

BACKGROUND:

On June 4, 2013, the City of San Jose ("City") and the Association of Legal Professionals ("Association") executed a tentative agreement entitled "City of San Jose and ALP Tentative Agreement" ("Agreement"), having an expiration date of June 30, 2013. The Association's membership ratified the Agreement on June 10, 2013 and the Agreement is pending approval by the City Council at its meeting on June 18, 2013. The City and the Association agree that the provisions below intend to modify the final Agreement once approved by the City Council on June 18, 2013.

There is a provision in this Agreement related to not putting new employees in the retiree healthcare program and the City will pay the unfunded liability these new employees and the City would have otherwise paid had they gone into the program. By agreeing to this provision, neither the City nor the Association have committed to closing the retiree healthcare plan.

In addition, ALP recently raised an issue regarding the City also indemnifying employees for State tax liability. This was not an issue raised previously in negotiations. The City is open to continuing to discuss this issue with all of the Federated bargaining units since there is time prior to employee contributions going into the 115 trust. The City and the bargaining units will meet in August 2013, and if an agreement is reached on this issue, it will be brought forth as a modification to the agreements reached regarding retiree healthcare.

15. RETIREE HEALTHCARE

- 15.1** The City and Association agree that they must address a number of issues regarding the retiree healthcare benefit. For this reason, the retiree healthcare benefit is subject to the reopener in Subsection 4.1.3 of this Agreement, and the parties intend to continue negotiating and working together to address these issues. This provision reflects the current status of the retiree healthcare benefit pending an interim and/or long term resolution of the issues.
- 15.2** Eligibility for the retiree healthcare benefit is determined in accordance with the San Jose Municipal Code.
- 15.3** On April 21, 2009, the City started implementing a plan to transition to full pre-funding of the retiree healthcare benefit for unrepresented Executive Management employees (Unit 99). At the time, all of the member classifications currently in ALP were unrepresented and in Unit 99. ALP was formed as a bargaining unit after the City's imposition of the full pre-funding plan. The full pre-funding plan that the City currently is implementing is set forth in Resolution No. 74882, entitled "A Resolution of the Council of the City of San Jose Approving Agreements Between the City of San Jose and Several Bargaining Units Regarding Retiree Healthcare Funding, and Implementing Retiree Healthcare Funding for Units 99 and 82," and the April 7, 2009, Memorandum to the Mayor and City Council attached as Attachment A thereto.
- 15.4** The City and employees represented by the Association began to transition from the current partial pre-funding of retiree medical and dental healthcare benefits (referred to as the "policy method") to pre-funding of the full Annual Required Contribution (ARC) for the retiree healthcare plan ("Plan"). The transition began on June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that

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it shall be paid by June 30, 2039 (closed amortization). Amortization of changes in the unfunded retiree healthcare liability other than the initial retiree healthcare liability (e.g. gains, losses, changes in actuarial assumptions, etc.) shall be determined by the Plan's actuary. The City and Plan members (active employees) shall contribute to funding the ARC in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code. Specifically, contributions for retiree medical benefits shall be made by the City and members in the ratio of one-to-one. Contributions for retiree dental benefits shall be made by the City and members in the ratio of eight-to-three. When determining the contribution rates for the Plan, the Plan actuary shall continue to use the Entry Age Normal (EAN) actuarial cost method and a discount rate consistent with the pre-funding policy for the Plan as outlined in this section.

15.5 The City and the Association agree that the Municipal Code and/or applicable plan documents shall be amended to the extent necessary in accordance with this agreement and that the Association will support such amendments.

15.6 The phase-in to the ARC shall be effective on the first pay period of the City's fiscal year in each succeeding year, the first increment which was effective on June 28, 2009. It is understood that because of changes resulting from future actuarial valuations, the amount of the ARC may vary upward or downward. The City and the Association agree that the Plan member cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than .75% of pensionable pay in each fiscal year. For example, if the members' contribution rate is 4% of pensionable pay, the subsequent fiscal year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, the City and plan members shall be contributing the contribution rate based upon the full Annual Required Contribution, beginning on December 21, 2014. In subsequent fiscal years, the City and the plan members shall be contributing the full Annual Required Contribution in the ratio currently provided under Section 3.28.385 of the San Jose Municipal Code.

15.7 The City has established a qualified 115 trust ("Trust"). Employee contributions will begin going into the Trust in time to avoid any potential of reaching IRS limits on the existing medical benefits account or upon receipt of a ruling from the IRS that the contributions can be treated as pre-tax, whichever occurs first.

15.8 If employee contributions are deposited into the Trust prior to receiving a ruling from the IRS that the contributions can be treated as pre-tax and the City subsequently receives an IRS determination that the contributions should be treated as post-tax, the City agrees to indemnify any employee as to any IRS liability arising solely from the contributions that were taken as pre-tax prior to the IRS determination. The City and the Association will immediately meet and confer over an alternative trust vehicle for the prospective contributions should the IRS determine that the contributions are post-tax.

15.9 It is the objective of the parties that the Trust created pursuant to this agreement shall become the sole funding vehicle for Federated retiree healthcare benefits, subject to any legal restrictions under the current plan, or other applicable law.

15.10 Employees hired into full-time benefited positions on or after the first payperiod following the effective date of the ordinance implementing this provision ("Effective Date") will not participate in or be eligible for the defined benefit retiree healthcare program. The City will

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pay the unfunded liability contribution that these employees and the City would have otherwise paid had they gone into the retiree healthcare defined benefit program.

15.411 Neither the City nor the Association waives any rights or assertions, each may have, related to the retiree healthcare benefit through any of the provisions of this Agreement. This Agreement shall not be considered a waiver by the City, the Association or the employees represented by the Association, of any rights or assertions each may have regarding the retiree healthcare benefit, including but not limited to any rights or assertions related to any of the following:

- Any vested rights employees may or may not have related to the retiree healthcare benefit,
- The meaning of any San Jose Municipal Code provisions or provisions of other documents related to the scope and/or implementation of the retiree healthcare benefit,
- The retiree healthcare benefit funding plan implemented by the City,
- The member contribution rates established by the Retirement Board and the deductions made by the City from employee payroll checks for the retiree healthcare benefit, or
- Any other issue related to the retiree healthcare benefit, including but not limited to any issue under the Meyers-Milias-Brown Act ("MMBA") regarding matters within the scope of representation.

~~Nothing in this section is intended to expand either party's rights, which each may have, regarding retiree healthcare.~~

15.512 The parties acknowledge that, on June 12, 2012, the City unilaterally imposed the "Kaiser 1500" healthcare plan referred to in Section 17 of this Agreement for bargaining unit employees.

4. AGREEMENT CONDITIONS

4.1 Full Understanding, Modification and Waiver

4.1.1 This Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any and all prior or existing Memoranda of Understanding, understandings and agreements, whether formal or informal, are hereby superseded and terminated in their entirety.

4.1.2 Although nothing in this Agreement shall preclude the parties from mutually agreeing to meet and confer on any subject within the scope of representation during the term of this Agreement, it is understood and agreed that neither party may require the other party to meet and confer on any subject matter covered herein or with respect to any other matter within the scope of representation during the term of this Agreement.

- 4.1.3** Retiree Healthcare Reopener. Notwithstanding any other provision of this Agreement, the parties agree to meet and confer over retiree healthcare benefits and funding upon request of either party, but no earlier than January 1, 2014. This may include but is not limited to alternatives to reduce the unfunded liability and options for current employees that comply with IRS regulations.

Negotiations between the City and the Association shall commence within 14 days upon notice of either party, but no earlier than January 1, 2014. The City and the Association shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

~~Notwithstanding any other provision of this Agreement, the parties agree to continue to meet and confer over retiree healthcare benefits and funding upon the request of either party.~~

~~Negotiations between the City and the Association shall commence within 14 days upon notice of either party. The City and the Association shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.~~

- 4.1.4** Measure B Reopener. Notwithstanding any other provision of this Agreement, the parties agree to meet and confer over retirement benefits upon request of either party in the event that the pension modification ballot measure, also known as Measure B, in part or in whole, is declared invalid or otherwise modified or changed by any court of competent jurisdiction or any other administrative process, or by any applicable State or Federal law or regulation.

Negotiations between the City and the Association shall commence within 14 days upon notice of either party that any action referenced in the previous paragraph has occurred. The City and the Association shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.

17. HEALTH INSURANCE

- 17.1** The City will provide health coverage for eligible employees and their dependents in accordance with one of the available plans.
- 17.2** During the term of this Agreement, the City will continue to make available at least one of each type of the health coverage plans set forth in Subsections 17.2.1 through 17.2.3. In the event that the City is unable to make one of the foregoing types of plans available, the parties will meet and confer over a replacement plan.

The City may offer any other additional health coverage plans at its discretion, including but not limited to the Kaiser Permanente 1500 deductible-Deductible HMO Benefit planPlan.

- 17.2.1** Non-Deductible HMO. A non-deductible health maintenance organization (“Non-Deductible HMO”), that include the following co-pays:

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- (a) Office visit co-pay of \$25,
- (b) Prescription co-pay of \$10 for generic and \$25 for brand name,
- (c) Emergency room co-pay of \$100, and
- (d) Inpatient/outpatient procedure co-pay of \$100.

17.2.2 Non-Deductible POS. A non-deductible point of service plan.

17.2.3 Non-Deductible PPO. A non-deductible preferred provider organization.

17.3 Effective January 1, 2014, all available plans will have a 4-tier rate structure (Employee, Employee plus spouse/domestic partner, Employee plus Child(ren) and Family). The premiums will be adjusted effective the first payperiod in payroll calendar year 2014, which starts December 22, 2013.

17.4 Premium: Effective December 23, 2012, for full time employees, the City pays eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan for the employee or the employee and dependent coverage and the employee pays fifteen percent (15%) of the premium for the lowest priced Non-Deductible HMO plan.¹ If the employee selects a plan other than the lowest priced Non-Deductible HMO plan, the employee pays the difference between the total cost of the selected plan and the City's contribution toward the lowest priced Non-Deductible HMO plan. In the event that an employee chooses a plan that is lower cost than the City's contribution toward the lowest priced Non-Deductible HMO Plan, the employee shall pay nothing towards the premium. However, the City's contribution will continue to be based on eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan (at the rate most recently provided to the City).

17.45 Dual 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.

18. DENTAL INSURANCE

18.1 The City will provide dental insurance for eligible employees and their dependents in accordance with one of the two available plans, one of which is an indemnity plan and the other of which is a dental health maintenance organization plan. Both of these plans are described in detail in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department. In the event that the City is unable to make one of the foregoing types of plans available, the parties will meet and confer over a replacement plan.

¹ *The City's contribution is prorated as follows for part-time employees based on hours scheduled:*

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none

Side Letter Agreement

RETIREE HEALTHCARE STAKEHOLDER SOLUTIONS WORKING GROUP AND NEGOTIATIONS

PURPOSE

The parties recognize the importance of funding the current retiree healthcare benefit, and since 2009, have been increasing contributions into the plan in order to begin paying the full Annual Required Contribution to ensure funding of the retiree healthcare benefit.

Neither the City nor the bargaining units have committed to close the plan. However, new employees will not enter the existing retiree healthcare plan. Since current employees share in paying the unfunded liabilities of the current retiree healthcare benefit, new employees who are not in the current plan would not be making those payments. The City has agreed to make the contributions towards the unfunded liabilities that those new employees would have paid had they been in the current plan. The City has agreed to do so in order to allow time for long-term solutions to be developed by a Retiree Healthcare Solutions Working Group ("Working Group") and negotiations.

The goal of the Working Group shall be to develop options that lead to long-term solutions to the retiree healthcare issue.

The City and the Coalition¹ have agreed to immediately continue working on solutions to retiree healthcare both through the Working Group and subsequent negotiations. The parties are committed to working collaboratively towards long-term solutions and have agreed to remain open to considering various options. The options considered will include, but are not limited to, the following:

- Using high-deductible healthcare plans in combination with individual health savings accounts;
- Limitations on the current retiree healthcare benefit in combination with individual health savings accounts;
- Tiered healthcare benefit structures based on length of employment;
- Modification of eligibility requirements;
- Health plan design and rate structure changes;
- Incentives for employees to work beyond normal retirement eligibility; and
- The inclusion or exclusion of new employees in any modifications, or the formation of a completely different plan for new employees.

¹ The San Jose Federated Labor Coalition consists of the following nine (9) bargaining units: Association of Building, Mechanical, and Electrical Inspectors (ABMEI), Association of Engineers and Architects (AEA), Association of Legal Professionals (ALP), Association of Maintenance Supervisory Personnel (AMSP), City Association of Management Personnel (CAMP), Confidential Employees' Organization (CEO), International Brotherhood of Electrical Workers (IBEW), Municipal Employees' Federation (MEF) and International Union of Operating Engineers, Local #3 (OE#3).

RETIREE HEALTHCARE STAKEHOLDER SOLUTIONS WORKING GROUP

Facilitator:

By August 1, 2013, the City and the Coalition members will mutually agree on an independent person or entity that is knowledgeable in the area of retiree healthcare benefits to facilitate the Working Group.

The facilitator will facilitate the discussions, provide information to the parties, and generally assist in the development of options for long-term solutions. Upon the mutual agreement of the City and Coalition members, other subject matter experts may be engaged to assist in analyzing possible solutions.

The costs of the facilitator and any subject matter experts will be shared equally between the City and the Coalition members.

Participation:

In addition to the City and a representative from each bargaining unit in the Coalition, members of the Working Committee will include a representative of the retirees, and any unrepresented employee group(s).

Meetings:

The City and the Coalition will jointly schedule Working Group sessions in coordination with the facilitator. More frequent and longer Working Group sessions will be scheduled in the early stages of the process. The Working Group sessions will be open to employees and the public.

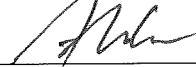
TIMELINE FOR RETIREE HEALTHCARE SOLUTIONS WORKING GROUP AND NEGOTIATIONS:

The Working Group shall agree upon a facilitator no later than August 1, 2013. The time period to schedule Working Group sessions will be from August 1, 2013, and conclude no later than December 31, 2013, unless the parties mutually agree to extend the timeframe. The City and the Coalition agree that this process will not supplant the meet and confer process regarding retiree healthcare.

Negotiations between the City and the bargaining units shall commence within 14 days upon notice of either party, but no earlier than January 1, 2014. The City and the bargaining units shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply. The parties intend to meet and confer through coalition bargaining. However, all parties reserve their respective rights to withdraw from coalition bargaining. In such an event, the City and any bargaining unit that withdraws from the Coalition will bargain separately.

This Side Letter Agreement is considered part of the tentative agreement on retiree healthcare with the bargaining units and shall become effective only as part of the overall retiree healthcare agreement. Each bargaining unit conducts separate ratification processes, and this Side Letter Agreement shall be effective for those bargaining units who ratify the overall tentative agreement on retiree healthcare and only during the term of those agreements with each respective bargaining unit.

FOR THE CITY:



Alex Gurza
Deputy City Manager

6-11-13

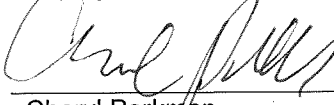
Date



Jennifer Schembri
Deputy Director of Employee Relations

6/11/13

Date

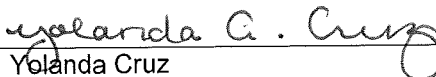


Cheryl Parkman
Executive Analyst
Office of Employee Relations

6/11/13

Date

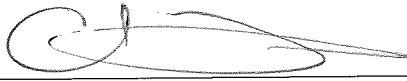
FOR THE UNION:



Yolanda Cruz
President
MEF, AFSCME Local 101

6/10/13

Date



Charles Allen
Business Agent
AFSCME, Local 101

6/10/13

Date


FOR THE UNION:



LaVerne Washington
President
CEO, AFSCME Local 101

6/10/13

Date

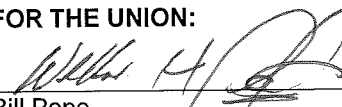


Charles Allen
Business Agent
AFSCME, Local 101

6/10/13

Date

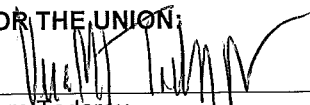
FOR THE UNION:



Bill Pope
Business Representative
Operating Engineers, Local 3

Date

FOR THE UNION:

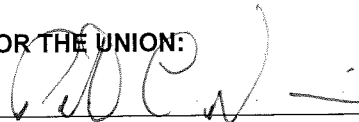


Vera Todorov
President
ALP

6/13/13

Date

FOR THE UNION:

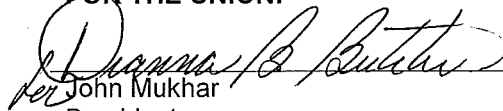


Peter Fenerin
President
ABMEI

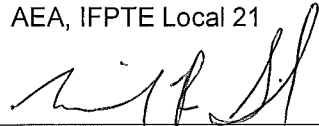
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Date

FOR THE UNION:

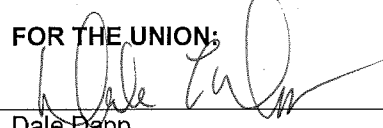

per John Mukhar
President
AEA, IFPTE Local 21

6/10/13
Date

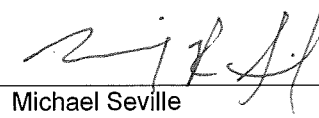

Michael Seville
Acting Senior Representative
IFPTE, Local 101

6/10/13
Date

FOR THE UNION:

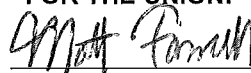

Dale Dapp
President
AMSP, IFPTE Local 21

6/10/2013
Date



Michael Seville
Acting Senior Representative
IFPTE, Local 101

6/10/13
Date

FOR THE UNION:

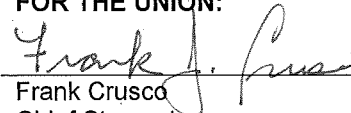

Matt Farrell
President
CAMP, IFPTE Local 21

6/10/2013
Date

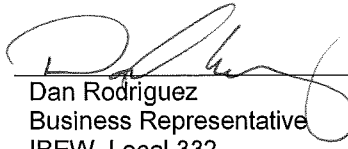

Michael Seville
Acting Senior Representative
IFPTE, Local 101

6/10/13
Date

FOR THE UNION:


Frank Crusco
Chief Steward
IBEW, Local 332

6-10-13
Date


Dan Rodriguez
Business Representative
IBEW, Local 332

6/10/13
Date