

# Memorandum

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** Alex Gurza

**SUBJECT:** SEE BELOW

**DATE:** September 4, 2012

Approved

Date

9/4/12

**SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT ON SICK LEAVE PAYOUT WITH THE ASSOCIATION OF ENGINEERS AND ARCHITECTS (Unit 41/42 and Unit 43), INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, IFPTE LOCAL 21, (AEA).**

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

## RECOMMENDATION

Adopt a resolution approving the terms of an agreement on Sick Leave Payout between the City and the Association of Engineers and Architects (Unit 41/42 and Unit 43), International Federation of Professional and Technical Engineers, IFPTE Local 21 (AEA), effective September 30, 2012.

## OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in an agreement between the City of San Jose and the Association of Engineers and Architects (Units 41/42 and Unit 43), International Federation of Professional and Technical Engineers, Local 21, (AEA), such that any employee hired on or after September 30, 2012 and represented by AEA, shall not be eligible for any Sick Leave Payout, and maintaining the current Sick Leave Payout benefit for employees hired on or prior to September 29, 2012 and represented by AEA, as provided for in the 2011-2013 Memorandum of Agreements with AEA, for Fiscal Year 2012-2013. Sick Leave Payout for employees hired on or prior to September 29, 2012, shall be subject to negotiations on successor agreements in 2013.

## EXECUTIVE SUMMARY

The City of San Jose and AEA reached a Tentative Agreement on August 28, 2012, on Sick Leave Payout, such that any employee hired on or after September 30, 2012 and represented by AEA, shall not be eligible for any Sick Leave Payout. In addition, the current Sick Leave Payout benefit for employees hired on or prior to September 29, 2012 and represented by AEA, shall remain status quo

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as provided for in the 2011-2013 Memorandum of Agreements with AEA for Fiscal Year 2012-2013 and shall be subject to negotiations on successor agreements in 2013.

The City Administration is recommending approval of the Tentative Agreement for Sick Leave Payout, subject to the ratification of the Tentative Agreement by AEA. AEA is holding a ratification meeting on September 5, 2012.

## **BACKGROUND**

AEA represents approximately 200 full time budgeted positions. 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.

As part of the agreement on successor Memoranda of Agreement (MOA) with AEA that achieved a 10% ongoing total compensation reduction and eventual elimination of the Disability Leave Supplement and Vacation Sellback, the City and AEA agreed to continue negotiations on other reforms that were approved by the City Council, including Sick Leave Payout.

Generally, Sick Leave Payout is a benefit provided to full-time employees whereby the employee, at the time of retirement and credited with at least fifteen (15) years of service in the retirement plan, receives a cash payout equivalent to a percentage of any unused and accrued sick leave based on the terms in the MOA or Benefit and Compensation Summary. It should be noted that, since Sick Leave Payout is a benefit negotiated by bargaining unit, an employee is eligible to receive the Sick Leave Payout (if any) that is available to an employee in the bargaining unit that they are in. For example, if an employee moves to a bargaining unit that does not provide any Sick Leave Payout, then the employee would not be eligible for a Sick Leave Payout. For purposes of Sick Leave Payout, an employee hired by the City on or before September 29, 2012, who subsequently moves into a classification in AEA on or after September 30, 2012, is not considered a new employee so long as there are no breaks in City service and would thus be eligible for the benefits of AEA.

Beginning in September 2011, the City engaged in negotiations with a coalition consisting of AEA, as well as the Association of Maintenance Supervisory Personnel, IFPTE Local 21 (AMSP), and the City Association of Management Personnel, IFPTE Local 21 (CAMP), pursuant to the side letters on Sick Leave Payout which were part of the successor agreements with each of these bargaining units.

The City and AEA, along with AMSP and CAMP, were unable to come to an agreement on Sick Leave Payout during negotiations and thus reached impasse. In accordance with the City's relevant impasse procedures, the parties engaged in the mediation process beginning in May 2012.

On or about August 28, 2012, the City and AEA, along with AMSP and CAMP, reached a Tentative Agreement on Sick Leave Payout, specifically to eliminate the benefit for employees hired on or after September 30, 2012, and to maintain the benefit for employees hired on or before September 29, 2012, subject to negotiations for a successor agreement in 2013. The Tentative Agreement is subject to ratification by AEA.

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### ANALYSIS

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

**Sick Leave Payout  
– New Employees** Any employee hired on or after September 30, 2012 and represented by AEA, shall not be eligible for any Sick Leave Payout.

**Sick Leave Payout  
– Current Employees** Sick Leave Payout for employees hired on or prior to September 29, 2012, shall remain status quo as provided for in the Memorandum of Agreements with the Association of Engineers and Architects (Unit 41/42 and Unit 43), IFPTE Local 21 (AEA). Sick Leave Payout for employees hired on or prior to September 29, 2012, shall be subject to negotiations on successor agreements in 2013.

### 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)**

While this action does not meet any of the criteria listed, this memorandum was posted on the City's website 14 days in advance of the September 18, 2012, City Council meeting.

### COORDINATION

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

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**COST IMPLICATIONS**

There are no anticipated cost implications for Fiscal Year 2012-2013. There will be long term savings associated with the elimination of Sick Leave Payout for employees hired on or after September 30, 2012, and represented by AEA.

**CEQA**

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



Alex Gurza  
Deputy City Manager

For questions please contact Alex Gurza, Deputy City Manager, at (408) 535-8150.

Attachment

CITY OF SAN JOSE  
AND  
ASSOCIATION OF ENGINEERS AND ARCHITECTS, IFPTE LOCAL 21  
(AEA UNIT 41/42 and AEA UNIT 43)  
TENTATIVE AGREEMENT

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**SICK LEAVE PAYOUT**

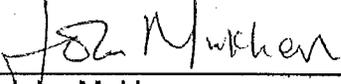
Any employee hired on or after September 30, 2012, shall not be eligible for any Sick Leave Payout.

Sick Leave Payout for employees hired on or prior to September 29, 2012, shall remain status quo as provided for in the Memorandum of Agreements with the Association of Engineers and Architects (Unit 41/42 and Unit 43), IFPTE Local 21 (AEA). Sick Leave Payout for employees hired on or prior to September 29, 2012, shall be subject to negotiations on successor agreements in 2013.

***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 agreement of the parties reached during these negotiations on the issue of Sick Leave Payout. Anything not included in this document is not part of the Tentative Agreement.***

  
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Alex Gurza  
Deputy City Manager

8-28-12  
Date

  
\_\_\_\_\_  
John Mukhar  
President,  
Association of Engineers and Architects,  
IFPTE Local 21  
(AEA Unit 41/42 and Unit 43)

8/27/2012  
Date

  
\_\_\_\_\_  
Nancy Ostrowski  
Senior Representative,  
IFPTE Local 21

8/27/12  
Date