RESOLUTION NO. 75006

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AN AMENDMENT TO AGREEMENT BETWEEN THE CITY OF SAN JOSE AND AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION (MEF), WITH A TERM OF JULY 1, 2008 TO JUNE 30, 2011

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the Amendment to the Agreement between the City of San José and the AFSCME Local 101, Municipal Employees' Federation (MEF) with a term of July 1, 2008 to June 30, 2011, to forego the scheduled 1.5% general wage increase and freeze step and merit increases for Fiscal Year 2009-2010 is hereby approved. The City Manager and the Director of Employee Relations are hereby authorized to execute the Amended Agreement on behalf of the City.

2. The general terms of the Amendment to the Agreement are set out and described in the Memorandum to the Mayor and City Council dated June 19, 2009, from the Director of Employee Relations and Budget Director. Said Memorandum is attached hereto as Attachment A and incorporated in this Resolution.

ADOPTED this 23rd day of June, 2009, by the following vote:

AYES:	CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.

Chuck Reed

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

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COUNCIL AGENDA: 06-23-09
ITEM: 3.9

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Alex Gurza
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: June 19, 2009

Approved

Date 6/19/09

SUBJECT: **AMENDING THE TERMS OF AN AGREEMENT WITH AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION (MEF) AND THE CONFIDENTIAL EMPLOYEES' ORGANIZATION (CEO); AND ADOPTION OF APPROPRIATION ORDINANCE AMENDMENTS IN THE GENERAL FUND AND IN THE CONSTRUCTION EXCISE TAX FUND AND RESTORATION OF POSITIONS**

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

RECOMMENDATION

(a) Adopt a resolution approving an amendment to the terms of the current agreement with the Municipal Employees' Federation (MEF), AFSCME Local 101, regarding forgoing the scheduled 1.5% general wage increase and freezing step and merit increases for Fiscal Year 2009-2010, and authorizing the City Manager to execute the amended agreement.

(b) Adopt a resolution approving an amendment to the terms of the current agreement with the Confidential Employees' Organization (CEO), AFSCME Local 101, regarding forgoing the scheduled 1.5% general wage increase and freezing step and merit increases for Fiscal Year 2009-2010, and authorizing the City Manager to execute the amended agreement.

(c) Adopt the related 2009-2010 Appropriation Ordinance amendments in the General Fund and in the Construction Excise Tax Fund and approve restoration of positions subject to AFSCME Local 101, Municipal Employees' Federation and Confidential Employees' Organization ratification of their respective agreements and direction to include these actions in the final 2009-2010 Operating and Capital Budgets as described in Attachment A.

OUTCOME

Adoption of the resolutions and authorization to execute the amended agreements would implement a true wage freeze for employees represented by AFSCME Local 101, MEF and CEO for Fiscal Year 2009-2010.

BACKGROUND

The City of San Jose has labor agreements with AFSCME Local 101, MEF and CEO. MEF represents approximately 2456 full time positions including Custodians, Librarians, Office Specialists and Public Safety Dispatchers. CEO represents approximately 226 full time positions including Analysts, Legal Analysts and Administrative Assistants.

The current agreement with MEF expires on June 30, 2011. A complete copy of the current Memorandum of Agreement (MOA) with MEF can be found at http://www.sanjoseca.gov/employeeRelations/moas/moa_mef.pdf.

The current agreement with CEO expires on September 17, 2011. A complete copy of the current Memorandum of Agreement (MOA) with CEO can be found at http://www.sanjoseca.gov/employeeRelations/moas/moa_ceo.pdf.

The current agreement with MEF provides for a 1.5% general wage increase for all employees represented by MEF effective June 28, 2009. The current agreement with CEO provides for a 1.5% general wage increase for all employees represented by CEO effective September 20, 2009. In addition, employees represented by MEF and CEO are eligible to receive automatic 5% step increases if they are not at top step.

On February 17, 2009, the Office of Employee Relations notified AFSCME Local 101, MEF and CEO that the City would be facing significant budget challenges in the upcoming fiscal year and that as part of our efforts to look at every possible means of savings, one area to explore with them was payroll costs. The City and AFSCME Local 101, MEF and CEO began discussions regarding foregoing the 1.5% general wage increase that is scheduled for Fiscal Year 2009-2010 and freezing step and merit increases during Fiscal Year 2009-2010.

On June 17, 2009, the City and AFSCME Local 101, MEF and CEO reached a tentative agreement on foregoing the scheduled 1.5% general wage increase and freezing step and merit increases for Fiscal Year 2009-2010. This means that employees represented by AFSCME Local 101, MEF and CEO will have a true wage freeze for Fiscal Year 2009-2010. As of the date of this memo, the agreement is pending ratification by the AFSCME Local 101, MEF and CEO memberships.

ANALYSIS

The following is a summary of the terms in the Tentative Agreement, which is included as Attachment B, between the City of San Jose and AFSCME Local 101, MEF and CEO:

Term	The agreement expires June 30, 2010
Wages	MEF and CEO agreed to forego the 1.5% general wage increase scheduled in Fiscal Year 2009-2010. Each year, employees who are not already at top step are eligible to receive a 5.00% step increase during each fiscal year until the employee reaches top step. MEF and CEO agreed that effective June 28, 2009, all AFSCME Local 101, MEF and CEO represented employees will have step and merit increases frozen through the end of Fiscal Year 2009-2010. Upon the end of Fiscal Year 2009-2010, employees represented by AFSCME Local 101, MEF and CEO will

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ANALYSIS (Cont'd.)

become eligible for step increases upon completion of an additional 2080 seniority hours after the date they did not receive a step increase for which they were previously eligible.

Grant Requests

The City agrees to provide AFSCME Local 101, MEF and CEO with electronic copies of all American Recovery and Reinvestment Act (ARRA) grant requests submitted by the City within ten days of submittal.

Employment Services Consolidation

Section 3.04.520 of the San Jose Municipal Code states that the Director of Human Resources may make revisions or amendments to the classification plan at any time, including adding or deleting classifications. The City agrees that during Fiscal Year 2009-2010, the Director of Human Resources will not be creating a new classification as part of the Employment Services Consolidation proposal. This means that the Employment Services Consolidation budget proposal will still move forward for Fiscal Year 2009-2010, pending approval by the City Council, but that the City will not create a new classification in Fiscal Year 2009-2010.

If this agreement was not ratified by the AFSCME Local 101, CEO membership, it is the intent of the City to move forward with the creation of the new classification in Fiscal Year 2009-2010.

Retiree Healthcare

The agreement between the City and AFSCME Local 101, MEF and CEO regarding retiree healthcare dated March 4, 2009, shall be modified so that the reopener to commence meeting and conferring on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees shall be delayed from January 2010 to January 2011.

All other provisions of this agreement shall remain in effect and unchanged.

Fiscal Year 2009-2010 Savings

With the approval of the Mayor's Budget Message on June 16, 2009, the City Council approved the restoration of Satellite and Neighborhood Community Centers, restoration of Services to Branch Libraries and the restoration of Dr. Martin Luther King, Jr. Library hours, for a total of $2.05 million in the General Fund. This saved position eliminations of approximately 40 positions represented by AFSCME, Local 101, MEF and CEO.

In addition to the above, this Agreement saves approximately $6 million in Fiscal Year 2009-2010, and of that, approximately $3.8 million in the General Fund.

These savings will go to preserve specific services as approved by the City Council as part of the Mayor's Budget Message on June 16, 2009, for a total of $3.9 million in the General Fund and approximately 46 positions.

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ANALYSIS (Cont'd.)

The following are the services that will be preserved:

Service	General Fund Cost	Total FTEs	AFSCME FTEs
Remaining Library Hours	$837,815	10.26	9.26
Library System-wide Support Staffing	$192,451	3.00	3.00
City Hall Custodial Services Staffing	$491,333	7.00	6.00
General Code Enforcement Workers	$201,535	2.00	2.00
Traffic Calming Program Staffing	$257,491	3.00	1.00
Help Desk Staffing	$346,715	3.00	1.00
Risk Administration Administrative Staffing	$190,818	2.00	2.00
Workers Compensation Claims Staffing	$201,083	2.00	2.00
Police Records Staffing	$360,789	4.50	4.50
Police Activities League Maintenance	$72,162	1.00	0
Clerks Contract Support Staffing	$200,170	2.00	2.00
Contract Compliance Specialist Position	$88,219	1.00	1.00
Crime Prevention Staffing	$370,058	4.00	4.00
Risk Management Staffing	$156,392	1.00	0
TOTAL	$3,967,031	45.76	37.76

The above service and position restorations will occur if both MEF and CEO ratify this agreement. In the event CEO does not ratify the Agreement, the Clerk's Contract Support Staffing and the CEO represented position in the Risk Administration Administrative Staffing will not be restored. In the event that MEF does not ratify the Agreement, only the Clerk's Contract Support Staffing and the CEO represented position in the Risk Administration Administrative Staffing will be restored. The associated appropriation actions and related position restorations are included in Attachment A for approval based on the ratification results.

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)**

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PUBLIC OUTREACH/INTEREST (Cont'd.)

☐ **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 2. This memorandum will be posted on the City's website for the June 23, 2009 Council Agenda.

COORDINATION

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

COST IMPLICATIONS

Funding for the restoration of the services and related positions contained in Attachment A are proposed to be temporarily provided from the Salary and Benefit Earmarked Reserve as well as the Filled Position Expenditure Impacts Reserve in the General Fund. Funding actions are also included in the Construction Excise Tax Fund, provided by a reduction to the Fund's Ending Fund Balance. Assuming both MEF and CEO ratify the tentative agreement, the use of a portion of the Filled Position Expenditure Impacts Reserve of $134,067 is necessary as the cost of the position restorations is slightly greater then the amount of the true wage freeze savings (the amount of the reserve used varies if only one of the bargaining units ratifies the agreement). Staff will bring forward appropriation actions to replenish the General Fund Salary and Benefit Reserve in connection with the City Council consideration of the Annual Report in October to reflect the implementation of the agreements. Savings in all other funds that are impacted from these agreements will be returned to each fund's ending fund balance, as appropriate.

Jennifer A. Maguire
Budget Director

Alex Gurza
Director of Employee Relations

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

Attachments

Appropriation Actions and Positions Proposed for Restoration

Scenario 1: Actions to be taken if MEF and CEO both ratify the tentative agreement:

1. Adoption of the related 2009-2010 Appropriation Ordinance amendments in the General Fund and in the Construction Excise Tax Fund and restoration of positions subject to AFSCME Local 101, Municipal Employees' Federation and Confidential Employees' Organization ratification of the agreement.

   In the General Fund:

   a. Decrease the Salary and Benefit Earmarked Reserve by $3,832,964;
   b. Increase the Library Department's Personal Services appropriation by $930,266;
   c. Increase the Library Department's Non-Personal/Equipment appropriation by $100,000;
   d. Increase the General Services Department's Personal Services appropriation by $491,333;
   e. Increase the Planning, Building and Code Enforcement Department's Personal Services appropriation by $201,535;
   f. Increase the Transportation Department's Personal Services appropriation by $232,491;
   g. Increase the Transportation Department's Non-Personal/Equipment appropriation by $25,000;
   h. Increase the Information Technology Department's Personal Services appropriation by $346,715;
   i. Increase the Human Resources Department's Personal Services appropriation by $548,293;
   j. Increase the Police Department's Personal Services appropriation by $728,387;
   k. Increase the Police Department's Non-Personal/Equipment appropriation by $2,460;
   l. Increase the Parks, Recreation and Neighborhood Services Department's Personal Services appropriation by $72,162;
   m. Increase the Office of the City Clerk's Personal Services appropriation by $200,170;
   n. Increase the Public Works Department's Personal Services appropriation by $88,219;
   o. Decrease the Filled Position Elimination Expenditure Impacts Reserve by $134,067.

   In the Construction Excise Tax Fund:

   p. Increase the Traffic Calming project by $94,561;
   q. Decrease the Ending Fund Balance by $94,561.

Appropriation Actions and Positions Proposed for Restoration (Cont'd.)

Scenario 1 (Cont'd.):

2. Restoration of the following 45.76 positions: 2.0 Analyst, 1.0 Associate Engineer, 1.0 Communications Technician, 1.0 Contract Compliance Specialist, 4.0 Crime Prevention Specialist, 6.0 Custodian, 1.0 Custodial Supervisor, 2.0 Code Enforcement Inspector, 1.0 Groundskeeper, 1.0 Information Systems Analyst, 0.41 Library Aide Part-time, 1.0 Librarian II, 3.20 Librarian II Part-time, 3.0 Library Clerk, 3.0 Library Clerk Part-time, 1.15 Library Page Part-time, 0.50 Network Technician Part-time, 4.0 Police Data Specialist, 0.50 Police Data Specialist Part-time, 1.0 Program Manager II, 1.0 Senior Engineer, 1.0 Senior Librarian, 1.0 Senior Office Specialist, 1.0 Senior Systems Applications Programmer, 1.0 Staff Technician, 1.0 Traffic Checker II, and 2.0 Workers' Compensation Claims Adjusters.

Scenario 2: Actions to be taken if MEF ratifies the tentative agreement

1. Adoption of the related 2009-2010 Appropriation Ordinance amendments in the General Fund and in the Construction Excise Tax Fund and restoration of positions subject to AFSCME Local 101, Municipal Employees' Federation ratification of the agreement.

   In the General Fund:

   a. Decrease the Salary and Benefit Earmarked Reserve by $3,546,716;
   b. Increase the Library Department's Personal Services appropriation by $930,266;
   c. Increase the Library Department's Non-Personal/Equipment appropriation by $100,000;
   d. Increase the General Services Department's Personal Services appropriation by $491,333;
   e. Increase the Planning, Building and Code Enforcement Department's Personal Services appropriation by $201,535;
   f. Increase the Transportation Department's Personal Services appropriation by $232,491;
   g. Increase the Transportation Department's Non-Personal/Equipment appropriation by $25,000;
   h. Increase the Information Technology Department's Personal Services appropriation by $346,715;
   i. Increase the Human Resources Department's Personal Services appropriation by $435,281;
   j. Increase the Police Department's Personal Services appropriation by $728,387;
   k. Increase the Police Department's Non-Personal/Equipment appropriation by $2,460;
   l. Increase the Parks, Recreation and Neighborhood Services Department's Personal Services appropriation by $72,162;

Appropriation Actions and Positions Proposed for Restoration (Cont'd.)

Scenario 2 (Cont'd.):

m. Increase the Public Works Department's Personal Services appropriation by $88,219;
n. Decrease the Filled Position Elimination Expenditure Impacts Reserve by $107,133.

In the Construction Excise Tax Fund:

o. Increase the Traffic Calming project by $94,561;
p. Decrease the Ending Fund Balance by $94,561.

2. Restoration of the following 42.76 positions: 1.0 Associate Engineer, 1.0 Communications Technician, 1.0 Contract Compliance Specialist, 4.0 Crime Prevention Specialist, 6.0 Custodian, 1.0 Custodial Supervisor, 2.0 Code Enforcement Inspector, 1.0 Groundskeeper, 1.0 Information Systems Analyst, 0.41 Library Aide Part-time, 1.0 Librarian II, 3.20 Librarian II Part-time, 3.0 Library Clerk, 3.0 Library Clerk Part-time, 1.15 Library Page Part-time, 0.50 Network Technician Part-time, 4.0 Police Data Specialist, 0.50 Police Data Specialist Part-time, 1.0 Program Manager II, 1.0 Senior Engineer, 1.0 Senior Librarian, 1.0 Senior Office Specialist, 1.0 Senior Systems Applications Programmer, 1.0 Traffic Checker II, and 2.0 Workers' Compensation Claims Adjusters.

Scenario 3: Actions to be taken if CEO ratifies the tentative agreement

1. Adoption of the related 2009-2010 Appropriation Ordinance amendments in the General Fund and restoration of positions subject to AFSCME Local 101, Confidential Employees' Organization ratification of the agreement.

   a. Decrease the Salary and Benefit Earmarked Reserve by $286,248;
   b. Increase the Human Resources Department's Personal Services appropriation by $113,012;
   c. Increase the Office of the City Clerk's Personal Services appropriation by $200,170;
   d. Decrease the Filled Position Elimination Expenditure Impacts Reserve by $26,934.

2. Restoration of the following 3.0 positions: 2.0 Analyst and 1.0 Staff Technician.

Attachment B

CITY OF SAN JOSE/AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION AND CONFIDENTIAL EMPLOYEES' ORGANIZATION TENTATIVE AGREEMENT ON WAGE FREEZE

1. GENERAL WAGE INCREASE

Municipal Employees' Federation

The current 2008-2011 MEF Memorandum of Agreement (MOA), provides that 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 following change will occur with this Agreement:

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.~~maintained in effect as of June 29, 2008.

This means that MEF would be foregoing the 1.5% general wage increase scheduled for June 28, 2009.

Confidential Employees' Organization

The current 2008-2011 CEO Memorandum of Agreement (MOA), provides that effective September 20, 2009, all salary ranges for employees holding positions in classifications assigned to CEO shall be increased by approximately 1.50%.

The following change will occur with this Agreement:

7.1.2 Wages 2009-2010. Effective September 20, 2009, all salary ranges for employees holding positions in classifications assigned to CEO shall be ~~increased by approximately 1.50%. The 2009-2010 salary ranges are listed in Exhibit II.~~maintained in effect as of September 21, 2008.

This means that CEO would be foregoing the 1.5% general wage increase scheduled for September 20, 2009.

2. STEP INCREASES

Employees advance through the salary step system per the City's current practice. Effective June 28, 2009, all AFSCME Local 101, MEF and CEO represented employees will have step and merit increases frozen through the end of Fiscal Year 2009-2010. Upon the end of Fiscal Year 2009-2010, employees represented by AFSCME Local 101, MEF and CEO will become eligible for step increases upon completion of an additional 2080 seniority hours after the date they did not receive a step increase for which they were previously eligible.

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CITY OF SAN JOSE/AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION AND CONFIDENTIAL EMPLOYEES' ORGANIZATION TENTATIVE AGREEMENT ON WAGE FREEZE

3. GRANT REQUESTS

The City agrees to provide AFSCME Local 101, MEF and CEO with electronic copies of all American Recovery and Reinvestment Act (ARRA) grant requests submitted by the City within ten days of submittal.

4. EMPLOYMENT SERVICES CONSOLIDATION

Section 3.04.520 of the San Jose Municipal Code states that the Director of Human Resources may make revisions or amendments to the classification plan at any time, including adding or deleting classifications. The City believes that the creation of a new classification as part of the Employment Services Consolidation budget proposal contained in the Fiscal Year 2009-2010 Proposed Operating Budget is an important piece of this new Employment model. However, during Fiscal Year 2009-2010, the Director of Human Resources will not be creating a new classification as part of the Employment Services Consolidation proposal. This means that the Employment Services Consolidation budget proposal will still move forward for Fiscal Year 2009-2010, pending approval by the City Council, but that the City will not create a new classification in Fiscal Year 2009-2010.

If this agreement is not ratified by the AFSCME Local 101, CEO membership and/or not approved by the City Council, it is the intent of the City to move forward with the creation of the new classification in Fiscal Year 2009-2010.

5. RETIREE HEALTHCARE

The agreement between the City and AFSCME Local 101, MEF and CEO, regarding retiree healthcare dated March 4, 2009, shall be modified as follows:

<u>Municipal Employees' Federation</u>

3.1.5 Healthcare Cost Mitigation.

3.1.5.1 Notwithstanding any other provision of this Agreement, the parties agree to commence meeting and conferring between January 1, ~~2010~~2011, and January 19, ~~2010~~2011, on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees.

3.1.5.2 The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested represented bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than January 19, ~~2010~~ 2011 with or without participation of any other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.

3.1.5.3 If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this

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CITY OF SAN JOSE/AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION AND CONFIDENTIAL EMPLOYEES' ORGANIZATION TENTATIVE AGREEMENT ON WAGE FREEZE

means that, notwithstanding any other provision of this 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. The City agrees that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, ~~2010~~2011.

All other provisions of the Agreement dated March 4, 2009 will remain in effect and unchanged. Upon ratification of the MEF membership and approval of this Agreement by the City Council, the parties agree to execute a revised retiree healthcare agreement that incorporates the changes above.

Confidential Employees' Organization

4.6 Healthcare Cost Mitigation

4.6.1 Notwithstanding any other provision of this agreement, the parties agree to commence meeting and conferring between January 1, ~~2010~~2011, and January 19, ~~2010~~2011, on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees.

4.6.2 The parties intend to engage in the foregoing negotiations in a coalition bargaining process with all other interested bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than January 19, ~~2010~~ 2011 with, or without participation of any other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.

4.6.3 If no agreement is reached, the parties will follow the impasse procedures set forth in the Employer-Employee Relations Resolution (#39367) and the Meyers-Milias-Brown Act. The parties understand that this means that, notwithstanding any other provision of this 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. The City agrees that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, ~~2010~~2011.

All other provisions of the Agreement dated March 4, 2009 will remain in effect and unchanged. Upon ratification of the CEO membership and approval of this Agreement by the City Council, the parties agree to execute a revised retiree healthcare agreement that incorporates the changes above.

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CITY OF SAN JOSE/AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION AND CONFIDENTIAL EMPLOYEES' ORGANIZATION TENTATIVE AGREEMENT ON WAGE FREEZE

6. FISCAL YEAR 2009-2010 COST SAVINGS

With the approval of the Mayor's Budget Message on June 16, 2009, the City Council approved the following restoration of services that are almost all provided by AFSCME Local 101, MEF and CEO represented employees:

Service	General Fund Cost	Total FTEs	AFSCME FTEs
Satellite and Neighborhood Community Centers	$671,381 (net)	23.04	22.04
Restoration of Services to Branch Libraries	$1,199,036	16.40	15.40
Dr. Martin Luther King, Jr. Library	$186,392	2.50	2.50
TOTAL	**$2,056,809**	**41.94**	**39.94**

In addition to the above, this Agreement will save approximately $6 million in 2009-2010, and of that, approximately $3.8 million in the General Fund. It is the decision of the City Council to determine the services that the City provides. However, in recognition for AFSCME Local 101, MEF and CEO's agreement to a wage freeze in 2009-2010 and as approved by the City Council as part of the Mayor's Budget Message on June 16, 2009, the City will restore the proposed service and position reductions below. The restoration of the proposed service and position reductions contained in this Agreement shall occur at the City Council meeting on June 23, 2009, concurrent with Council approval of this Agreement.

Service	General Fund Cost	Total FTEs	AFSCME FTEs
Remaining Library Hours	$837,815	10.26	9.26
Library System-wide Support Staffing	$192,451	3.00	3.00
City Hall Custodial Services Staffing	$491,333	7.00	6.00
General Code Enforcement Workers	$201,535	2.00	2.00
Traffic Calming Program Staffing	$257,491	3.00	1.00
Help Desk Staffing	$346,715	3.00	1.00
Risk Administration Administrative Staffing	$190,818	2.00	2.00
Workers Compensation Claims Staffing	$201,083	2.00	2.00
Police Records Staffing	$360,789	4.50	4.50
Police Activities League Maintenance	$72,162	1.00	0
Clerks Contract Support Staffing	$200,170	2.00	2.00
Contract Compliance Specialist Position	$88,219	1.00	1.00
Crime Prevention Staffing	$370,058	4.00	4.00
Risk Management Staffing	$156,392	1.00	0
TOTAL	**$3,967,031**	**45.76**	**37.76**

The above service and position restorations will occur if both MEF and CEO ratify this Agreement. In the event that CEO does not ratify this Agreement, the Clerk's Contract Support Staffing and the CEO represented position in the Risk Administration Administrative Staffing will not be restored.

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CITY OF SAN JOSE/AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION AND CONFIDENTIAL EMPLOYEES' ORGANIZATION TENTATIVE AGREEMENT ON WAGE FREEZE

In the event that MEF does not ratify this Agreement, only the Clerk's Contract Support Staffing and the CEO represented position in the Risk Administration Administrative Staffing will be restored.

Although a wage freeze will lessen the number of job cuts, this is not a guarantee of no layoffs in solving the current $84.2 million deficit for Fiscal Year 2009-2010.

Further, if the City's fiscal situation worsens in 2009-2010 because of economic impacts, including, but not limited to, State budget impacts, and impact to revenues, such as property tax, sales tax, transient occupancy tax, or the motor vehicle in-lieu fee, additional position eliminations may be necessary. Although the parties understand that additional position eliminations may be necessary in 2009-2010 if the City's fiscal situation worsens, the City agrees that no additional position eliminations in 2009-2010 will be made that results in layoffs of employees represented by AFSCME Local 101, MEF and CEO in order to provide additional compensation to employees in other bargaining units or to avoid proposed position eliminations of positions in other bargaining units.

Regarding the approximately $2.2 million that would be saved that is Special and Capital Funds, this will reduce expenses in those funds, but there may be limited opportunities to avoid position eliminations. However, consideration will be given to use the savings from a wage freeze for position eliminations, although those opportunities will be limited.

7. DISPUTE RESOLUTION PROCEDURE

Sections 1-5 and 8 of this Agreement are subject to the grievance procedures contained in the AFSCME Local 101, MEF and CEO MOAs, starting at Step III. No other provisions of this Agreement are subject to the grievance procedures contained in the AFSCME Local 101, MEF and CEO MOAs.

The restoration of the proposed service and position reductions contained in Section 6 shall occur at the City Council meeting on June 23, 2009, concurrent with Council approval of this Agreement. In the event of disputes over Section 6, the dispute resolution procedure shall be as follows:

Step 1: **City Manager.** In the event of a dispute, the bargaining unit would meet with the City Manager or designated representative in attempt to resolve the dispute.

Step 2: **Mediation** (through State Mediation and Conciliation Service). In the event the dispute is not resolved at Step 1, the City and MEF and CEO would engage in mediation with a mediator through the State Mediation and Conciliation Service.

Step 3: **Legal Action.** In the event the dispute is not resolved at Step 2, AFSCME Local 101, MEF and/or CEO could pursue any remedy allowed by law, such as court actions.

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CITY OF SAN JOSE/AFSCME LOCAL 101, MUNICIPAL EMPLOYEES' FEDERATION AND CONFIDENTIAL EMPLOYEES' ORGANIZATION TENTATIVE AGREEMENT ON WAGE FREEZE

8. EXPIRATION

This agreement expires on June 30, 2010.

The City is providing the terms contained in this Agreement in recognition of AFSCME Local 101, MEF and CEO's agreement to modify the terms of their contracts and this does not set any precedent for any future agreements.

This agreement is still considered tentative and shall not be considered final or binding until ratified by the MEF and/or CEO membership and approved by the City Council. This document sets forth the full agreements of the parties. Anything not included in this document is not part of this tentative agreement.

For the City:

6/17/09
Debra J. Figone

6/17/09
ALEX GURZA

06/17/09
Gina Donnelly

6/17/09
Jennifer Schembri

For AFSCME:

Yolanda A. Cruz 6/17/
Yolanda A. Cruz

6/17/09
KEITH E. URIARTE

Bernadette M. Cava 6/17/09
Bernadette M. Cava

6-17-09
LINDA DITTES