

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Alex Gurza

SUBJECT: SEE BELOW

DATE: April 7, 2009

Approved

Date

4/7/09

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

SUBJECT: RETIREE HEALTHCARE FUNDING

RECOMMENDATION

Adoption of a resolution to provide as follows:

A. Approve the terms of agreements (attached) with the bargaining units listed below and authorizing the City Manager to execute the agreements effective June 28, 2009:

1. Association of Building, Mechanical and Electrical Inspectors (ABMEI)
2. Association of Engineers and Architects, IFPTE Local 21 (AEA Units 41/42 and 43)
3. Association of Maintenance Supervisory Personnel (AMSP)
4. City Association of Management Personnel (CAMP)
5. International Brotherhood of Electrical Workers, Local No. 332 (IBEW)
6. Municipal Employees' Federation, AFSCME Local 101 (MEF)
7. Confidential Employees' Organization, AFSCME Local 101 (CEO)

B. Implement retiree healthcare funding for Executive Management and Professional Employees (Unit 99) and employees in the Unclassified Non-Management employee unit (Unit 82) who are in the Federated City Employees' Retirement System, effective June 28, 2009.

OUTCOME

Adoption of the resolution and authorization to execute the agreements that would implement retiree healthcare funding agreements between the City and ABMEI, AEA, AMSP, CAMP, IBEW, MEF and CEO, and to implement retiree healthcare funding for Executive Management and Professional Employees (Unit 99) and employees in Unit 82 who are in the Federated City Employees' Retirement System, effective June 28, 2009.

BACKGROUND

In August of 2007, City Administration brought forward to the City Council a memo on Retiree Healthcare. This memo provided information and background on the government accounting

rules related to retiree healthcare, provided information on the retiree healthcare liability, and explored options to be considered to mitigate these costs. This memo can be found at http://www.sanjoseca.gov/clerk/Agenda/080707/080707_03.11.pdf.

This memo was prompted by the Governmental Accounting Standards Board (GASB) implementing reporting standards that require state and local governmental agencies to disclose the full cost of unfunded actuarial liabilities for Other Post Employment Benefits (OPEB), such as retiree healthcare, which include medical and dental benefits. The estimated unfunded retiree healthcare liability for the City of San Jose was estimated to be as high as **\$1.65 billion**, based on the most recent actuarial analyses at that time. Factors that contribute to the amount of the liability include the level of the retiree medical benefit, escalating costs in medical premiums, the increasing number of retirees, and the City's current level of funding retiree healthcare benefits.

In response to the size of this projected liability and its potential impact, the City Council discussed retiree healthcare liability as an agenda item during two Council meetings in August of 2007. From these sessions, the City Council directed staff to:

1. Engage stakeholders in identifying strategies and alternatives to address our unfunded liability for retiree healthcare. Represented stakeholders were to include, at a minimum, employees, City Labor Alliance, Executive Management Forum, retiree associations, retirement boards, and South Bay Labor Council.
2. Continue to survey how other cities and counties are addressing their unfunded liabilities.
3. Engage experts, identified by the Administration and stakeholders, as necessary to evaluate strategies and approaches that are identified by stakeholders or have been implemented in other cities or counties.
4. Study how pre-full funding of benefits can be accomplished through a phased-in approach.¹

As one component of the Stakeholder Process, a Joint Committee on Solutions to Retiree Healthcare was developed. This committee included representatives from the Police and Fire Department Retirement Plan and the Board of Administration of the Federated City Employees' Retirement System. The report can be found at <http://www.sanjoseca.gov/retireehealthcare/documents/CommitteeReportonSolutionstoRetireeHealthcareIssuesfinalreport.pdf>

The Joint Committee on Solutions to Retiree Healthcare make numerous recommendations, two of which were:

1. The Boards should recommend to the City the adoption of recommendation no. 1 of the Public Employee Post-Employment Benefits Commission:

Public agencies providing OPEB [other post-employment benefits] benefits should adopt prefunding as their policy. As their policy, prefunding OPEB benefits is just as important as prefunding pensions. The ultimate goal of a prefunding policy should be to achieve full funding.

¹ City of San José Council Memorandum, August 28, 2007.

2. The Boards should recommend to the City the adoption of a reasonable ramp-up period, i.e., one not less than five years, to reach full funding of the annual required contribution (ARC) required by Government Accounting Standards Board (GASB) Statement nos. 43 and 45.

The City also developed a stakeholder process and held sessions for all City employees to attend. As a result of this stakeholder process, a Council Report was developed that included key themes from the stakeholder sessions. This report can be found at: <http://www.sanjoseca.gov/retireehealthcare/documents/Attachment1toCouncilMemo061708.pdf>. This report went to the City Council in June of 2008. The Council Memo accompanying this report can be found at: <http://www.sanjoseca.gov/retireehealthcare/documents/CouncilMemo061708.pdf>.

This report provided that one of the themes that came out of the stakeholder process was to find a way to phase in full prefunding.

After this extensive outreach and collaboration, different options to achieve full pre-funding of retiree healthcare benefits were considered. As each option was explored, it was done within the following context:

1. Based on an outside legal counsel opinion, it was determined that retiree healthcare benefits can be considered a "vested" benefit similar to the pension benefit and the City determined that it would not be pursuing changes to retiree healthcare benefits for current employees or current retirees.
2. The level and eligibility for retiree healthcare benefits for City employees are defined in the Municipal Code. Contributions from both the City and current employees provide the funding for these benefits. The contributions are made as a percentage of pay for current employees and are part of the contribution rates for the City's two retirement plans. Contributions for retiree dental benefits are made by the City and the employees in the ratio of eight-to-three. Contributions for retiree medical benefits are made by the City and the employees in the ratio of one-to-one (50/50 split).

In order to continue discussing with the City's bargaining units the issue of retiree healthcare, the City obtained reopener agreements to enable the City to engage in coalition bargaining on the subject of retiree healthcare benefits with the following bargaining units:

1. Association of Building, Mechanical and Electrical Inspectors (ABMEI)
2. Association of Engineers and Architects, IFPTE Local 21 (AEA Units 41/42 and 43)
3. Association of Maintenance Supervisory Personnel (AMSP)
4. City Association of Management Personnel (CAMP)
5. International Brotherhood of Electrical Workers, Local No. 332 (IBEW)
6. Municipal Employees' Federation, AFSCME Local 101 (MEF)
7. Confidential Employees' Organization, AFSCME Local 101 (CEO)

Upon mutual agreement from each of the above bargaining units and the City, coalition bargaining began in July of 2008, and a tentative agreement was reached with each of the seven bargaining units on March 4, 2009. The Tentative Agreements have been ratified by all seven bargaining units.

In addition, the retiree healthcare funding has been discussed with the Executive Management and Professional Employees (Unit 99) through the Unit 99 Forum and they have been notified of implementation effective June 28, 2009.

It should be noted that a similar agreement with the San Jose Police Officers' Association has already been approved by the City Council and is in the process of being implemented for June 28, 2009. The City is currently in negotiations with Operating Engineers, Local No. 3 and San Jose Firefighters, IAFF Local 230, on their successor agreements as a whole, which include the topic of retiree healthcare.

ANALYSIS

The following is a summary of the key provisions of the attached Tentative Agreements with the seven bargaining units, and a summary of the key information discussed with the Unit 99 Forum.

Retiree Healthcare Funding

Currently, retirees who meet eligibility requirements receive retiree healthcare benefits that provide for 100% of the premium for the lowest-cost plan available to active City employees. Thus, eligible retirees do not pay for any portion of the premium for the lowest-cost plan.

The San Jose Municipal Code (3.28.380) provides that contributions for retiree medical benefits shall be made by the City and employees in the ratio of one-to-one and contributions for retiree dental benefits shall be made in the ratio of eight-to-three. However, the current level of contributions by the City and employees to fund retiree healthcare are substantially less than the Annual Required Contribution (ARC) calculated by the Federated Plan actuary. Based upon the actuarial study for the Federated City Employees' Retirement System as of June 30, 2006, retiree healthcare benefits in the Federated City Employees' Retirement System are only 12% funded.

Effective June 28, 2009, the City and ABMEI, AEA, AMSP, CAMP, IBEW, MEF, CEO, Unit 99 and Unit 82 will transition from the current partial pre-funding of retiree healthcare benefits to full pre-funding of the Annual Required Contribution (ARC) over a period of five years. The Federated 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).

The cash contribution rate for plan members shall not have an incremental increase of more than 0.75% of pensionable pay in each fiscal year and the City cash contribution rate shall not have an incremental increase of more than 0.75% of pensionable pay in each fiscal year. 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

Healthcare Cost Mitigation

In the upcoming months, the City will be discussing with the Unit 99 Forum issues related to healthcare cost mitigation.

As part of the Tentative Agreements with the bargaining units, the parties agreed to commence meeting and conferring between January 1, 2010 and January 19, 2010, on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees.

The parties intend to engage in these negotiations in a coalition bargaining process, as was done for these Tentative Agreements, with all other interested bargaining units, if any.

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 means that the City will have the right to unilaterally implement in the event no agreement is reached at the conclusion of negotiations and mandatory impasse procedures, but that the unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, 2010.

The Tentative Agreement with ABMEI also includes a provision that after declaration of impasse with respect to negotiations over a modification of retiree healthcare benefits, if the City provides notification of implementation, ABMEI has the right to engage in a strike, or such other protected concerted activities on the employees' own time provided such other protected concerted activities do not impede the performance of the employees' assigned duties.

EVALUATION AND FOLLOW-UP

As noted earlier, these Tentative Agreements with the bargaining units include a provision that the City and bargaining units have agreed to commence meeting and conferring between January 1, 2010 and January 19, 2010, on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees.

In the upcoming months, the City will be discussing with the Unit 99 Forum issues related to healthcare cost mitigation.

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)**

This item meets Criterion 1. This memorandum will be posted on the City's website for the April 21, 2009 Council Agenda. This memo was included in the Early Distribution Council packet.

COORDINATION

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

COST IMPLICATIONS

The City and employees represented by ABMEI, AEA, AMSP, CAMP, IBEW, MEF and CEO and employees in Unit 82 and Unit 99 will phase-in to fully fund the Annual Required Contribution (ARC) over a five-year period. This will result in an incremental increase of up to 0.75% of pensionable pay in each fiscal year for employees, and an incremental increase of up to 0.75% of pensionable pay in each fiscal year for the City. 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).

The maximum cost to the City in Fiscal Year 2009-2010 is approximately \$2.15 million if the incremental increase was 0.75% of pensionable pay. The amount is expected to be less than 0.75% of pensionable pay in 2009-2010, but the exact amount is pending an actuarial study by the retirement board's actuary.



Alex Gurza
Director of Employee Relations

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

**CITY OF SAN JOSE AND ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS
MEDIATION TENTATIVE AGREEMENT**

ARTICLE 25 RETIREE HEALTHCARE FUNDING

(Current Article 25 and subsequent articles to be re-numbered)

- 25.1 The City and the Employee Organization agree 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. 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 3.28.380 (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 in accordance with the above 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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 25.4 The City will establish a qualified trust ("Trust") before June 27, 2010. 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 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.

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3-4-09

**CITY OF SAN JOSE AND ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS
MEDIATION TENTATIVE AGREEMENT**

ARTICLE 9 FULL UNDERSTANDING, MODIFICATION AND WAIVER

9.5 ~~Notwithstanding the provisions of Article 9.4 and Article 24, the City may notify the Organization in writing once during the term of this 2007 — 2009 Agreement of its desire to reopen negotiations regarding retiree healthcare benefits. Upon such notice being given, the duly authorized representatives of the parties shall meet and confer in good faith in an effort to reach a mutual agreement with respect to retiree healthcare benefits. 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-Millias-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 parties also agree that, after declaration of impasse with respect to negotiations over a modification of retiree healthcare benefits, if the City provides notification of implementation, the Organization has the right to engage in a strike, or such other protected concerted activities on the employees' own time provided such other protected concerted activities do not impede the performance of the employees' assigned duties. Protected concerted activities shall not include partial strikes (such as refusing to work overtime, engaging in a slowdown or accepting some work tasks and refusing to perform others), intermittent strikes and sit-down strikes.~~

9.5 Healthcare Cost Mitigation.

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

9.5.2 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, 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.

9.5.3 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-Millias-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 parties also agree that, after declaration of impasse with respect to negotiations over a modification of retiree healthcare benefits, if the City provides notification of implementation, the Organization has the right to engage in a strike, or such other protected concerted activities on the employees' own time provided such other protected concerted activities do not impede the performance of the employees' assigned duties. Protected concerted activities shall not include partial strikes (such as refusing to work overtime, engaging in a slowdown or accepting some work tasks and refusing to perform others), intermittent strikes and sit-down strikes. The City agrees that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, 2010.


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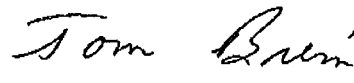
**CITY OF SAN JOSE AND ASSOCIATION OF BUILDING, MECHANICAL AND ELECTRICAL INSPECTORS
MEDIATION TENTATIVE AGREEMENT**

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during confidential mediation. Anything not included in this document is not part of this tentative agreement. If this tentative agreement is not ratified by the membership or not approved by the City Council, the parties' positions will revert to the last on-the-record proposals prior to mediation. The provisions set forth above shall be incorporated in any successor Memorandum of Agreement.

FOR THE CITY:


ALEX GORDA
3-4-09

FOR THE UNION:


Tom Brilm
President
3-4-09

**CITY OF SAN JOSE AND ASSOCIATION OF ENGINEERS AND ARCHITECTS,
IFPTE LOCAL #21
MEDIATION TENTATIVE AGREEMENT**

ARTICLE 12 RETIREMENT

~~12.1 The parties have not reached any agreement on the subject of retiree healthcare benefits. Therefore, the parties agree to continue to Meet and Confer regarding changes to these benefits notwithstanding Article 3 of this MOA. Current retirement benefits set forth in the Municipal Code will continue during the term of this Agreement unless modified pursuant to the Meyers-Millias-Brown Act (MMBA).~~

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 AEA shall commence no later than March 2008 with or without the participation of any other bargaining unit. The City and AEA shall negotiate in good faith in an effort to reach a mutual agreement.

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 MMBA. The City and AEA agree that impasse will not be declared any earlier than June 30, 2008. The City agrees that it will not unilaterally implement changes to retiree healthcare benefits for AEA until any changes to retiree healthcare benefits become effective for the Municipal Employees' Federation (MEF).

ARTICLE 12 RETIREE HEALTHCARE FUNDING

12.1 The City and the Employee Organization agree 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. 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 3,28,380 (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.

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3-4-09
[Signature]

**CITY OF SAN JOSE AND ASSOCIATION OF ENGINEERS AND ARCHITECTS,
IFPTE LOCAL #21
MEDIATION TENTATIVE AGREEMENT**

- 12.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 12.3 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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 12.4 The City will establish a qualified trust ("Trust") before June 27, 2010. 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.
- 12.5 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.

ARTICLE 3 AGREEMENT CONDITIONS

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, and January 19, 2010, 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 with or without participation of any

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**CITY OF SAN JOSE AND ASSOCIATION OF ENGINEERS AND ARCHITECTS,
IFPTE LOCAL #21
MEDIATION TENTATIVE AGREEMENT**

other bargaining unit. The City and Employee Organization shall negotiate in good faith in an effort to reach a mutual agreement.

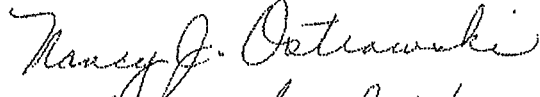
3.1.5.3 If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Milius-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the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

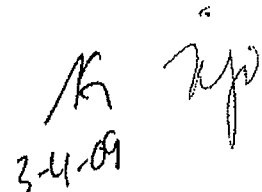
This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during confidential mediation. Anything not included in this document is not part of this tentative agreement. If this tentative agreement is not ratified by the membership or not approved by the City Council, the parties' positions will revert to the last on-the-record proposals prior to mediation. The provisions set forth above shall be incorporated in any successor Memorandum of Agreement.

FOR THE CITY:


ALEX GUERRA
3-4-09.

FOR THE UNION:


Nancy J. Ostrawski
IFPTE Local 21
March 4, 2009


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3-4-09

**CITY OF SAN JOSE AND ASSOCIATION OF MAINTENANCE SUPERVISORY
PERSONNEL
MEDIATION TENTATIVE AGREEMENT**

RETIREMENT

~~The parties have not reached any agreement on the subject of retiree healthcare benefits. The parties will commence the Meet and Confer process regarding these benefits no earlier than March 2008. The City and AMSP agree that impasse will not be declared any earlier than June 30, 2008.~~

RETIREE HEALTHCARE FUNDING

The City and the Employee Organization agree 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. 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 3.28.380 (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 section.

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

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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

AK
3-4-09

pyS
3/4/09

**CITY OF SAN JOSE AND ASSOCIATION OF MAINTENANCE SUPERVISORY
PERSONNEL
MEDIATION TENTATIVE AGREEMENT**

The City will establish a qualified trust ("Trust") before June 27, 2010. 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.

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.

HEALTHCARE COST MITIGATION


The parties agree to commence meeting and conferring between January 1, 2010, and January 19, 2010, on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees.

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 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.


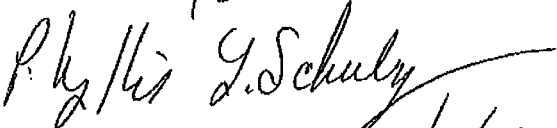
If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Millias-Brown Act. The parties understand that this means that the City will have the right to unilaterally implement in the event 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.

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during confidential mediation. Anything not included in this document is not part of this tentative agreement. If this tentative agreement is not ratified by the membership or not approved by the City Council, the parties' positions will revert to the last on-the-record proposals prior to mediation. The provisions set forth above shall be incorporated in any successor agreement.

FOR THE CITY:


ALEX GUIZA
3-4-09

FOR THE UNION:

 Bryan Belfrage 3/4/09
 Phyllis G. Schulz
3/4/09

**CITY OF SAN JOSE AND CITY ASSOCIATION OF MANAGEMENT PERSONNEL
MEDIATION TENTATIVE AGREEMENT**

RETIREE HEALTHCARE FUNDING

The City and the Employee Organization agree 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. 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 3.28.380 (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 section.

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

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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.

The City will establish a qualified trust ("Trust") before June 27, 2010. 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.

Handwritten initials and date:
K
3-4-09

Handwritten signature:
JG

**CITY OF SAN JOSE AND CITY ASSOCIATION OF MANAGEMENT PERSONNEL
MEDIATION TENTATIVE AGREEMENT**

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.

HEALTHCARE COST MITIGATION

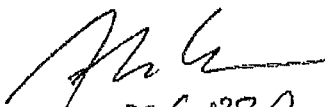
The parties agree to commence meeting and conferring between January 1, 2010, and January 19, 2010, on retiree healthcare benefits for future employees and a medical reimbursement program for future retirees.

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 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.

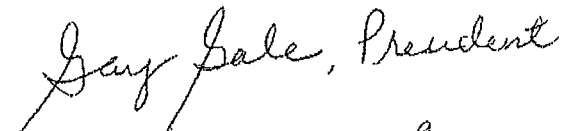
If no agreement is reached, the parties will follow the impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Millas-Brown Act. The parties understand that this means that the City will have the right to unilaterally implement in the event 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.

This agreement is still considered tentative and shall not be considered final or binding until ratified by the membership and approved by the City Council. This document sets forth the full agreements of the parties reached during confidential mediation. Anything not included in this document is not part of this tentative agreement. If this tentative agreement is not ratified by the membership or not approved by the City Council, the parties' positions will revert to the last on-the-record proposals prior to mediation. The provisions set forth above shall be incorporated in any successor agreement.

FOR THE CITY:


ALEX GUZZA
3-4-09

FOR THE UNION:


Gary Gale, President
March 4, 2009

**CITY OF SAN JOSE AND INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL NO. 332
MEDIATION TENTATIVE AGREEMENT**

ARTICLE 25 RETIREE HEALTHCARE FUNDING
(Current Article 25 and subsequent articles to be re-numbered)

- 25.1 The City and the Union agree 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. 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 3.28.380 (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 Union further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Union 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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 25.4 The City will establish a qualified trust ("Trust") before June 27, 2010. 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

**CITY OF SAN JOSE AND INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL NO. 332
MEDIATION TENTATIVE AGREEMENT**

is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

25.5. 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.

ARTICLE 9 FULL UNDERSTANDING, MODIFICATION AND WAIVER

~~9.5 Notwithstanding the provisions of Article 9.4 and Article 24, the City may notify the Union in writing once during the term of this Agreement of its desire to reopen negotiations regarding retiree healthcare benefits. Upon such notice being given, the duly authorized representatives of the parties shall meet and confer in good faith in an effort to reach a mutual agreement with respect to retiree healthcare benefits. 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 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 parties also agree that, after declaration of impasse with respect to negotiations over a modification of retiree healthcare benefits, if the City provides notification of implementation, the Union has the right to engage in protected concerted activities on the employees' own time provided such protected concerted activities do not impede the performance of the employees' assigned duties. Protected concerted activities shall not include strikes, partial strikes (such as refusing to work overtime, engaging in a slowdown or accepting some work tasks and refusing to perform others), intermittent strikes and sit-down strikes.~~

9.5 Healthcare Cost Mitigation.

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

9.5.2 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 Union shall commence no later than January 19, 2010 with or without participation of any other bargaining unit. The City and Union shall negotiate in good faith in an effort to reach a mutual agreement.

9.5.3 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 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


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**CITY OF SAN JOSE AND INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL NO. 332
MEDIATION TENTATIVE AGREEMENT**

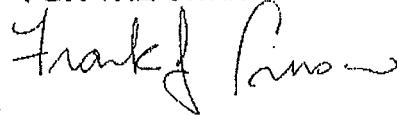

that a unilateral implementation of retiree healthcare benefits for future employees shall not be effective before July 1, 2010.

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FOR THE CITY:


ALEX GUERRA
3-4-09:

FOR THE UNION:


3-4-09

3/5/09

**CITY OF SAN JOSE AND MUNICIPAL EMPLOYEES' FEDERATION
MEDIATION TENTATIVE AGREEMENT**

ARTICLE 15 RETIREE HEALTHCARE FUNDING

(Current Article 15 and subsequent articles to be re-numbered)

- 15.1 The City and the Employee Organization agree 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. 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 3.28.380 (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.
- 15.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 15.3 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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 15.4 The City will establish a qualified trust ("Trust") before June 27, 2010. 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

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3/4/09

**CITY OF SAN JOSE AND MUNICIPAL EMPLOYEES' FEDERATION
MEDIATION TENTATIVE AGREEMENT**

is not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

15.5 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.

ARTICLE 3 AGREEMENT CONDITIONS

~~3.1.5 Notwithstanding Article 3.1.4 and Article 14, the City may notify the Organization in writing once during the term of this Agreement of its desire to reopen negotiations regarding retiree healthcare benefits. Upon such notice being given, the duly authorized representatives of the parties shall meet and confer in good faith in an effort to reach a mutual agreement with respect to retiree healthcare benefits. 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-Millas-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.~~

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, and January 19, 2010, 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 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.

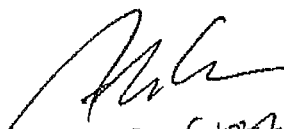
3.1.5.3 If no agreement is reached, the parties will follow the Impasse procedures set forth in the City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Millas-Brown Act. The parties understand that this means that, notwithstanding any other provision of this agreement, the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

K
3-4-09
yjac
nmm
3/4/09

**CITY OF SAN JOSE AND MUNICIPAL EMPLOYEES' FEDERATION
MEDIATION TENTATIVE AGREEMENT**

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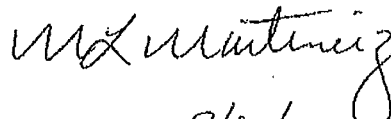
FOR THE CITY:


ALEX GUERT
3-4-09

FOR THE UNION:

PRESIDENT
Yolanda A. Cruz
Yolanda A. Cruz
3/4/09

VP:


3/4/09

**CITY OF SAN JOSE AND CONFIDENTIAL EMPLOYEES' ORGANIZATION
MEDIATION TENTATIVE AGREEMENT**

ARTICLE 26 RETIREE HEALTHCARE FUNDING
(Current Article 26 and subsequent articles to be re-numbered)

- 26.1 The City and the Employee Organization agree 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. 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 3.28.380 (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.
- 26.2 The City and the Employee Organization further agree that the Municipal Code and/or applicable plan documents shall be amended in accordance with the above agreement and that the Employee Organization will support such amendments.
- 26.3 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 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 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 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 full Annual Required Contribution in the ratio currently provided under Section 3.28.380 (C) (1) and (3) of the San Jose Municipal Code.
- 26.4 The City will establish a qualified trust ("Trust") before June 27, 2010. 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

**CITY OF SAN JOSE AND CONFIDENTIAL EMPLOYEES' ORGANIZATION
MEDIATION TENTATIVE AGREEMENT**

not established prior to reaching the IRS limitation, the parties agree to meet and discuss alternative funding vehicles.

26.5 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.

ARTICLE 4 FULL UNDERSTANDING, MODIFICATION AND WAIVER

~~4.6 Notwithstanding Article 4.5 and Article 25, the City and the Organization have agreed to continue negotiations regarding retiree healthcare benefits. The duly authorized representatives of the parties shall meet and confer in good faith in an effort to reach a mutual agreement with respect to retiree healthcare benefits. 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-Millias-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.~~

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, and January 19, 2010, 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 represented bargaining units, if any. However, negotiations between the City and Employee Organization shall commence no later than January 19, 2010 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 City of San Jose's Employer-Employee Relations Resolution (#39367) and the Meyers-Millias-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.

Handwritten signature and date:
A
3-4-09

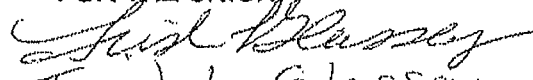
**CITY OF SAN JOSE AND CONFIDENTIAL EMPLOYEES' ORGANIZATION
MEDIATION TENTATIVE AGREEMENT**

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FOR THE CITY:


ALEX GUINDA
3-4-09

FOR THE UNION:


Trish L. Glassey
3/4/09