



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: May 17, 2011

Approved

Date

5/17/11

SUBJECT: APPROVAL OF IMPLEMENTATION OF TERMS CONTAINED IN THE CITY'S LAST, BEST, AND FINAL OFFER TO THE MUNICIPAL EMPLOYEES' FEDERATION, AFSCME LOCAL 101 (MEF)

COUNCIL DISTRICT: N/A

SNI AREA: N/A

RECOMMENDATION

Adoption of a resolution approving the implementation of terms contained in the City's Last, Best, and Final Offer for employees represented by the Municipal Employees' Federation, AFSCME Local 101 (MEF), effective June 26, 2011.

OUTCOME

Adoption of the resolution and authorization to implement terms contained in the City's Last, Best, and Final Offer for employees represented by MEF, effective June 26, 2011. Implementation of terms does not result in implementation of a Memorandum of Agreement (MOA).

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%) and rolling back any general wage increases received in Fiscal Year 2010-2011. "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 direction to achieve 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, overtime calculation, vacation sellback and compensation structure.

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The City of San Jose has a labor contract with the Municipal Employees' Federation, AFSCME Local 101 (MEF), which expires on June 30, 2011. MEF currently represents approximately 1,735 positions as included in the 2011-2012 Proposed Operating Budget. This unit includes employees such as Code Enforcement Inspectors, Public Safety Dispatchers, Office Specialists, Librarians and Planners.

The negotiations with MEF commenced in January 2011, and the parties met approximately eleven (11) times. The parties reached impasse and engaged in the mediation process on May 2, 2011, and May 12, 2011. Unfortunately, despite these efforts, the parties were unable to reach an agreement.

On May 12, 2011, the City provided MEF with alternate Last, Best, and Final offers, which included a one-year or two-year proposed term of agreement with slightly different terms. The City requested that MEF provide a response by May 24, 2011. If an agreement is reached with MEF, a Supplemental Memorandum will be issued.

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

MEF has been notified that this item was being placed on the Council Agenda for implementation of terms contained in the one-year City's Last, Best, and Final offer for employees represented by MEF, which is attached. However, it is important to note that the imposition of terms does not include the imposition of any side letters.

ANALYSIS

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

Base Pay Reduction – Ongoing Effective at the beginning of the payperiod during which the current contract expires (June 26, 2011), all salary ranges for employees represented by MEF shall be decreased by approximately 12.01%. All employees represented by MEF shall receive a 12.01% base pay reduction, which includes rolling back the 2% general wage increase received 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

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.

Disability Leave

Effective at the beginning of the payperiod during which the current contract expires (June 26, 2011), reduce the maximum disability supplemental pay benefit from nine (9) calendar months to three (3) calendar months (520 hours).

Employees will be allowed to integrate accrued vacation, earned compensatory time, and accrued sick leave.

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Salary Step Structure Effective at the beginning of the payperiod during which the current contract expires (June 26, 2011), salary steps for all classifications represented by MEF will change from approximately 5% to approximately 2.5% between each step. This will increase the number of steps in each pay range.

Overtime Employees who work in excess of 40 hours per week shall be compensated at the rate of time and one-half (1.5) the employee's hourly rate. Paid time off will no longer be considered time worked for the purposes of calculating eligibility for overtime.

Subsidy for Public Transit After calendar year 2011, the City will no longer provide employees with an ECO-Pass. Upon exhaustion of the current supply of Commuter Check Vouchers, Vouchers will no longer be available for purchase from the City.

Sick Leave Payout Effective January 1, 2012, no employee shall be eligible for a sick leave payout.

Side Letters

The City's one-year Last, Best, and Final offer included several side letters to meet and confer, to the extent that any change is a mandatory subject of bargaining, in the areas of Retirement Reform for current and future employees, including but not limited to healthcare benefits; the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System; and the City's layoff process and procedure, during the term of the proposed agreement.

The imposition of terms does not include the imposition of any side letters. However, absent an MOA containing a "zipper clause" the City or MEF may notify the other of its intent to meet and confer on any matters during Fiscal Year 2011-2012, to the extent that any change is a mandatory subject of bargaining. Pursuant to the Meyers-Milias-Brown Act under California Government Code Section 3505, the parties have the mutual obligation to meet and confer promptly upon request by either party, and to endeavor to reach agreement on matters within the scope of representation. This obligation includes all mandatory subjects of bargaining, inclusive of the change in terms included in this memo for Fiscal Year 2011-2012. If the parties are unable to reach an agreement on any of the issues, the parties shall follow the impasse procedures under Employee-Employer Relations Resolution No. 39367.

EVALUATION AND FOLLOW-UP

None.

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PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets Criterion 1. This memorandum will be posted on the City's website for the May 31, 2011, Council Agenda.

COORDINATION

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

COST IMPLICATIONS

As directed in the Mayor's March 2011 Budget Message, as approved by the City Council, the budgetary savings associated with this action are assumed in the 2011-2012 Proposed Operating Budget which was released on May 2, 2011, as well as the 2011-2012 Proposed Fees and Charges document released on May 7, 2011. The terms which achieve a 10% ongoing total compensation reduction and roll back base salary increases of 2% received in Fiscal Year 2010-2011, generate additional ongoing savings of approximately \$20.86 million in all funds and approximately \$13.62 million in the General Fund based on the positions included in the 2011-2012 Proposed Operating Budget. These savings do not include any adjustments necessary to maintain the annual required retirement contributions and the associated change in overhead reimbursements to the General Fund from other funds. These savings also do not include the currently unknown cost increases for healthcare for the second half of Fiscal Year 2011-2012.

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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 MEF
LAST, BEST, AND FINAL OFFER
ALTERNATIVE A**

PERIOD OF MEMORANDUM OF AGREEMENT

July 1, 2011 – June 30, 2012 (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

SICK LEAVE PAYOUT

See attached

DISABILITY LEAVE SUPPLEMENT

See attached

SALARY STEP STRUCTURE

See attached

OVERTIME CALCULATION

See attached

SUBSIDY FOR PUBLIC TRANSIT

See attached

SIDE LETTERS

- Retirement Benefits for current and new employees (See attached)
- Layoff (See attached)
- Supplemental Retiree Benefit Reserve (SRBR) (See attached)

PERIOD OF MEMORANDUM OF AGREEMENT

Proposed MEF Language:

ARTICLE 1 PERIOD OF MEMORANDUM OF AGREEMENT

~~2.1 This Agreement shall become effective July 1, 2008 except where otherwise provided, and shall remain in effect through June 30, 2011. 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. Upon ratification by the Union of the Memorandum of Agreement and approval by the City Council, the City will provide the Union within thirty (30) days after both events have occurred, a draft copy of the Memorandum of Agreement. Three hundred (300) copies of this Agreement, as originally executed, shall be printed and distributed as soon as practical. The costs of such printing shall be shared equally by the parties, unless the printing of such Agreements are reproduced utilizing City facilities, in which case the City shall bear the cost of such printing. Additionally, the Agreement will be posted on the internet and intranet.~~

~~2.2.1 It is the mutual desire of the parties to conclude the meet and confer process as early as possible prior to the expiration of this Agreement. Therefore, it is agreed that the Union shall exert every reasonable effort to submit any proposed changes or additions to this Agreement on or before April 1, 2011. The City agrees to begin the meet and confer process as soon thereafter as is reasonably possible.~~

2.1 This Agreement shall become effective July 1, 2011, except where otherwise provided, and shall remain in effect through June 30, 2012. 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.

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.

CITY PROPOSAL – WAGES

Proposed MEF Language:

~~12.1.1 Wages 2008-2009. Effective June 29, 2008, all salary ranges for employees holding positions in classifications assigned to MEF (Union Codes 051/05 and 052/07) shall be increased by approximately 3.75%. The 2008-2009 salary ranges are listed in Exhibit I and Exhibit II and shall remain in effect until June 27, 2009.~~

~~12.1.1 Employees in the following classifications will receive a 5.0% special market adjustment for a total of a 8.75% increase including the 3.75% general wage increase effective June 29, 2008:~~

- ~~4187 Crime and Intelligence Analyst~~
- ~~4188 Crime and Intelligence Analyst (PT)~~
- ~~4186 Senior Crime and Intelligence Analyst~~

~~12.1.2 Employees in the following classifications will receive a 2.0% special market adjustment for a total of a 5.75% increase including the 3.75% general wage increase June 29, 2008:~~

- ~~4547 Buyer I~~
- ~~4542 Buyer II~~
- ~~4543 Senior Buyer~~
- ~~3782 Survey Field Supervisor~~
- ~~2443 Supervising School Crossing Guard~~

~~12.1.3 Employees in the following classification will receive a .17% special market adjustment for a total of a 3.92% increase including the 3.75% general wage increase effective June 29, 2008:~~

- ~~4618 Contract Compliance Specialist~~

~~12.2 Wages 2009-2010. Effective June 28, 2009, all salary ranges for employees holding positions in classifications assigned to MEF (Union Codes 051/05 and 052/07) shall be increased by approximately 1.50%. The 2009-2010 salary ranges are listed in Exhibit I and Exhibit II and shall remain in effect until June 26, 2010.~~

~~12.3 Wages 2010-2011. Effective June 27, 2010, all salary ranges for employees holding positions in classifications assigned to MEF (Union Codes 051/05 and 052/07) shall be increased by approximately 2.0%. The 2010-2011 salary ranges are listed in Exhibit I and Exhibit II and shall remain in effect until June 30, 2011.~~

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- ~~12.4 Wages for part-time employees. Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classifications.~~
- 12.1 Effective June 26, 2011, all salary ranges for employees holding positions in classifications assigned to MEF (Union Code 050/051/052) shall be decreased by approximately 12.01%. This will result in the top and bottom of the range of all classifications represented by MEF being 12.01% lower. All employees will receive a 12.01% base pay reduction.
- 12.2 Wages for part-time employees. Employees assigned to part-time classifications shall be paid an hourly rate equivalent to the hourly rate for the same full-time classifications.

CITY PROPOSAL – HEALTHCARE

Proposed MEF Language:

- 13.1 Health Insurance. Eligible employees may elect health insurance coverage under one of the available plans for employee only or employee and dependents.
- 13.1.1 ~~The City shall pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan up to a maximum of one hundred and fifty dollars (\$150) per month. If the employee's ten percent (10%) contribution for the lowest priced plan exceeds one hundred and fifty dollars (\$150) per month the City shall pay the difference. If an employee selects a plan other than the lowest priced plan, any additional amount required for the premium of any other plan beyond the cost of the lowest priced plan shall be paid for by the employee. 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 employees and dependent coverage and the employee pays fifteen (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.~~
- ~~13.1.2 Effective at the beginning of pay period one (1) of payroll calendar year 2009, the City shall pay ninety percent (90%) of the full premium cost of the lowest priced plan for employee or for employee and dependent coverage, and the employee will pay ten percent (10%) of the premium for the lowest priced plan for the employee or for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan, the employee shall pay the difference between the total cost of the selected plan and the City's contribution towards the lowest priced plan for employee or for employee and dependent coverage.~~
- 13.1.32 Effective January 1, 2009, co-pays for all available HMO plans shall be as follows: 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 ~~\$40~~\$25
 - b. Prescription Co-pay shall be increased to ~~\$5~~\$10 for generic and ~~\$40~~\$25 for brand name. (The Blue Shield HMO will continue to include ~~\$15 non-formulary drug co-pay.~~)
 - c. Emergency Room Co-pay shall be increased to ~~\$50~~\$100
 - d. Inpatient/Outpatient procedure Co-pay shall be increased to \$100
- 13.3 Payment-in-Lieu of Health and Dental Insurance. The purpose of the payment-in-lieu of health and/or dental insurance program is to allow employees who have double health and/or dental insurance coverage to drop the City's insurance and receive a payment-in-lieu.

13.3.1 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>
<u>If eligible for family coverage</u>	<u>\$221.84</u>	<u>\$19.95</u>
<u>If NOT eligible for family coverage</u>	<u>\$89.09</u>	<u>\$19.95</u>

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

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

~~13.3.1 Employees who qualify for and participate in the payment-in-lieu of health and/or dental insurance program will receive fifty percent (50%) of the City's contribution toward their health and/or dental insurance at the lowest cost single or family plan if the employee is eligible for family coverage. The City will retain the remaining fifty percent (50%) of that contribution.~~

13.3.2 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek or unpaid leave and have alternate group health and/or dental coverage. To qualify, an employee must provide proof of alternate group coverage to Human Resources. Alternate coverage must be acceptable by the City.

13.3.3 Enrollment in the payment-in-lieu of health and/or dental insurance program can only be done during the first thirty (30) days of employment, during the annual open enrollment period or within thirty (30) days of a qualifying event as defined in the Human Resources Benefits Handbook, occurring anytime during the year. Employees who miss the thirty (30)-day time limit after a qualifying event must wait until the next open enrollment period to enroll in the payment-in-lieu of insurance program. Enrollment in the payment-in-lieu of insurance program may be canceled by the employee only during the annual open enrollment period unless the employee loses alternate group coverage. Enrollment or cancellation during the open enrollment period will become effective the first pay period of the following calendar year.

13.3.4 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations, employment status changes from full to part-time, employee is on an unpaid leave of absence, employee is on a reduced work week, or

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employee loses or does not have alternate insurance coverage. An employee whose in-lieu payments are discontinued may enroll, if eligible, in a health and/or dental plan during the next annual open enrollment period.

13.3.5 If an employee loses alternate coverage, the employee may enroll in a City health and/or dental plan outside of the open enrollment period. To be eligible the employee must provide verification that alternate coverage has been lost.

13.3.5.1 Health Insurance. To enroll in a City health insurance plan following loss of alternate coverage, the employee must pay all unpaid premiums (City and employee contributions) and refund any excess in-lieu-payments required to make the coverage effective on the date when alternate coverage ceased. Re-enrollment in the plan shall be in accordance with the carriers' enrollment procedures.

13.3.5.2 Dental Insurance. Enrollment in a City dental insurance plan following loss of alternate coverage will become effective the first of the month following payment of two dental premiums through the City's payroll process. Re-enrollment in the dental insurance plan shall not be retroactive.

CITY PROPOSAL – SICK LEAVE PAYOUT

Proposed Language:

Effective January 1, 2012, no employee shall be eligible for a sick leave payout.

This language is intended to replace the language in:

- *Article 10.3.6 of the MEF Memorandum of Agreement.*

CITY PROPOSAL – DISABILITY LEAVE

Proposed MEF Language:

10.4 Disability Leave

10.4.1 Disability Leave. Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which, when added to Worker's Compensation Temporary Disability (WCTD) results in providing employees eighty-five percent (85%) of their regular base salary.

10.4.2 Eligibility for Disability Leave Supplement. A full-time employee 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 10.4.4. 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.

10.4.2.1 After the initial three (3)-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 Worker's Compensation Section. In no event may DLS exceed the limit specified in Section 10.4.6.

10.4.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability. If the Worker's 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 (1) year.

10.4.4 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; and/or any work voluntarily undertaken by employee from which he has been prohibited from engaging in as determined by a City physician, prior to the date of injury.

10.4.5 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 the employee is physically qualified.

10.4.6 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 eighty-five percent (85%) of what the employee would have earned at the position from which the employee is disabled for one of the following time periods, whichever is shortest:

1. The time the employee is medically required to be absent due to a work-related injury or illness, after the required three (3)-day waiting period.
2. 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.
3. 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.~~Nine (9) calendar months (274 days or 1,560 hours if not continually absent) following the date of injury.~~

10.4.6.1 Time Limit for DLS Eligibility. Effective June 26, 2011, after 520~~After 1,560 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 the employee is claiming DLS.~~

10.4.7 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.

10.4.8 Requirement of Evidence Proving Temporary Disability. The Director of Human Resources, or designee, 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, or designee. The Director, or designee, may require the employee to submit to a medical examination by a physician selected by the City.

10.4.9 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 Sick Leave as provided in Section 10.3.3.3, and of accrued vacation, and compensatory time off, with Workers' Compensation may be considered to have separated from City service.

10.4.9.1 An employee who exhausts all Disability Leave shall be notified that they are subject to the above provision upon expiration of all remaining paid leave.

10.4.10 Integration. After the maximum time limit specified in Article 10.4.6, 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.

CITY PROPOSAL – SALARY STEP STRUCTURE

Proposed Language:

Salary Steps

Effective June 26, 2011, the salary steps for all classifications represented by MEF will change from approximately 5% between each step to approximately 2.5%. This will result in an increase in the number of steps in the pay range.

This language shall be added as:

- *Article 12.3 of the MEF Memorandum of Agreement and other Articles shall be renumbered accordingly*

CITY PROPOSAL – OVERTIME CALCULATION

Proposed Language:

Hours assigned and worked in excess of forty (40) hours per week shall be compensated by overtime pay or compensatory time at 1.5 times the hourly rate for the number of overtime hours worked. Paid time off shall not be considered time worked for the purpose of calculating eligibility for overtime.

This language is intended to replace the language in:

- *Article 7.12.1 of the MEF Memorandum of Agreement.*

With this proposal, Article 7.6 of the MEF Memorandum of Agreement.

**CITY PROPOSAL – PUBLIC TRANSIT SUBSIDY (ECO-PASS AND SUBSIDIZED
COMMUTER CHECK VOUCHER PROGRAM)**

ECO-Pass

After calendar year 2011, the City will no longer provide employees an ECO-Pass. This means that any employee in possession of a 2011 ECO-Pass provided by the City may continue its use through calendar year 2011. Beginning calendar year 2012, the City will cease providing an ECO-Pass.

Commuter Check Program

Upon exhaustion of the current supply of Commuter Check Vouchers, the Vouchers will no longer be available to employees for purchase from the City. This means that the subsidized Commuter Check Voucher Program is eliminated after the current supply of Commuter Check Vouchers are exhausted.

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF)

RETIREMENT REFORM

The City and Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF) 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 MEF 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 MEF receives notice from the other. The City and MEF 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 including the Union's nor any member's right to assert that certain benefits are vested.

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 MEF.

FOR THE CITY:

FOR MEF:

Gina Donnelly Date
Office of Employee Relations

Yolanda Cruz Date
Municipal Employees' Federation,
AFSCME, Local No. 101, AFL-CIO (MEF)

Side Letter Agreement

BETWEEN

THE CITY OF SAN JOSE

and

Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF)

SUPPLEMENTAL RETIREE BENEFIT RESERVE (SRBR)

The City and the Municipal Employees' Federation, AFSCME, Local No. 101, AFL-CIO (MEF) agree to discuss the Supplemental Retiree Benefit Reserve (SRBR) program in the Federated City Employees' Retirement System.

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

To the extent that any change to the SRBR program is a mandatory subject of bargaining, the City and MEF 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. In such event, neither party waives any legal rights including the Union's nor any member's right to assert that certain benefits are vested.

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 MEF:

Gina Donnelly Date
Office of Employee Relations

Yolanda Cruz Date
Municipal Employees' Federation,
AFSCME, Local No. 101, AFL-CIO (MEF)