

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Alex Gurza

**SUBJECT:** SEE BELOW

**DATE:** November 12, 2013

Approved

Date

11/12/13

**SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE ASSOCIATION OF BUILDING, MECHANICAL, AND ELECTRICAL INSPECTORS (ABMEI)**

## RECOMMENDATION

Adopt a resolution to approve the terms of a collective bargaining agreement between the City and the Association of Building, Mechanical and Electrical Inspectors (ABMEI), and authorizing the City Manager to execute an agreement with a term of July 1, 2013, through June 30, 2014.

## OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in a collective bargaining agreement between the City of San Jose and the Association of Building, Mechanical and Electrical Inspectors (ABMEI) for the period of July 1, 2013, through June 30, 2014.

## BACKGROUND

The City of San Jose's most recent collective bargaining agreement with the Association of Building, Mechanical and Electrical Inspectors (ABMEI) expired on June 30, 2013. ABMEI currently represents approximately seventy-four (74) 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.

The City and ABMEI began negotiations on a successor Memorandum of Agreement (MOA) in September 2013. The City and ABMEI met approximately eight (8) times, and signed an overall Tentative Agreement on the terms to be contained in a successor MOA on November 8, 2013.

The Tentative Agreement is pending ratification by ABMEI membership. ABMEI will notify the City of the ratification results prior to the November 19, 2013, City Council meeting.

## ANALYSIS

A complete copy of the Tentative Agreement is attached. The following is a summary of the key provisions of Tentative Agreement. Some changes made in the Tentative Agreement were for clarification purposes only, but are included in the attached Tentative Agreement.

<b>Term</b>	July 1, 2013 – June 30, 2014
<b>General Wage Increase</b>	Effective <b>November 24, 2013</b> , all employees represented by ABMEI will receive a base pay increase of 2.0%. This will result in both the top and bottom step of the pay range being increased by 2.0%. The wage increase will not be retroactive.
<b>Lump Sum Payment</b>	One-time nonpensionable lump sum payment of \$600 payable within two (2) pay periods following ratification by ABMEI and approval by the City Council for full-time employees who were employed in ABMEI represented positions on July 1, 2013, and are still employed in ABMEI represented positions effective November 24, 2013.
<b>Holidays</b>	Effective <b>November 24, 2013</b> , employees are entitled to paid holiday leave on each of the holidays specified in the Memorandum of Agreement if they are on paid status the day before <u>and</u> the day after the holiday.
<b>Probationary Periods</b>	The City, at its discretion, may extend the probationary period of any employee represented by ABMEI up to a maximum of 6 months (from 3 months). Formerly, the extension of a probationary period was available only for an employee in a supervising position represented by ABMEI.
<b>Sick Leave Payout – New Employees hired on or after September 30, 2012</b>	Any employee hired on or after September 30, 2012, shall not be eligible for a sick leave payout. This is status quo and was contained in an agreement with ABMEI reached on September 17, 2012.
<b>Sick Leave Payout – Current Employees hired on or before September 29, 2012</b>	For employees hired on or before September 29, 2012, a sick leave payout shall be given to full-time employees who are members of the Federated City Retirement System at the time of retirement or death according to the provisions contained in the Memorandum of Agreement.

**Sick Leave Payout –  
Current Employees  
hired on or before  
September 29, 2012  
(continued)**

Effective **June 22, 2013**, for purposes of calculating sick leave payout, employees' sick leave balances and hourly rates shall be frozen. Any sick leave usage after June 22, 2013, will come first from the sick leave balance accrued after June 22, 2013. An employee will continue to accrue sick leave after June 22, 2013, but it may not be used for sick leave payout purposes.

If an employee does not have available sick leave hours accrued after June 22, 2013, and uses sick leave which reduces their sick leave balance as of June 22, 2013, the sick leave hours available for sick leave payout will be reduced. An employee may not reestablish their sick leave balance subject to payout if such balance is reduced by use.

Payout shall be determined as follows: Percent of employees' hourly rate of pay as of June 22, 2013, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of June 22, 2013 (minus any sick leave hours as of June 22, 2013, which were used):

Less than 400 hours:	Hours accumulated as of June 22, 2013 x 50% of hourly rate as of June 22, 2013
400-799 hours:	Hours accumulated as of June 22, 2013 x 60% of hourly rate as of June 22, 2013
800-1200 hours:	Hours accumulated as of June 22, 2013 x 75% of hourly rate as of June 22, 2013

**Educational and  
Professional Incentives**

Employees are eligible for reimbursement of up to \$1,000 per fiscal year (from \$400) for registration, tuition, fees, and textbooks for college accredited courses which are either related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service as approved by the Department Director or designee, and consistent with the program outlined in the City Policy Manual.

Of the \$1,000.00 amount, up to \$500 per fiscal year may be used for non-college accredited courses, and for certifications and/or the renewal fee for certifications issued by the International Code Council (ICC), the International Association of Electrical Inspectors (IAEI) or the International Association of Plumbing and Mechanical Officials (IAPMO).

### EVALUATION AND FOLLOW-UP

The contract language contained in the agreement reached on June 11, 2013, related to Retiree Healthcare will be incorporated into the ABMEI Memorandum of Agreement.

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

### 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 will be posted on the City's website in advance of the November 19, 2013, Council Agenda.

### COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

November 12, 2013

**Subject: Approval of Terms of an Agreement with ABMEI**

Page 5 of 5

**COST SUMMARY/IMPLICATIONS**

The ongoing increased annual direct cost of the 2% general wage increase is approximately \$201,000 in all funds (\$120,000 in 2013-2014), of which \$185,000 is in the General Fund (\$110,000 in 2013-2014). The cost of the nonpensionable lump sum will be approximately \$38,400. This funding is contained in the Employee Compensation Planning Reserves in the General Fund and all other special funds, as appropriate, as part of the 2013-2014 Adopted Operating Budget. Upon City Council approval of this memorandum, funds will be reallocated from the Employee Compensation Planning Reserve to individual department personal services budgets as part of the 2013-2014 Mid-Year Budget Review document that will be released at the end of January and considered by the City Council in February. These figures do not include the other costs associated with the changes in sick leave payout that will be incurred during the term of this agreement.

**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) 535-8155.

**2013 ABMEI NEGOTIATIONS  
TENTATIVE AGREEMENT\***

---

**TERM**

July 1, 2013 – June 30, 2014

**WAGES**

2% general wage increase effective the first pay period following ratification by the membership and approval by the City Council.

- One-time nonpensionable lump sum payment of \$600 payable within two (2) pay periods following ratification by the ABMEI membership and approval by the City Council for fulltime employees who were employed in ABMEI represented positions on July 1, 2013, and are still employed in ABMEI represented positions effective the pay period following ratification and Council approval.

**HOLIDAYS**

See Attached

**SICK LEAVE PAYOUT**

See Attached

**PROBATIONARY PERIODS**

See Attached

**EDUCATION AND PROFESSIONAL INCENTIVES**

See Attached

**SIDE LETTER AGREEMENTS**

Retiree Healthcare Stakeholder Solutions Working Group and Negotiations – See Attached

**OTHER**

Housekeeping, including updating dates, revising outdated language/items and revising typographical errors

**TENTATIVE AGREEMENTS**

- Higher Class Pay – See Attached
- Health/Dental In Lieu – See Attached
- Grievance Procedure - See Attached
- Safety - See Attached

**2013 ABMEI NEGOTIATIONS  
TENTATIVE AGREEMENT\***

---

**REOPENERS**


- Retiree Healthcare – The contract language contained in the agreement reached on June 11, 2013, shall be incorporated into the ABMEI Memorandum of Agreement.
- 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 ABMEI shall commence within 14 days upon notice from either party that any action referenced in the previous paragraph has occurred. The City and ABMEI shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures shall apply.


**\* This agreement is considered tentative and shall not be considered final or binding until ratified by the Union membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement.**

**FOR THE CITY:**


**FOR THE UNION:**

  
\_\_\_\_\_  
Marco Mercado  
Assistant to the City Manager

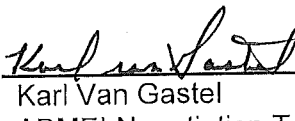
11/8/13  
Date

  
\_\_\_\_\_  
George Schriever  
ABMEI Negotiation Team

11-8-13  
Date

  
\_\_\_\_\_  
Kakshi Master  
Executive Analyst

11/8/13  
Date

  
\_\_\_\_\_  
Karl Van Gastel  
ABMEI Negotiation Team

11/8/13  
Date

  
\_\_\_\_\_  
Don Lindsey  
ABMEI Negotiation Team

11/8/13  
Date

**CITY PROPOSAL #9 – HOLIDAYS**

City Proposed Language:

16.1 Except as hereinafter otherwise provided, each full-time employee who is on paid status before and after the holidays specified below shall be entitled to paid holiday leave on each of the following holidays as observed, and on no other day, during the term of this Agreement:

New Years Day  
Martin Luther King Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Cesar Chavez Day

Columbus Day  
Veterans Day  
Thanksgiving Day  
Day After Thanksgiving  
Christmas Eve Day  
Christmas Day  
New Year's Eve Day



**CITY PROPOSAL #3 – SICK LEAVE PAYOUT**

City Proposed Language:

18.2 For employees hired on or before September 29, 2012, a sick leave payoff payout shall be given to each full-time employee at the time of retirement or death under one of the following conditions:

18.2.1 Federated Retirement Plan:

The employee is:

- 18.2.1.1 A member of the Federated Retirement Plan, and
- 18.2.1.2 Retired under the provisions cited in the plan, and
- 18.2.1.3 Credited with at least fifteen (15) years of service in this retirement plan, or
- 18.2.1.4 Credited with at least ten (10) years of service prior to a disability retirement.

18.2.2 Death During Service:

The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least fifteen (15) years of service in any applicable retirement plan.

18.3 Effective June 22, 2013, for purposes of calculating a sick leave payout, employees' sick leave balances and hourly rates shall be frozen. This means that an employee will receive no more for a sick leave payout, after having met the requirements set forth above, than he or she would have been entitled to on June 22, 2013. Any sick leave usage after June 22, 2013, will come first from the sick leave balance accrued after June 22, 2013. An employee will continue to accrue sick leave after June 22, 2013, but it may not be used for sick leave payout purposes.

For example, if an employee's hourly rate is \$40 and his or her sick leave balance is 1000 hours on June 22, 2013, then if he or she meets the eligibility requirements contained herein, the payout of a sick leave balance at the time of retirement will be based on the formula below, and shall be based on no more than 1000 hours and an hourly rate of no more than \$40. This will occur even if the employee has subsequently earned more than 1000 hours in sick leave or received a pay increase to an hourly rate higher than \$40. In this example, if the employee does not have available sick leave to use that was accrued after June 22, 2013, and uses sick leave and reduces their sick leave balance on June 22,

2013, to 800 hours, they will only be entitled to a sick leave payout of 800 hours, regardless of any sick leave accrued after June 22, 2013. This means that if sick leave payout hours are reduced by usage, they are not able to be reestablished in the sick leave balance subject to payout.

18.4 Payout shall be determined as follows:

18.43.1 If an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death, has earned, unused sick leave hours, the employee or Estate shall be paid the equivalent of a specified percent of their hourly rate of pay as of June 22, 2013, at the time of retirement, termination or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death June 22, 2013 (minus any sick leave hours as of June 22, 2013, which were used) in accordance with 18.34.1.1.

18.34.1.1 Less than 400 hours: Hours accumulated as of June 22, 2013 x 50% of final hourly rate as of June 22, 2013

400 – 799 hours: Hours accumulated as of June 22, 2013 x 60% of final hourly rate as of June 22, 2013

800 – 1200 hours: Hours accumulated as of June 22, 2013 x 75% of final hourly rate as of June 22, 2013

~~18.34.1.2 Distribution of payouts to eligible employees, in accordance with 18.43.1 above, who retire before June 27, 2010, shall be made no later than February 1, 2011.~~

~~18.34.2 Effective June 27, 2010, if an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death, has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death in accordance with 18.34.2.1.~~

~~18.34.2.1 Less than 400 hours: Hours accumulated x 50% of final hourly rate.~~

~~400 – 1200 hours: Hours accumulated x 60% of final hourly rate~~

~~18.34.3 Employees hired by the City on or after June 28, 2010, if an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death, has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of~~

~~pay at the time of retirement or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused sick leave as of the date of the employee's retirement or death in accordance with 18.34.3.1.~~

~~18.34.3.1 0—750 hours: Hours accumulated x 25% of final hourly rate~~

~~18.34.4 Effective June 26, 2011, if an eligible full-time employee, as defined in subsection 18.2 above, at the time of their retirement or death, has earned, unused sick leave hours, the employee shall be paid the equivalent of a specified percent of their hourly rate of pay at the time of retirement, termination or death, whichever comes first, multiplied by the total number of the employee's accumulated and unused hours of sick leave as of the date of the employee's retirement or death.~~

~~18.34.4.1 Less than 400 hours: Hours accumulated x 50% of final hourly rate  
400—799 hours: Hours accumulated x 60% of final hourly rate  
800—1200 hours: Hours accumulated x 75% of final hourly rate~~

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

18.65 Employees are only eligible for one (1) sick leave payout while employed by the City of San Jose, including breaks in employment.

18.6 Use of previously accumulated sick leave hours:

For purposes of determining the total number of accumulated and unused hours of sick leave of a full-time employee ~~at the time of the employee's retirement or death~~ before June 22, 2013, unused sick leave from prior periods of employment with the City shall be used. Previously accumulated sick leave shall be credited to the employee for use during an employee's current employment period.

**CITY PROPOSAL #11 – PROBATIONARY PERIODS**

- 26.1 Probationary periods shall not be less than six (6) or twelve (12) months of actual service as determined by the Civil Service Commission. Actual service shall mean regular hours worked, paid holidays and up to 80 hours of other cumulative or consecutive paid or unpaid absences.
- 26.2 The City may at its discretion extend up to a maximum of ~~three~~ six (6) months, the probationary period of an employee appointed to a ~~supervising~~ position in this unit. The employee will be notified in writing of the length and reason of the extension.

**UNION PROPOSAL – EDUCATION AND PROFESSIONAL INCENTIVES**

City Counterproposal:

5.9 Educational and Professional Incentives

5.9.1 Educational and Professional Program: The City will reimburse each employee one-hundred percent (100%) of expenses incurred, up to \$1000.00 per fiscal year, for registration, tuition, fees, and textbooks for college accredited courses which are either related to or beneficial for the employee's current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service as approved by the Department Director or designee. Of the \$1000.00 amount, up to \$500.00 may be used for non-college accredited courses, Continuing Education Units, Adult Education Classes, workshops, membership dues in professional associations, professional licenses, and professional certificates which are either related to or beneficial for the employee's current position or related to or beneficial for a lateral transfer, promotion or other career opportunity within the City service, as approved by the Department Director or designee. City Policy Manual Section Education Reimbursement outlines additional details of the program. Tuition Reimbursement as provided in Section 4.3.1 of the City Policy Manual of the City of San Jose shall be continued during the term of this Memorandum of Agreement. Continuing Education Units will also be accepted. The amount paid to any employee shall not exceed four hundred dollars (\$400) in any fiscal year and shall be reimbursed at 100%. In no event shall tuition received from this program plus reimbursement from other educational incentive programs exceed the total cost of tuition and books.

5.9.2 The Educational and Professional Program described in Article 5.9.1 above Tuition Reimbursement program will reimburse one-hundred percent (100%) of the examination fee, up to \$500.00 per fiscal year as specified in Article 5.9.1 above, for certifications and/or the renewal fee for certifications employees in the certified and uncertified Combination Building Inspector class and certified and uncertified Supervising Building Inspector classes issued by the International Code Council (ICC), the International Association of Electrical Inspectors (IAEI) or the International Association of Plumbing and Mechanical Officials (IAPMO). Reimbursement of the examination fee will be made only upon submission of proof to the Director of Human Resources of successful completion of the examination issued by ICC, IAEI, IAPMO or other recognized agencies.

## 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 Coalition<sup>1</sup> 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.

<sup>1</sup> 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:**

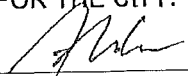
The Working Group shall agree upon a facilitator no later than August 1, 2013. The time period to schedule Working Group sessions will be from August 1, 2013, and conclude no later than December 31, 2013, unless the parties mutually agree to extend the timeframe. The City and the Coalition agree that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

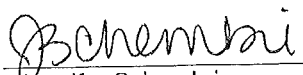
Negotiations between the City and the bargaining units shall commence within 14 days upon notice of either party, but no earlier than January 1, 2014. The City and the bargaining units shall negotiate in good faith in an effort to reach a mutual agreement. Applicable impasse dispute resolution procedures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

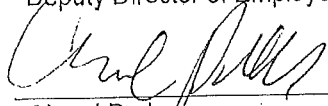
Side Letter Agreement  
Retiree Healthcare Stakeholder Solutions Working Group and Negotiations

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.

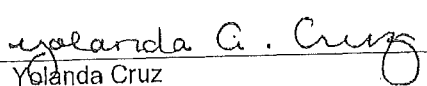
FOR THE CITY:

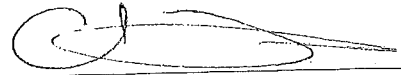
  
\_\_\_\_\_  
Alex Gurza  
Deputy City Manager  
6-11-13  
Date

  
\_\_\_\_\_  
Jennifer Schembri  
Deputy Director of Employee Relations  
6/11/13  
Date

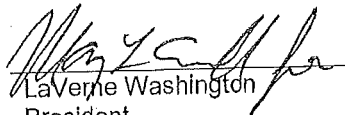
  
\_\_\_\_\_  
Cheryl Parkman  
Executive Analyst  
Office of Employee Relations  
6/11/13  
Date

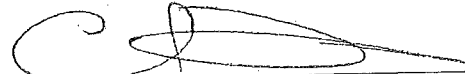
FOR THE UNION:

  
\_\_\_\_\_  
Yolanda Cruz  
President  
MEF, AFSCME Local 101  
6/10/13  
Date

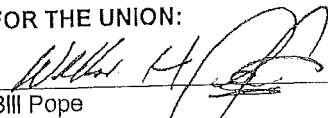
  
\_\_\_\_\_  
Charles Allen  
Business Agent  
AFSCME, Local 101  
6/10/13  
Date

FOR THE UNION:

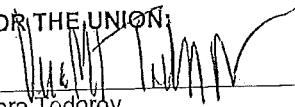
  
\_\_\_\_\_  
LaVerne Washington  
President  
CEO, AFSCME Local 101  
6/10/13  
Date

  
\_\_\_\_\_  
Charles Allen  
Business Agent  
AFSCME, Local 101  
6/10/13  
Date

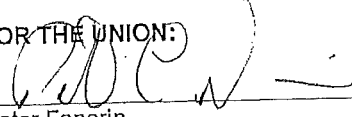
FOR THE UNION:

  
\_\_\_\_\_  
Bill Pope  
Business Representative  
Operating Engineers, Local 3  
Date

FOR THE UNION:

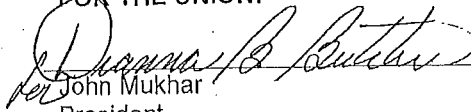
  
\_\_\_\_\_  
Vera Todorov  
President  
ALP  
6/13/13  
Date

FOR THE UNION:

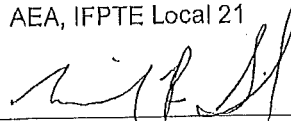
  
\_\_\_\_\_  
Peter Fenerin  
President  
ABMEI  
6/10/13  
Date



FOR THE UNION:

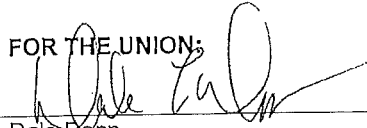
  
John Mukhar  
President  
AEA, IFPTE Local 21

6/10/13  
Date

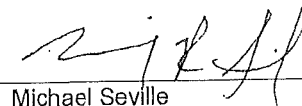
  
Michael Seville  
Acting Senior Representative  
IFPTE, Local 101

6/10/13  
Date

FOR THE UNION:

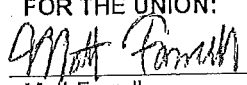
  
Dale Dapp  
President  
AMSP, IFPTE Local 21

6/10/2013  
Date

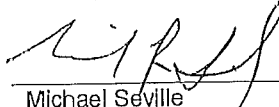
  
Michael Seville  
Acting Senior Representative  
IFPTE, Local 101

6/10/13  
Date

FOR THE UNION:

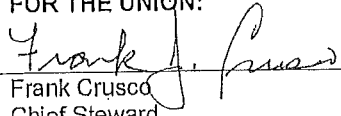
  
Matt Farrell  
President  
CAMP, IFPTE Local 21

6/10/2013  
Date

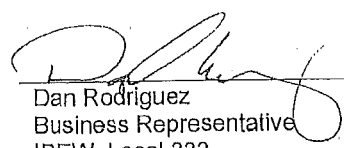
  
Michael Seville  
Acting Senior Representative  
IFPTE, Local 101

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

**2013 CITY OF SAN JOSE – ABMEI NEGOTIATIONS  
TENTATIVE AGREEMENT**

**CITY PROPOSAL #3 – HIGHER CLASS PAY**

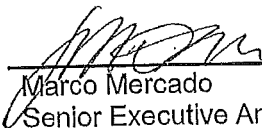
City Proposed Language:

5.2 Working in a Higher Classification

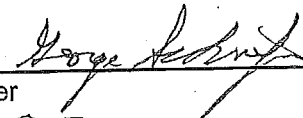
5.2.3 Employees specifically assigned to duties of a higher classification shall be compensated at the rate in the salary range of the higher classification, which is at least ~~one salary rate step~~ five percent (5%) higher in the salary range schedule than the rate received by the employee in the employee's present class. Notwithstanding any other provision of this section, in no event shall an employee receive an amount in excess of the top of the salary range of the higher classification. The employee shall not receive any compensation, however, unless the assignment is for two (2) consecutive workdays or longer. The employee shall be compensated at the appropriate rate commencing with the first workday of the assignment provided the assignment is made for the applicable length of time.

*\*This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

  
\_\_\_\_\_  
Marco Mercado  
Senior Executive Analyst  
10/9/13

FOR THE UNION:

  
\_\_\_\_\_  
George Schriefer  
ABMEI  
10-9-13

**2013 CITY OF SAN JOSE – ABMEI NEGOTIATIONS  
TENTATIVE AGREEMENT**

**CITY PROPOSAL #4 – PAYMENT-IN-LIEU OF HEALTH AND DENTAL**

City Proposed Language:

**5.5 Payment-in-Lieu of Health and Dental Insurance**


5.5.4 The payment-in-lieu of health and/or dental insurance program is available to full-time employees who are not on a reduced workweek of less than thirty-five (35) regular hours per week 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.

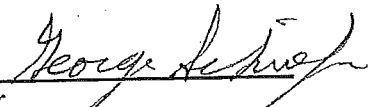
5.5.6 Payments for the in-lieu insurance program will be discontinued if an employee becomes ineligible for the program. An employee's ineligible status would include but not be limited to the following situations: employment status changes from full to part time, employee is on an unpaid leave of absence, employee is on a reduced work week of less than thirty-five (35) regular hours per week, or 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.

*\*This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

**FOR THE CITY:**

**FOR THE UNION:**

  
\_\_\_\_\_  
Marco Mercado  
Senior Executive Analyst  
10/9/13

  
\_\_\_\_\_  
George Schriefer  
ABMEI  
10-9-13

2013 CITY OF SAN JOSE – ABMEI NEGOTIATIONS  
TENTATIVE AGREEMENT

**CITY PROPOSAL #7 – GRIEVANCE PROCEDURE**

City Proposed Language:

**ARTICLE 12 GRIEVANCE PROCEDURE**


12.1 Any dispute between the City and an employee, or, where provided, the appropriate representative of the ~~Employee Organization~~ Union, regarding the interpretation or application of the written Memorandum of Agreement, or the interpretation or application of the Employer-Employee Resolution #39367, as amended, shall be considered a grievance. A grievance may be initiated only by the employee directly affected except as otherwise provided herein. Where the dispute directly affects a significantly large group of employees in the representation unit, the ~~appropriate employee organization~~ Union representative may file a grievance on behalf of such employee(s).

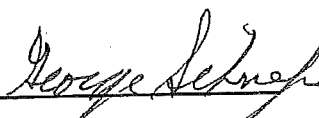
12.6.3 The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Mediation and Conciliation Service to provide a list of seven (7) persons qualified to act as arbitrators. Any costs associated with the mutually agreed upon joint request for a list of persons qualified to act as arbitrators from the State of California Mediation and Conciliation Service shall be divided equally between the parties. The City will process the joint request after receiving the Union's share of the cost for obtaining the list.

*\*This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

FOR THE UNION:

  
Marco Mercado  
Senior Executive Analyst  
10/9/13

  
George Schriefer  
ABMEI  
10-9-13

2013 CITY OF SAN JOSE – ABMEI  
TENTATIVE AGREEMENT

---

**CITY PROPOSAL #6 – SAFETY**

**ARTICLE 11 SAFETY**

- 11.1 The City shall provide a reasonably safe and healthy working environment in accordance with applicable State and Federal laws and regulations. The Association agrees that where safety devices or protective equipment is required or furnished, its use shall be mandatory.
- 11.2 An employee who believes that their work assignment is unsafe or believes a safety violation exists and for that reason refuses to perform such assignment, will first report such unsafe conditions to their immediate supervisor and try and resolve it at that level. The employee may at any time request that a union representative be present for any part of the process. ~~shall be assigned other duties, if other duties are available, and no other employee shall be assigned the work assignment in dispute until after a determination has been made by the City's Safety Officer. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the above determination. Prior to being placed on such leave, however, the employee may request the presence of the appropriate employee organization representative.~~
- 11.3 If the employee is not satisfied with the response of the immediate supervisor, the employee may request that the City make a determination as to the safeness of the work assignment in accordance with Cal/OSHA regulations. If the City is asked to make a determination, an employee will be assigned other duties if other duties are available while an investigation is underway. If no other duties are available, the employee may be placed on a leave of absence without pay, pending the above determination. No other employee shall be assigned the work assignment in dispute until after a determination is made by the City's designated safety official. The employee's immediate supervisor shall immediately request the City's Safety Officer to make a determination as to the safeness of the work assignment in question. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to the refusal to perform. If the employee disagrees with the determination of the City's Safety Officer and continues to refuse to perform the assignment, he/she shall be assigned other duties, if such other duties are available, and a prompt request for a determination by the Department of Industrial Safety of the State of California shall be made. Pending such determination, the assignment shall not be given to another employee. If no other duties are available, the employee shall be placed on a leave of absence without pay, pending the determination of the Department of Industrial Safety. If the assignment is determined to be unsafe, the employee shall be reimbursed for any time lost due to refusal to perform. ~~The determination~~

**2013 CITY OF SAN JOSE – ABMEI  
TENTATIVE AGREEMENT**

---

~~by the Department of Industrial Safety of the safeness or un-safeness of the work assignment shall not be subject to the grievance procedure.~~

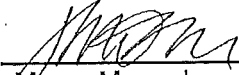
11.4 ~~No provisions of this Article shall be subject to the grievance procedures of this Agreement. If the Union is not satisfied with the City's determination, the Union can request to meet with the Office of Employee Relations to discuss the City's determination. Upon request of either the employee or the representative of the Department of Industrial Safety, the appropriate employee organization representatives shall be permitted to accompany the City Safety Officer, or the representative of the Division of Industrial Safety, or both, during the inspections of the questioned work assignment. Neither the employee nor the appropriate employee organization representative shall suffer any loss of compensation for time involved in the inspections of the questioned work assignment during their respective regularly scheduled working hours. In no event shall overtime or premium pay be paid for any time spent in such inspections.~~


11.5 As used herein, the term "City Safety Officer" shall include any person designated to act as such.

*\*This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

FOR THE UNION:

  
\_\_\_\_\_  
Marco Mercado  
Senior Executive Analyst  
10/18/13  
Date

  
\_\_\_\_\_  
George Schriefer  
ABMEI  
10-18-13  
Date

CITY OF SAN JOSE – ABMEI  
TENTATIVE AGREEMENT

CITY PROPOSAL – RETIREE HEALTHCARE

Proposed Language:

ARTICLE 25 RETIREE HEALTHCARE FUNDING AND BENEFITS

25.1 The City and the Employee Organization have agreed 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 ~~shall be accomplished by phasing into fully funding the ARC over a period of five (5) years beginning June 28, 2009.~~ began on June 28, 2009. The Plan's initial unfunded retiree healthcare liability shall be fully amortized over a thirty year period so that 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 3.28.3850 (C) (1) and (3) 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 Article.

25.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended to the extent necessary in accordance with ~~the above this~~ agreement and that the Employee Organization will support such amendments.

25.3 It is understood that in reaching this agreement, the parties have been informed by cost estimates prepared by the Federated City Employees' Retirement System Board's actuary and that the actual contribution rates to reach full pre-funding of retiree healthcare will differ. The phase-in to the ARC shall be ~~divided into five steps (using a straight line method),, each to be effective on the first pay period of the City's fiscal year in each succeeding year,~~ the first increment which was ~~the first increment of the phase in shall be effective on June 28, 2009.~~ It is understood that because of changes resulting from future actuarial valuations, the amount of each ~~increase~~ the ARC may vary upward or downward. The City and Employee Organization 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

**CITY OF SAN JOSE – ABMEI  
TENTATIVE AGREEMENT**

---

year's contribution rate for retiree healthcare cannot exceed 4.75% of pensionable pay. Notwithstanding the limitations on the incremental increases, by the end of the five year phase-in, 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 3.28.3850 (C) (1) and (3) of the San Jose Municipal Code.

- 25.4 The City will ~~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. ~~Until such time as a Trust is established, the City and employee contributions under this agreement shall be made into the existing Medical Benefits Account for as long the contributions can be made into the Medical Benefits Account in accordance with IRS limitations. If the Trust is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.~~
- 25.5 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 Employee Organization will immediately meet and confer over an alternative trust vehicle for the prospective contributions should the IRS determine that the contributions are post-tax.
- 25.6 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.
- 25.7 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 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.
- 25.8 Neither the City nor the Employee Organization waives any rights or assertions, each may have, related to the retiree healthcare benefit through any of the provisions of this Article.



**ARTICLE 9 FULL UNDERSTANDING, MODIFICATION AND WAIVER**

- 9.1 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.
- 9.2 Existing benefits provided by ordinance or resolution of the City Council or as provided in the San Jose Municipal Code and which are referenced in the Agreement shall be provided in accordance with the terms of the Agreement.
- 9.3 It is the intent of the parties that ordinances, resolutions, rules and regulations enacted pursuant to this Memorandum of Agreement be administered and observed in good faith.
- 9.4 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.
- 9.5 The City agrees to meet and confer with the Union prior to contracting out work currently performed by bargaining unit members whenever such contracting out would result in material reduction of work done by bargaining unit members or would have significant adverse impact on bargaining unit work. It is agreed that position reductions, which result in lay-off of employees in the bargaining unit constitute significant impact on bargaining unit work.

9.6 Healthcare Cost Mitigation

9.6.1 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.

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

CITY OF SAN JOSE – ABMEI  
TENTATIVE AGREEMENT

---

5.3 Health Insurance

5.3.1 The City will provide health coverage for eligible full-time employees and their dependents in accordance with one of the available plans. 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.

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.

~~5.3.2 The City will pay eighty five percent (85%) of the full premium 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 for employee and dependent coverage. If an employee selects a plan other than the lowest priced plan for employee or for employee and dependent coverage, 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.~~

5.3.2 Effective December 23, 2012, 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. 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.

*Effective January 1, 2013 Kaiser Permanente Deductible 1500 HMO Benefit Plan 3800 will be available to employees represented by ABMEI in addition to existing plan options.*

CITY OF SAN JOSE – ABMEI  
TENTATIVE AGREEMENT

---

5.4 Dental Insurance

5.4.1 The City will provide dental coverage for eligible full-time employees and their dependents. As of the date of this Agreement, the plans include an indemnity plan and a DHMO plan. These programs are described in the City of San Jose Employee Benefits Handbook and in pamphlets available in the Human Resources Department. 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 2014, which starts December 22, 2013.

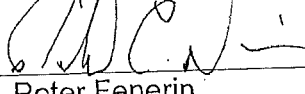
*This agreement is considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during these negotiations. Anything not included in this document is not part of the Tentative Agreement. The provisions set forth above shall be incorporated in any successor Memorandum of Agreement.*

FOR THE CITY:

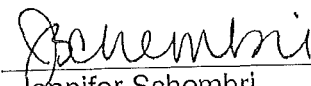
  
\_\_\_\_\_  
Alex Gurza  
Deputy City Manager

6-11-13  
Date

FOR THE UNION:

  
\_\_\_\_\_  
Peter Fenerin  
President  
ABMEI

6/10/13  
Date

  
\_\_\_\_\_  
Jennifer Schembri  
Deputy Director of Employee Relations

6/11/13  
Date

  
\_\_\_\_\_  
Cheryl Parkman  
Executive Analyst  
Office of Employee Relations

6/11/13  
Date