

Carroll Rodriguez 3/23/11

For Union

Kathy A. Goss

3.23.11

Acting President

CAMP IAFPE Local 21

Nancy J. Detrowski
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:

- *Health Insurance Section of the CAMP Compensation Summary*

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:

- *Dental Insurance Section of the CAMP Compensation Summary*

FOR THE CITY:

Maury Rodriguez 3/23/11

For Union

Kathy A Goo

Actg President

3.23.11

CAMP Local 211 FPR

Nancy J. Ostrowski
3/23/11

CITY PROPOSAL – DISABILITY LEAVE SUPPLEMENT

Proposed Language:

Effective June 26, 2011, 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 three (3) months (520 hours if used intermittently) 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.

After the maximum time limit specified above, 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.

Effective June 24, 2012; employees shall no longer be eligible to receive DLS.

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

This language is intended to replace the language in:

- *The section entitled "Disability Leave" in the CAMP Benefit and Compensation Summary*

FOR THE CITY:

Wendy Rodriguez

For Union

K. Mary A. Gou

3.23.11

Acting President

CAMP IPATE Local 21

Nancy J. Ostrowski
3/23/11

CITY PROPOSAL – VACATION SELLBACK

Proposed Language:

Employees may elect to sell back vacation for a maximum sell back of ninety-six (96) hours of vacation per payroll calendar year.

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 the guidelines set below.

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.
- 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.

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:

- The section entitled "Vacation Sellback" in the CAMP Benefit & Compensation Summary.

FOR THE CITY:

Walter Rodriguez 3/23/11

City of San Jose
March 23, 2011

[Signature]
3/23/11

[Signature]
3-23-11
Acting President
CAMP 10/11/11 21

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)

RETIREMENT REFORM

The City and City Association of Management Personnel, IFPTE Local 21 (CAMP) 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 CAMP 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 CAMP receives notice from the other. The City and CAMP 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 CAMP.

FOR THE CITY:

FOR CAMP:

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

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management
Personnel, IFPTE Local 21 (CAMP)
Kathryn Hayes 3-23-11
Kathryn Hayes
CAMP Local 21 IFPTE

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)

LAYOFF

The City or the City Association of Management Personnel, IFPTE Local 21 (CAMP) may provide notice to the other of its request to meet and confer on modifications to the City's layoff process and procedure. Upon such notice, the parties shall meet within ten (10) calendar days after the City or CAMP receives notice from the other. The City and CAMP 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 agreement between the City and CAMP, 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 CAMP.

FOR THE CITY:

FOR CAMP:

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

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management
Personnel, IFPTE Local 21 (CAMP)

Kathy Coon 3-23-11
Kathy Coon
CAMP Local 21 IFPTE

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the City Association of Management Personnel, IFPTE Local 21 (CAMP) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

Either the City or CAMP 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 CAMP receives notice from the other.

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and CAMP 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 agreement between the City and CAMP, 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 CAMP.

FOR THE CITY:

FOR CAMP:

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

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management
Personnel, IFPTE Local 21 (CAMP)
Kathryn A. Casper
Acting President
3-23-11
CAMP IFPTE Local 21

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)

SUBSIDY FOR PUBLIC TRANSIT

The City and the City Association of Management Personnel, IFPTE Local 21 (CAMP) 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 CAMP 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 CAMP receives notice from the other.

To the extent that any change to the programs may be a mandatory subject of bargaining, the City and CAMP 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 agreement between the City and CAMP, 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 CAMP.

FOR THE CITY:

FOR CAMP:

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

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management
Personnel, IFPTE Local 21 (CAMP)

Johnny J. Gonzalez 3-23-11
Acting President
CAMP Local 21 IFPTE

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21
(CAMP)

SICK LEAVE PAYOUT

The City and the City Association of Management Personnel, IFPTE Local 21 (CAMP) agree to continue meeting and conferring on sick leave payout (the section entitled "Sick Leave Payout") for current and future employees.

Either the City or CAMP 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 CAMP receives notice from the other. The City and CAMP 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 agreement between the City and CAMP, 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 CAMP.

FOR THE CITY:

FOR CAMP:

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

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management
Personnel, IFPTE Local 21 (CAMP)
Colleen A. Gou
Acting President 322-11
CAMP IFPTE Local 21

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

THE CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21
(CAMP)

CONTRACTING OUT

The City agrees to meet and confer with CAMP 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 CAMP.

FOR THE CITY:

FOR CAMP:

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

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management Personnel,
IFPTE Local 21 (CAMP)

Kathy Hagan
3-23-11
Acting President
CAMP Local 21 IFPB

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

CITY ASSOCIATION OF MANAGEMENT PERSONNEL, IFPTE LOCAL 21 (CAMP)

GRIEVANCE

On September 15, 2010, the City Association of Management Personnel, IFPTE Local 21 (CAMP), filed an administrative grievance related to the additional retirement contributions being made by employees represented by CAMP. Per the agreement for Fiscal Year 2010-2011 between the City and CAMP, employees represented by CAMP 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 CAMP could not be immediately implemented, CAMP subsequently challenged the additional retirement contributions as calculated by the City.

As part of the overall agreement on a successor agreement between the City and CAMP, CAMP agrees to withdraw the administrative grievance 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 CAMP.

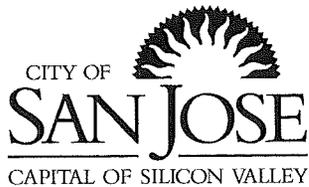
FOR THE CITY:

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

FOR CAMP:

Nancy J. Ostrowski 3/23/11
Nancy Ostrowski Date
City Association of Management
Personnel, IFPTE Local 21 (CAMP)

Kathryn A. Gou
3-23-11
CAMP IFPTE Local 21
Acting President



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Debra Figone

SUBJECT: SEE BELOW

DATE: April 5, 2011

SUBJECT: COMPENSATION AND BENEFIT CHANGES FOR EXECUTIVE MANAGEMENT AND PROFESSIONAL EMPLOYEES IN UNIT 99, OTHER UNREPRESENTED EMPLOYEES (Units 81/82), AND THE CITY MANAGER

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

RECOMMENDATION

Adoption of a resolution approving compensation and benefit changes for executive management and professional employees in Unit 99, including the City Manager, and other unrepresented employees (Units 81/82), effective June 26, 2011.

OUTCOME

Adoption of the resolution and authorization to approve compensation and benefit changes for executive management and professional employees in Unit 99, including the City Manager, and other unrepresented employees (Units 81/82), effective June 26, 2011.

BACKGROUND

Executive Management and Professional Employees (Unit 99) consists of approximately 228 FTEs, including Senior Staff, Executive Staff, senior managers under the City Manager's Appointing Authority, Council Office staff, and professional or management employees under the appointing authority of the City Attorney, City Auditor, and Independent Police Auditor. In addition, there are employees in Unit 99 who work in the City Clerk's Office and the Redevelopment Agency. The annual base pay of employees in Unit 99 ranges from approximately \$34,592 to \$201,146. Employees in Unit 99 are exempt employees and therefore do not receive overtime.

Unit 82 does not currently have any classifications assigned to it. Unit 81 includes part-time unbenefitted employees, such as Lifeguards and Student Interns. Employees in this group progress through steps in the salary ranges to the top step, automatically, after working a designated amount of time (six months or one year) at a particular salary step.

April 5, 2011

Subject: Approval of Changes to Compensation and Benefits for Unit 99, Unrepresented Employees, and the City Manager

Page 2 of 4

The recommended compensation changes for Executive Management (Unit 99) and unrepresented employees are consistent with changes recommended in the agreements with the Association of Engineers and Architects (AEA, Units 41/42 and 43), Association of Maintenance Supervisory Personnel (AMSP) and the City Association of Management Personnel (CAMP). These changes meet the goal that the City Council set in November 2010 for a 10% ongoing total compensation reduction. In June 2010, Unit 99 took a 10% total compensation reduction. The first 5% ongoing reduction was achieved through a 4.75% ongoing base pay reduction and healthcare changes. The second 5% one-time total compensation reduction was achieved through a 5.4% base pay reduction. In accordance with City Council direction, this memorandum recommends making the 5.4% one-time base pay reduction ongoing effective June 26, 2011. It is important to note that the 12 paid time off (PTO) days will not continue.

In addition to the base pay reduction, this memorandum recommends a significant reduction in disability leave supplement effective June 26, 2011, and elimination of the disability leave supplement effective June 24, 2012. This memorandum also recommends a significant reduction in vacation sellback effective December 25, 2011, and elimination of vacation sellback effective the first payperiod of payroll calendar year 2013. In the agreement with the San Jose Fire Fighters and the tentative agreements with AEA, AMSP and CAMP, there is an agreement to continue discussing retirement reform and sick leave payout. These discussions will also be occurring with Unit 99 and any changes will be brought forward separately.

Changes in compensation for the six Council Appointees (City Manager, City Attorney, City Clerk, City Auditor, Independent Police Auditor, and the Redevelopment Agency Executive Director) are usually determined by separate Council action. However, as City Manager, I recommend to the Mayor and Council that I be included in the compensation and benefit changes for Unit 99, as well as any other changes that the Mayor and Council decide will be applicable to Council Appointees.

ANALYSIS

The following is a summary of the compensation and benefit changes for executive management and professional employees in Unit 99, including the City Manager, and other unrepresented employees that are recommended to be implemented upon approval by the City Council:

Base Pay Reduction - Ongoing Effective June 26, 2011, the 5.4% one-time base pay reduction for Fiscal Year 2010-2011, shall become ongoing for all Unit 99, 81 and 82 employees. This will result in all salary ranges being decreased by approximately 5.4%.

Healthcare Dual Coverage In addition to the healthcare changes made for Fiscal Year 2010-2011, including changes to plan design, cost sharing and dual coverage, 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.

April 5, 2011

Subject: Approval of Changes to Compensation and Benefits for Unit 99, Unrepresented Employees, and the City Manager

Page 3 of 4

Disability Leave Supplement Effective June 26, 2011, reduce the maximum disability supplemental pay benefit from six (6) 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.

Vacation Sellback Effective December 25, 2011, reduce vacation sellback eligibility from a maximum of 120 hours to a maximum of 60 hours. 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.

Vacation sellback changes are only applicable to employees in Unit 99 as employees in Units 81/82 are not eligible for vacation sellback.

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.

HONORABLE MAYOR AND CITY COUNCIL

April 5, 2011

Subject: Approval of Changes to Compensation and Benefits for Unit 99, Unrepresented Employees, and the City Manager

Page 4 of 4

COORDINATION

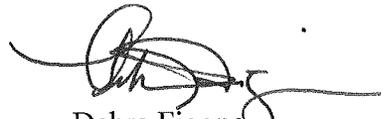
This memorandum was coordinated with the City Attorney's Office, the Human Resources Department, the City Manager's Budget Office and the City Manager's Office of Employee Relations. In addition, the recommendations have been coordinated with the Council Appointees and discussed with the members of the Unit 99 Forum.

COST IMPLICATIONS

These terms meet the goal of a 10% ongoing total compensation reduction, including the 5% ongoing reduction that was approved previously in April 2010. The approval of these terms will reduce the total compensation for executive management and professional employees in Unit 99, including the City Manager, and other unrepresented employees. These terms, which make the 5% one-time total compensation reduction ongoing, generate an additional ongoing savings to the City of approximately \$2.2 million in all funds and approximately \$1.4 million 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 Unit 99, 81, or 82 positions, adjustments necessary to maintain the annual required retirement contributions, and the associated loss of overhead and reimbursements 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 or potential compensation reductions from Council Appointees except the City Manager, which is recommended as part of this memorandum. The budgetary savings will be assumed in the 2011-2012 Proposed Operating Budget scheduled for release on May 2, 2011. These savings do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

CEQA

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



Debra Figone
City Manager

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



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean
David Sykes

SUBJECT: SEE BELOW

DATE: 03-30-11

Approved

Date

3/30/11

COUNCIL DISTRICT: City-wide

SUBJECT: DELEGATION OF AUTHORITY TO AWARD A CONSTRUCTION CONTRACT FOR THE FUEL CELL FOUNDATION PLATFORM AND UTILITY INTERCONNECTIONS DESIGN-BUILD PROJECT

RECOMMENDATION

Adoption of a resolution:

1. Authorizing the Director of Environmental Services or his designee to award the contract for the Fuel Cell Foundation Platform and Utility Interconnections Design-Build Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,652,200 and approve a construction contingency with a maximum amount of \$248,000.
2. Authorizing the Director of Environmental Services or his designee to do either of the following: (a) decide any timely bid protest(s) and make the City's final determination as to lowest responsive and responsible bidder, or (b) reject all bids and re-bid the project.

OUTCOME

Approval of the delegation of authority for the Director of Environmental Services or his designee to award this construction contract will support the critical path schedule for installation of the foundation pad and other components for the future Fuel Cell installation.

BACKGROUND

On October 19, 2010, the City Council approved a Request for Proposal (RFP) for a Power Purchase Agreement (PPA) between the City and UTS Bio-Energy (UTS) to design and build a fuel cell system with the capacity of generating 1.4 megawatts (MW) of electrical power at the Water Pollution Control Plant. The fuel cell system will provide clean, renewable and reliable

power at a cost comparable to projected PG&E costs. The system will advance the Plant's energy self sufficiency goal and also advance the City's Green Vision renewable energy goal of receiving 100% of electrical power from clean renewable sources.

Under the provisions of the PPA, the Fuel Cell provider will fund the construction of the gas cleaning system, fuel cell, hot water transfer system, and electricity monitoring/distribution system as well as operate and maintain the Fuel Cell for a period of 20 years.

As part of the PPA, the City is obligated to construct the subject project providing utility interconnections and the foundation platform for the fuel cell system. A significant amount of work by the Design-Build contractor, including design of the foundation and utility layout as well as work sequence, needs to be closely coordinated with the PPA Vendor. Additionally, the completion date for the foundation pad is critical for the City and the PPA Vendor as the PPA Vendor plans to complete installation of the Fuel Cell before the end of this year and be in power production in January 2012. If the Fuel Cell is not in operation by January 20, 2012, the project will lose the Self Generation Incentive Program (SGIP) rebate of \$5.4 million from PG&E.

Staff is recommending that Council delegate authority to the Director of Environmental Services or his designee to decide any bid protests, to make the City's final determination as to the lowest responsive and responsible bidder, or to reject all bids and re-bid the project.

Under this Design-Build project, the following utility systems will be designed and constructed to provide utility interconnections between the fuel cell and existing plant utilities:

- A concrete foundation platform to support the fuel cell
- A paving apron and fencing around the concrete foundation perimeter
- Underground natural gas fuel line
- Underground biogas fuel line
- Underground hot water supply and return lines
- Underground potable water supply line
- Underground drain line
- Underground power and control conduits
- Underground communications conduit

In preparing the design-build packages, additional engineering and a revised cost estimate have been prepared. The revised estimate for this project has increased from \$1.5 million to \$2.29 million. This increased cost is due to several factors including added capacity to allow for a future fuel cell doubling capacity to 2.8 MW, redundant gas conveyance facilities, increasing cost for stainless steel, and the current trend for increasing energy cost.

The PPA project qualifies for the PG&E SGIP rebate. The application for the SGIP rebate has been submitted. The City has received a conditional reservation letter dated July 20, 2010 from PG&E for a maximum rebate amount of \$7.4 million for a 2.8 MW fuel cell system, and \$5.4 million for a 1.4 MW system.

In authorizing the Director of Environmental Services or his designee to award the contract, the following actions will occur:

1. Bid results and Notification of Intent to Award contract to Apparent Low Bidder by the Director of Environmental Services or his designee will be posted on the Bid Hotline website.
2. All bidders will be emailed or faxed a copy of the Notification of Intent to Award contract and will have five days to file a formal written bid protest.
3. The Director of Environmental Services or his designee will then decide any timely bid protests and then award the contract or reject all bids and re-bid the project as appropriate.

EVALUATION AND FOLLOW UP

This project is currently on budget and on schedule. No additional follow up action with the Council is expected at this time.

POLICY ALTERNATIVES

Alternative # 1: To allow for the project to be awarded through the normal City Council process

Pros: Not applicable

Cons: The project might be delayed and place the City at risk for not receiving the PG&E rebate and not meeting the schedule defined in the executed PPA.

Reason for not recommending: The increased time to award might result in the project being delayed and might put the City at risk of not meeting the PPA requirements and the terms of the PG&E rebate.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Web Posting)**
- Criterion 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)**
- Criterion 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 action does not meet any of the criteria above. However as a common practice, "Notice to Contractors" inviting qualified contractors to submit bids will be published by the Department of Public Works in the *San Jose Post Record*, various Builders Exchanges in the Bay Area, and on the Public Works Department Bid Hotline.

COORDINATION

This project and memorandum have been coordinated with the Departments of Planning, Building and Code Enforcement, the City Manager's Budget Office, and the City Attorney's Office. This project and memorandum are scheduled to be considered by the Treatment Plant Advisory Committee on April 7, 2011.

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council approved Budget Strategy to focus on rehabilitating aging Plant infrastructure, improve efficiency, and reduce operating costs. The project is consistent with the budget strategy principle of focusing on protecting our vital core services and also advances the City's Green Vision renewable energy goal of receiving 100% of electrical power from clean renewable sources.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION (Engineer's Estimate): \$1,652,200

2. COST OF PROJECT:

Project Delivery	\$390,000
Engineer's Estimate	\$1,652,200
Contingency	<u>\$248,000</u>
TOTAL PROJECT COSTS	<u>\$2,290,200</u>

3. SOURCE OF FUNDING: 512 – San José-Santa Clara Treatment Plant Capital Fund.

4. FISCAL IMPACT: Existing funds are available for this project. No additional appropriation action is required.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn.	Amt. for Contract	Adopted CIP Budget Page	Last Budget Action (Date, Ord. No.)
Remaining Project Costs					TBD		
Current Funding Available							
512	7229	Fuel Cell	152653	\$1,326,000	TBD	V-162	06/29/2010, 28765
512	4341	Plant Electrical Reliability		\$3,400,000	TBD	V-167	06/29/2010, 28765
Total Current Funding Available				\$4,726,000	TBD		

CEQA

Exempt PP11-030

/s/
 DAVID SYKES
 Acting Director, Public Works

/s/
 JOHN STUFFLEBEAN
 Director, Environmental Services

For questions please contact Jon Newby, ESD Division Manager, at (408) 945-5160, or Michael O'Connell, Acting Deputy Director of Public Works, at (408) 535-8300.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 03-28-11

Approved

Date

3/25/11

SUBJECT: AGREEMENTS FOR BIOMASS TO ENERGY TECHNOLOGY PROJECT

RECOMMENDATIONS

Adopt a resolution that authorizes the City Manager to negotiate and execute:

1. An agreement with the California Energy Commission to provide grant funding in an amount up to \$1,900,000 for the initial feasibility study, and potential demonstration of a biomass-to-energy technology facility at the San Jose/Santa Clara Water Pollution Control Plant from April 20, 2011 through December 31, 2014 consistent with the business terms specified herein; and
2. An agreement with Harvest Power Inc. to prepare an initial feasibility study, and potential demonstration of a biomass-to-energy technology facility at the San Jose /Santa Clara Water Pollution Control Plant from April 20, 2011 through December 31, 2014 consistent with the business terms specified herein; and for an in-kind match to the California Energy Commission grant for an estimated value of \$4,095,530.

OUTCOME

Approval of this recommendation would enable the City to implement a grant awarded from the California Energy Commission (CEC) to study and showcase an emerging technology that can meet the City's Green Vision goals for waste diversion, waste to energy, alternative fuels, job creation, and local economic development. A successful demonstration project would also further San José's reputation as a green technology leader and help meet San Jose/Santa Clara Water Pollution Control Plant goals for achieving energy self-reliance and for identifying alternative disposal options for biosolids.

BACKGROUND

On August 12, 2010, the CEC approved a \$1,900,000 award to the City for a proposed project with Harvest Power, Inc. to demonstrate that biomethane suitable for generating electricity or vehicle fuel can be produced through the gasification of wood and biosolids feedstocks. On December 14, 2010 Council authorized staff to initiate negotiations with Harvest Power, Inc. and the CEC to develop agreements needed to implement this project.

ANALYSIS

CEC and Harvest Power Agreements

The City proposes to enter into separate agreements with Harvest Power, Inc., and the CEC. The agreement with Harvest Power will incorporate the requirements of the City from the CEC for administering the grant, conducting the initial study, and submitting reports regarding the operation of the demonstration facility. The agreement with the CEC will include the scope of work to be performed by the City in collaboration with Harvest Power, and the requirement of a matching contribution from Harvest Power.

Project Timeline

The City would be entering into a three-year agreement with the CEC to produce an initial feasibility study, and to construct and operate a demonstration facility. The initial feasibility study will be critical to confirm optimal siting of a small demonstration-scale gasification facility on Plant lands, and provide an analysis of all permitting, engineering, feedstock, and outreach considerations required for the demonstration unit; as well as to identify the appropriate indicators of feasibility for implementation of a commercial-scale facility. Based on the results of the feasibility study, all of the Project Partners (City, Harvest Power, and CEC) must agree to proceed with Phase Two, the construction and operation of the demonstration facility. The terms and conditions for the Phase Two will be based, in part, on the results of the initial study. Staff proposes to return to Council with proposed amendments to the agreement with Harvest Power to implement Phase Two.

Table 1 – Project Timeline

Task	Time Required
Feasibility Study	Approx 12 months
Technical, Economic, & Stakeholder Analysis	Start April 2011
Critical Review Process	
Construction and Operation	Approx 24 months
Public Outreach - Ongoing	Start April 2012
Building design	
Equipment Procurement	
Construction	
Commissioning of Facility	
Feedstock testing – wood waste	Start October 2012

Feedstock testing - biosolids	
Long-term feasibility studies	
Operating/Capital Cost Analysis	
Fueling Station Viability	
Project Reporting	Ongoing
Data Collection & Reporting	
Publish Report of Findings	April 2014

City Resources

The CEC grant requires a match from the City and Harvest Power. The City intends to include as part of its match commitment of City Environmental Services Specialists staff from the Integrated Waste Management Division and Plant operational and engineering staff. These existing staff positions would monitor the project implementation and integrate the demonstration unit with the Plant infrastructure and operations. It is forecasted that City employees would each contribute an average of between two hours to four hours per week for the duration of the project. This commitment is valued at approximately \$200,000 for the three-year term of the project.

The City will also commit up to \$200,000 in consultant support. The funding for the consultant support was encumbered in 2009 to perform engineering, environmental review, public outreach, and conversion technology analysis for these types of projects.

Harvest Power Resources

Harvest Power will also provide staff resources for the feasibility analysis, and if determined to be feasible, construction and operation of the demonstration facility. The contribution from Harvest Power includes in-kind support from their technology partner Agnion to develop the technical data required for the demonstration facility. Staffing resources from Harvest will total approximately \$135,000 for Phase One and approximately \$270,000 for Phase Two and include up to eight personnel with the following expertise: Construction Manager, Chief Technology Officer, Lead Engineer, Plant Operations Manager, Economic Feasibility Analyst, and Technology Feasibility Analyst. The majority of the contribution from Harvest Power shall be for Phase Two of the project. Harvest Power has agreed to conduct the construction procurement in substantial conformance with public works requirements.

CEC Fund Disbursement

The CEC funds are disbursed through a reimbursement process and will be released only after the required match funds from either the City or Harvest Power are expended. Staff anticipates that the CEC grant funds will be recognized and funding will be appropriated as part of the 2010-2011 year end budget cleanup actions. The CEC matching funds would then in turn be used for project activities such as existing consultant contracts, or new consultant services based on expertise required to complete the study. Monthly progress reports will provide ongoing analysis that will allow team members to adjust project allocations within allowable CEC limits.

Reporting Requirements

The City will be required to submit reports to substantiate services rendered by City staff and consultants, and Harvest Power as part of the reimbursement process. The CEC also requires the City to periodically submit project progress reports. Such reports are to include information regarding the evaluations of the feasibility data and demonstration results, including but not limited to feedstock throughput, problems encountered or reported and how they were resolved, real versus projected costs to operate the system, and cumulative data on system performance.

Ownership of Demonstration Equipment

If a demonstration facility is deemed feasible, Harvest Power will be required to construct the demonstration facility. The CEC grant agreement requires that any equipment purchased with grant funds must be retained by the City unless otherwise authorized by the CEC. In this case, since grant funds will not be used to pay for the cost of the equipment, Harvest Power shall retain ownership of the demonstration unit at the end of the project term. Harvest Power would also be required to remove the equipment and restore the Plant site to its original condition. The specific terms and conditions of Phase Two shall be detailed for Council consideration when staff returns to Council on or about May 2012.

EVALUATION AND FOLLOW-UP

The Administration will return in May 2012 with the proposed amendments to the agreement with Harvest Power if all of the partners have agreed that the project is feasible based on the results of the initial study.

PUBLIC OUTREACH/INTEREST

This recommendation meets Criteria 1.

- 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)**

As detailed in the memorandum to the City Council dated December 14, 2010, the City did background research in preparation for the stakeholder portion of the feasibility study and

demonstration project, including a nationwide phone survey with municipalities who are currently implementing outreach for conversion technology projects, and leveraging the communications efforts developed for the Plant Master Plan. The communication plan for the grant project was developed from these and other industry sources.

The first step in preparing for the stakeholder feasibility will be the identification of key stakeholders who should provide input on the feasibility study criteria to assure that the research being performed by the City and Harvest Power is most applicable to the local and statewide industry. Stakeholders who have already expressed interest in collaborating with the City include the California Biomass Collaborative, UC Davis, the Bay Area Regional Biomass Collaborative, the Treatment Plant Advisory Council, the City of Palo Alto, Zanker Road Resource Management, Ltd., Zero Waste Energy Development Co., Newby Island Resource Recovery, and Sacramento Municipal Utility District. Other stakeholders will also be contacted including environmental non-profits, the Plant Master Plan TAG, and the Bay Area Air Quality Management District. After the Phase One feasibility study is complete, a stakeholder meeting will be held in order to review the project findings and get input on the feasibility of moving forward with the construction and demonstration phase.

COORDINATION

This memorandum was coordinated with the City Manager’s Budget Office, the Office of Economic Development, and the City Attorney. This project and memorandum are scheduled to be considered by the Treatment Plant Advisory Committee on April 7, 2011.

COST IMPLICATIONS

The grant requires a match by City and Harvest of \$1,900,000. Harvest Power, its investors, and project partners would contribute significantly more than the CEC requires as grant match resources in cash and in-kind resources for this project, including: equipment, materials, labor, and administrative support, including all costs of site preparation, installation and operation, and maintenance for the demonstration unit. Harvest would also contribute the following: project feasibility reports, methane to the Plant above what is required to maintain the demonstration unit, any special waste disposal costs, construction and unit removal costs including interconnects, restoration of plant land used for the demonstration unit. The value of Harvest Power’s contribution for both phases of the project is estimated to be \$4,095,530. Phase Two of the project will not incur any new expenses from the City beyond what is indicated below.

Table 2 – San Jose Match by Timeline

Task	Time Required	San Jose Contribution	Description
Feasibility	Appx 12 months		
Planning & Feasibility Studies		\$200,000	Consultant Contracts
		\$15,000	Staff time

Construction - Operation	Appx 24 months		
Equipment Procurement		\$15,000	Staff time
Construction		\$20,000	Staff time
Land Value		\$211,701	Land Value
Public Outreach		\$25,000	Staff time
Feedstock testing – wood waste		\$40,000	Staff time
Feedstock testing - biosolids		\$50,000	Staff time
Water and waste disposal		\$60,000	In-kind Services
Reporting	Ongoing		
Data Collection & Reporting		\$15,000	Staff time
Publish Report of Findings		\$20,000	Staff time
Total		\$671,701	

As shown in Table 2 above, the value of the City's contribution to this demonstration agreement will not exceed \$671,701. Of this, \$200,000 is currently encumbered in multi-year consulting contracts that support feasibility analysis and demonstration evaluation funded by ESD Non-Personal/Equipment appropriation in the Integrated Waste Management Fund. Another approximate \$212,000 of the City's contribution is the estimated value of two acres for locating the demonstration project. Matching resources also include City Staff support for the project, estimated at approximately \$200,000. This would be absorbed by existing staff with no need for additional staffing allocations, including two staff approved by Council specifically to implement new organic energy conversion projects. The City will contribute the in-kind value of recycled water, waste water treatment, and solid waste disposal for an estimated value of \$60,000 during the demonstration period. The balance of City contributed resources will be from Plant operations staff, provided by the Plant Capital Division. To the extent that the demonstration unit will generate additional energy beyond what is required for the demonstration unit, it is contemplated that this energy can be used by the Plant.

CEQA

Construction and Demonstration phase - Categorical Exemption, File No. PP10-130, CEQA Guidelines Section 15303(d), New Construction and Conversion of Small Structures

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions please contact Michele Young, Organics Manager, at (408) 975-2519.