

Federated Alternative Pension Reform Settlement Framework Agreement

Background

In April 2015, the City began discussions with the bargaining units representing employees in the Federated City Employees' Retirement System to settle litigation surrounding Measure B, a pension reform ballot measure that passed in June 2012.

The City engaged in settlement discussions with the litigants in the Measure B litigation - AFSCME, on behalf of the Municipal Employees' Federation (MEF) and Confidential Employees' Organization (CEO); IFPTE, on behalf of the Association of Engineers and Architects (AEA), the Association of Maintenance Supervisory Personnel (AMSP), and the City Association of Management Personnel (CAMP); and the International Union of Operating Engineers, Local No. 3 (OE#3). In addition to the litigants, the City also engaged the Association of Building, Mechanical, and Electrical Inspectors (ABMEI); the Association of Legal Professionals (ALP); and the International Brotherhood of Electrical Workers (IBEW) in the Measure B settlement discussions.

The parties have agreed upon a Federated Alternative Pension Reform Framework (Framework) that presents a path toward the settlement of litigation over Measure B. The Framework is subject to a final overall global settlement with all parties related to the Measure B litigation. The Framework is specific to employees represented by ABMEI, AEA, ALP, AMSP, CAMP, CEO, IBEW, MEF and OE#3. The terms of the Framework also apply to unrepresented employees in Unit 99 and Units 81/82 except where noted.

It should be noted that the City reached agreement on a settlement framework with the San Jose Police Officers' Associations (SJPOA) and the International Association of Fire Fighters, Local 230 (Local 230) in July 2015 and which was approved by City Council in August 2015. Discussions are continuing with the Federated Retirees' Association.

Over the next 30+ years, the savings from the modification to Tier 2, closing of the retiree healthcare defined benefit plan, and continuation of the elimination of the Supplemental Retiree Benefit Reserve (SRBR) are estimated to be **\$1.3 billion**, for the Federated City Employees' Retirement System.

Proposed Implementation Plan

- The implementation plan is contingent on reaching an agreement with the other parties to litigation. The City has reached agreement on a settlement framework with SJPOA and Local 230, and the City and the Federated Retirees' Association have met several times to continue those discussions and will continue meeting.
- Once a global settlement is reached and before the quo warranto process begins in court, which is a legal proceeding used to overturn a ballot measure post-election, the parties will agree on ballot measure language for November 2016 that will include provisions to ensure:
 - Actuarial soundness of the pension plan
 - Only voter-approved retirement benefit enhancements
 - No retroactive retirement benefit enhancements
 - Any other mutually agreed upon language
- The parties will agree upon and submit a factual stipulation and stipulated judgment in the quo warranto case finding that Measure B is invalid.
 - This will be non-precedent setting and will not include a finding that the City acted in bad faith.

- If the quo warranto process does not result in an invalidation of Measure B, the November 2016 ballot measure would implement the Framework Agreement for employees in the Federated City Employees' Retirement System.

Rehires

Until the implementation of the alternative pension reform settlement framework is complete, employees who have left City service and return to the City, or new employees, will be placed in the current Tier 2. Implementation will require a court declaring Measure B to be void and/or the voters replacing Measure B. Any implementation will occur after the Council is allowed to modify the municipal code to permit employees to retroactively be placed into either the revised Tier 2 (new employees) or Tier 1 (if rehired and formerly Tier 1). This will create an amortized unfunded liability that the City and these employees will share equally.

The following is a summary of the Framework's key provisions that would affect current or future employees.

Tier 2 Key Points

- 2.0% accrual rate for each year of service with a 70% maximum
- Eligible for an unreduced retirement at age 62
- CPI or a "backloaded" 2.0% Cost of Living Adjustment (COLA), which is a service based formula where an employee would receive a lower COLA for earlier years of service and increases up to a maximum of 2% with additional years of service
- Eligible to retire with five (5) years of service
- 50/50 cost sharing of Normal Cost and Unfunded Liability
 - Ramp-Up of 0.33% per year for Unfunded Liability
- Revised Tier 2 will be retroactive for current Tier 2 employees who will share 50/50 in the amortized unfunded liability created by making the changes retroactive.
- Rehired former Tier 1 employees will go back into Tier 1. These employees will share 50/50 in the amortized unfunded liability created by making the changes retroactive for those Tier 1 employees who have since returned and gone into Tier 2.

Retiree Healthcare Key Points

- Closes the defined benefit retiree healthcare and dental plan (hereafter, collectively referred to as "retiree healthcare") and establishes a Voluntary Employee Beneficiary Association (VEBA) for new and current Tier 2 employees.
- Offer Tier 1 employees (and Tier 2A employees represented by OE#3 and ABMEI) a one-time irrevocable opt-out into the VEBA, pending IRS approval. The contribution rate for those who opt-out will be 4.5% in the VEBA. Those who stay in the defined benefit plan will have a contribution rate of 7.5%. The difference between the contribution amount for those who opt-out and those who stay in the defined benefit plan (3%) will be from post-tax earnings.
- All current Tier 2A and 2C employees will be removed from the defined benefit retiree healthcare plan. All Tier 2 employees (Tier 2A, 2B and 2C) will pay 2% into the VEBA. Unrepresented Tier 2 employees in Unit 99 and Units 81/2 will not have the option to contribute to the VEBA nor be mandated to make contributions into the VEBA.
- A new lowest cost healthcare plan will be offered with a \$3000 deductible - the current 85/15 cost sharing would not change for active employees.

- A floor will be set for the lowest cost healthcare plan so that the level of coverage does not go below the “silver” level of benefits as specified by the Affordable Care Act.
- Retirees will be offered an In-Lieu Premium Credit of 25% of the monthly premium for those who choose to forego the retiree healthcare plan which will be applied to future premiums.

Disability Process and Definition Key Points

- Reinstate the previous definition of disability, an employee injured or sick during service and unable to perform the duties of the position then held or any other position in the same classification of positions.
- The retirement board will appoint a 3-member independent medical review panel for disability retirement applications.
- Disability retirement applications must be submitted within one month of separation from the City and not deferred past four (4) years.

Supplemental Retiree Benefit Reserve (SRBR)/ Guaranteed Purchasing Power (GPP) Key Points

- The SRBR (“13th Paycheck”) will continue to be eliminated, preserving the achieved savings.
- A GPP program will be put in place so that current and future Tier 1 retirees can maintain 75% of purchasing power of their pension benefit.
 - There are currently approximately 68 retirees in the Federated City Employees’ Retirement System under 75%.