CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Gloria Schmanek

SUBJECT: **Early Council Packet**

DATE: September 18, 2012

Approved

Date 9-18-12

EARLY DISTRIBUTION COUNCIL PACKET FOR OCTOBER 2, 2012

Please find attached the Early Distribution Council Packet for the October 2, 2012 Council Meeting.

3.x Approval of Terms of an Agreement on Sick Leave Payout with the Association of Building, Mechanical and Electrical Inspectors (ABMEI).

Recommendation: Adopt a resolution approving the terms of an agreement on Sick Leave Payout between the City and the Association of Building, Mechanical and Electrical Inspectors (ABMEI), effective September 30, 2012. CEQA: Not a Project, File No. PP10-069(b), Personnel Related Decisions. (City Manager's Office)

This item will also be included in the Council Agenda Packet with and item number.

GLORIA SCHMANEK
Agenda Services Manager

COUNCIL AGENDA: 10-02-12
ITEM:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: September 18, 2012

Approved

Date 9/18/12

SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT ON SICK LEAVE PAYOUT WITH THE ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS (ABMEI).

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 Building, Mechanical and Electrical Inspectors (ABMEI), 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 Building, Mechanical and Electrical Inspectors (ABMEI), such that any employee hired on or after September 30, 2012 and represented by ABMEI, 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 ABMEI, as provided for in the 2011-2013 Memorandum of Agreement (MOA) with ABMEI, for Fiscal Year 2012-2013. Sick Leave Payout for employees hired on or prior to September 29, 2012, shall be subject to negotiations on a successor agreement in 2013.

BACKGROUND

ABMEI represents approximately 52 full time budgeted positions. This bargaining unit includes employees in the classifications of Building Inspector/Combination, Building Inspector/Combination Certified, Building Inspector Supervisor, and Building Inspector Supervisor Certified.

As part of the agreement on a successor Memorandum of Agreement (MOA) with ABMEI that achieved a 10% ongoing total compensation reduction and eventual elimination of the Disability

Leave Supplement, the City and ABMEI 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 ABMEI 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 ABMEI.

In 2010, after the City and ABMEI were unable to come to an agreement on a successor MOA after the expiration of the 2007-2009 MOA, the Sick Leave Payout benefit was reduced for ABMEI employees via the implementation of terms by City Council. In 2011, the City and ABMEI reached an agreement on a successor MOA for 2011-2013 which included a side letter to restore the Sick Leave Payout benefit to the same terms of the 2007-2009 MOA effective June 26, 2011, as well as the continued negotiations on Sick Leave Payout.

Beginning in September 2011, the City engaged in negotiations with ABMEI pursuant to the side letter on Sick Leave Payout which were part of the successor agreement with ABMEI. The City and ABMEI 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 March 2012.

On or about September 17, 2012, the City and ABMEI 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 ABMEI and approval by City Council in open session.

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 ABMEI, 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 Agreement (MOA) with the Association of Building, Mechanical and Electrical Inspectors (ABMEI). 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 October 2, 2012, City Council meeting.

COORDINATION

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

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 ABMEI.

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 BUILDING, MECHANICAL & ELECTRICAL INSPECTORS (ABMEI)
TENTATIVE AGREEMENT

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 Agreement with the Association of Building, Mechanical and Electrical Inspectors (ABMEI). Sick Leave Payout for employees hired on or prior to September 29, 2012, shall be subject to negotiations on a successor agreement 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.

JSchembri 9/17/12		Christopher Brunner 9-17-12	
Jennifer Schembri Assistant to the City Manager	Date	Peter Fenerin President, Association of Building, Mechanical & Electrical Inspectors (ABMEI)	Date