

Proposal made by MEF - AFSCME Local 101 to the City of San Jose

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Submitted on: 05/31/2023 @_____

STAFF UP **SAN JOSE Key Proposals**

"After five years of service, the City is retaining only 60% of its employees. Said another way, the City is losing about 40% of staff after five years of service". Jennifer Schembri, Director of Human Resources

General Wage Increase over a three-year agreement: (Countered on 5/24/23)

The City must provide wages that genuinely compete with similar agencies in the South Bay and region, or our essential public services and our communities will continue to erode.

~~2023: 9% — 2024: 8% — 2025: 7%~~

~~2023: 8.5% — 2024: 8% — 2025: 6.5%~~

2023: 8% 2024: 8% 2025: 6.5%

Restoration of the 5% Non-Pensionable wage increase (Proposed on 4/19/23)

One of the first things HR must explain to applicants is why not all wages would qualify for retirement. It hurts retention and workers alike. The City's unfunded liability is no longer a significant concern, and there's no reason to continue this practice that no other agency in California practices.

Retention Pay (Proposed on 4/26/23)

Every day, workers leave their employment in the City and provide public services elsewhere. The City spends tens of millions retraining new workers, only for the cycle to repeat. Our City staff – who have been here for five, ten, and more years – are our most precious resource. We *must* do whatever it takes to keep their institutional knowledge in-house. It's the *only* thing keeping the City running currently.

Eight weeks of Paid Family Leave and ADD a Childcare Benefit (Proposed on 4/19/23)

San Jose currently has an embarrassing paid family leave benefit of one week. It's wrong, discriminatory against women, and – like other San Jose benefits – is out of touch with what other regional public and private agencies provide. Similarly, San Jose currently provides ZERO assistance for workers with young families. If the City wants to attract young professionals, the City *must* address this shortcoming. The proposal made by the City on 5/10/23 was appalling in its content and unacceptable. To go a step further, the Union is adamantly opposed to the City doing any such RFP for any such services. What a complete waste of money that would be.

The Union will join HR at twelve (12) in-person recruitment events or "Hiring Pipeline Activities" per year. (Proposed on 4/19/23)

San Jose HR recruitment staff need help reaching and convincing community members to start a career in public service. AFSCME is willing to put its reputation as America's largest public-sector Union on the

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line and endorse the City of San Jose as a premier employer in the South Bay (assuming the City and the Union reach an agreement that the Union feels will reach our stated goals).

Create five (5) Social Worker positions for SJPL (and other Departments) (Proposed on 4/5/23)

Our libraries have become the front line for the changing needs of our communities. San Jose can achieve the dual goal of attracting library workers who want to focus on library programming while our new, top-tier Social Workers perform the vital work of performing casework for our community's most vulnerable populations.

Special Classification Market and Critical Need Wage Increases and redefine our "comparable agencies" moving forward. (See attached)

Some job classifications within the City are in a critical state concerning their vacancy rates. In some cases, our community is in danger. In addition to the above general wage increases, the City needs to address certain classifications with a sense of urgency it hasn't shown. The central issue with the City's compensation philosophy is how the City defines "the market." The City needs to compare with employers that it *genuinely* competes with for talent. The current crisis is proof enough of this.

Establish metrics for determining "hard-to-fill" classifications. (Counter proposed on 5/31/23)

The City needs metrics to measure which classifications are hard-to-fill and hard-to-keep. The current system of one or two people in the City making their judgments and reviewing classes "as needed" precipitates disaster. No other responsible agency in the region operates this way and has a subjective rather than objective approach to recruitment tracking.

Creation of a Committee to Explore Downpayment Assistance for Housing for City Employees

(proposed on 5/3/23)

The Union is waiting on a response on the following proposals or counterproposals:

Counterproposal on Library schedules: (Proposed on 5/3/23)

ADD new language regarding work performed after-hours and delete reference to minimum rest in lieu of Union's proposal on "fatigue time.": (Counter proposed on 5/3/23)

Create five (5) Social Worker positions for SJPL (and other Departments) (see above)

Change the Shift Differential to a percentage-based rate and raise the minimum amount Article 12.4

(Proposed on 3/29/23)

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[Counterproposal for two \(2\) Union seats on Library Safety Committee](#): (Proposed on 5/3/23)

[ACA and AHT Schedule bidding](#): (Proposed on 5/3/23)

[Retention Pay](#) (see above)

[ADD a Childcare Benefit](#) (see above)

[Full-time Union Release Time for 3 Union officers](#) – Article 6.2 (Proposed on 3/22/23)

[Establish Fatigue Time](#) – Article 7.6.3 (Proposed on 3/29/23)

[Uniform allowance increase and return to lump sum payment](#): (proposed 3/23/23)

[At least 17 Market equity adjustments and or proposed job studies or classification reviews](#): (Proposed on 5/3/23)

[Eight weeks of Paid Family Leave](#) (see above)

[Re-defining “the market” and which agencies the City compares with for salary surveys](#) Article 22.0

[Paid time off considered time worked when calculating overtime for employees mandated by the City to work overtime in a pay period](#) Article 7.3.4 (Proposed on 3/29/23)

[Creation of a Committee to Explore Downpayment Assistance for Housing for City Employees](#) (see above)

[Cash-in-lieu of healthcare](#): (Counter proposed on 5/10&23/23)

The following Union proposals have been rejected and not countered by the City, and the Union is holding to our position:

[The Union needs to be able to file grievances for allegations of discrimination](#) Article 3.4.1

[The Union needs to be able to file grievances for allegations of safety violations](#) Article 16.4

[Voluntary Deductions to create additional PAC tier for Union members who wish to do so](#) Article 6.5.1.1

[The Union needs to be able to file grievances when remote work is unreasonably denied](#) Article 7.10.1

[Restoration of 5% Non-pensionable](#) (see above)

The Union will withdraw the following proposals:

[The ability for employees to be able to change from 30 to 60 day LTD](#): (Proposed on 5/3/23)

[Side Letter to renegotiate City's EERR](#) (Proposed on 4/12/23)

[Training Pays](#) - Article 12.16(Proposed on 3/29/23)

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City Proposals the Union is *Rejecting* and summary reasons why:

[Overpayments of Compensation](#) (Proposed 4/19/23)

When the Union made two (2) separate proposals to the City, the first being the right to file grievances over alleged discrimination and the second being the ability to file grievances over alleged safety violations, the City rejected the proposals. The City informed the Union that the reason for rejection is that we may file in court allegations of discrimination and file complaints to OSHA for allegations of workplace safety violations. It should then come as no surprise to the City that the Union rejects this overpayment proposal, and the Union reminds the City that it may use the current process of taking its workers to court. The Union will not agree to the City unilaterally garnish an employee's wages.

[Pension Administrative Costs above 0.17% to be paid by the pension fund](#) Article 14.1.1 (Proposed on 3/29/2023)

For years, the City has raised the issue of the unfunded liability of the pension fund to the Union countless times. The unfunded liability has been used to justify the rejection of Union proposals and to buttress City backed cuts to pensions, wages, and benefits. For the City to now make a proposal that – no matter how small – increases the unfunded liability and reduces the pension fund is nothing short of astonishing. The Union rejects this proposal.

[Meet and Confer during the term of the agreement regarding Job Spec changes](#) Side Letter (Proposed on 4/5/23)

The City is well aware that when the City wishes to make changes to classifications in a holistic way, which includes reviewing the current wages of the class, the Union is more than willing to listen to the City's concerns and review in good faith any proposed changes. What is happening is that HR is attempting to address the ongoing recruitment and retention issues by diluting minimum qualifications, educational requirements, and other barriers to entry in a desperate attempt to increase the applicant pool and City staff. In some cases, these changes create safety concerns for our Union members. The Union is extremely upset that the City would hide behind racial and equity reasons and use those as a red herring. The Union is more than willing to tear down any barriers prohibiting people from marginalized communities from gaining entry to public service. It has been a central tenet of our organization since way back before workers in San Jose went on strike because San Jose was paying women less than men. The fact is that the City is looking for yet another band-aid approach to its recruitment and retention issues rather than addressing root causes like those put forward by the Union(s) in the course of these negotiations. Asking the Union to waive one of its central-held rights to achieve this goal is patently absurd. The Union rejects this proposal outright.

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City Proposals or Counterproposals the Union will Accept:

[Employee Lists](#) Article 6.9 (Counter proposed 4/12/23)

[Incorporate Side Letter – Shift Differential Hours](#) Article 12. X (Proposed 4/26/23)

[Bereavement Leave](#) – Article 10.5 (Counter proposed 4/12/23)

[Protective footwear:](#) (As proposed to Union in City Package C on 5/24/23)

[Meal Allowance:](#) (As proposed to Union in City Package C on 5/24/23)

[Apparel allowance:](#) As proposed to Union in City Package C proposal on 5/24/23)

[Add Legal Secretary III Classification](#) (As proposed to Union in City Package C on 5/24/23)

City Proposals the Union is Considering:

[Lunar New Year](#) (Proposed to Union on 5/10/23)

[City Healthcare Program – Side Letter Inclusion – No Change in Practice](#) Article 13 (Proposed to Union on 4/5/23)

Existing Tentative Agreements (TAs)

[Community Service Officer Duties](#) (TA on 4/21/23)

[Holiday in Lieu for Public Safety Radio Dispatchers](#) (TA on 4/21/23)

[Housekeeping](#) – Sick Leave (TA on 4/21/23)

[Employee Assistance Program \(EAP\) for Part-time unbenefited employees](#) (TA on 4/21/23)

[Bargaining Unit Representatives at the Bargaining Table](#) (TA on 4/21/23)

[Public Safety Radio Dispatchers Training Pay](#) (TA on 4/21/23)

[Airport Ops Specialist series & Animal Services Officer Series Shifts](#) (TA on 3/30/23)

[HCL Lists provided to Union](#) (TA on 3/30/23)

[New Employee Orientation in Person](#) (TA on 3/30/23)

[Release Time for Union Stewards](#) (3/30/23)

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ARTICLE 22 DEFINITION OF THE MARKET

- 22.1 Comparable classifications in cities and counties in Santa Clara, San Mateo, Contra Costa, San Francisco and Alameda Counties serving populations of 100,000 or more will be used to compare classifications. Population figures will be used from the U.S. Census Bureau.
- 22.2 Compensation information from the private sector will be gathered from existing published sources, and used to supplement public sector data as deemed appropriate.
- 22.3 Based on the April 1, 2000, U.S. Census Bureau, 2000 Census of Population, the following agencies currently meet the definition of the market:

Alameda County	Berkeley
Concord	Contra Costa County
Daly City	Fremont
Hayward	Oakland
San Francisco City/County	San Mateo County
Santa Clara	Santa Clara County
Sunnyvale	Richmond
Antioch	San Mateo (City)

- 22.4 To more accurately reflect the job market that San Jose competes in as an employer, Santa Clara County and the other cities in the above list that are within Santa Clara County shall be counted twice to determine average market wages. The City will only use "pensionable wages" in market average calculations.
- 22.5 When six (6) or fewer classification matches are available, the City agrees to use Valley Water, East Bay MUD, and Zone-7 as alternative comparators. When the use of those agencies still produces less than six (6) classification matches, the City and the Union will meet and confer regarding appropriate matches for market comparison.
- 22.6 Within six (6) months of ratification of this agreement, the City and the Union shall meet to discuss and create a City policy concerning what metrics should be used for determining when a classification in the City has a vacancy rate or recruitment and retention issue that needs to be addressed.
- 22.7 The City shall, from time to time, perform a total compensation survey on the largest (by number) twenty (20) "benchmark classifications" represented by MEF.

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ARTICLE 25 EMPLOYEE COMMUTE ~~BENEFIT~~ PROGRAM ASSISTANCE PROGRAMS

25.1 Santa Clara Valley Transit Authority ("VTA") SmartPass Program

25.1.1 Full-time and part-time employees shall be eligible to participate in the Santa Clara Valley Transit Authority ("VTA") SmartPass Program. Seasonal workers and Airport employees are not eligible to participate in the VTA SmartPass Program; the Airport provides its separate employee commute program.

25.1.2 Participation in the VTA SmartPass Program through the Santa Clara Valley Transit Authority ("VTA") will be available to eligible employees, subject to the terms of the VTA SmartPass Program, as defined in Article 25.1.1.

25.1.3 The City agrees to pay for all fees related to the issuance of the VTA SmartPass, as well as any administrative or maintenance fees related to the VTA SmartPass Program.

25.1.4 It is understood by participating employees that the VTA SmartPass Program may not cover the entire cost of their commute. Some modes of public transportation may not be eligible to be used with the VTA SmartPass as defined by the Santa Clara Valley Transit Authority ("VTA"), and may therefore require additional funds paid for by the employee.

25.2 The Employee Commute Benefit Program shall be as follows:

25.2.1 Full-time, and part-time employees ~~who worked an average of twenty (20) or more hours per week within the previous calendar month,~~ shall be eligible to participate in the Employee Commute Benefit Program. Seasonal workers and Airport employees are not eligible to participate in the Employee Commute Benefit Program; the Airport provides its own separate employee commute program.

2625.2.2 Participation in an Employee Commute Benefit Program through the Santa Clara Valley Transit Authority ("VTA") will be available to eligible employees, subject to the terms of the Employee Commute Benefit Program, as defined in Article 2625.2.1.

2625.2.3 Pursuant to the Employee Commute Benefit Program, eligible employees shall be allowed to use pre-tax dollars ("Pre-Tax Payroll Deduction Program") to pay for transit service beyond those provided by VTA. The administrative fees of the Pre-Tax Payroll Deduction Program will be paid for by the City. The Pre-Tax Payroll Deduction Program shall enable employees to use pre-tax dollars to pay for non-VTA transit services, which may include, but are not limited to, Caltrain, the Hwy 17 Express Bus, and BART.

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Article X: Guarantee of Pay for Reporting to Work

Section 1: Work Availability

The City acknowledges that employees may occasionally be required to report to work as scheduled but may be subsequently sent home due to insufficient work availability or unforeseen circumstances. In such instances, the Employer agrees to do the following:

Section 2: Minimum Pay Guarantee

a) If an employee reports to work as scheduled and is sent home due to the lack of work or unforeseen circumstances beyond the employee's control, the employee may be assigned other work or training within the scope of their job classification, including work at a different location.

a) If an employee reports to work as scheduled and is sent home due to the lack of work or unforeseen circumstances beyond the employee's control, and no additional work or training is available, the employee shall receive pay at their regular rate of pay for the duration of the scheduled shift without having to use any accrued leave balances.

Section 3: Notification

a) The Employer shall make reasonable efforts to inform employees of any lack of work or changes in work availability as soon as practicable, including upon arrival or before the start of the scheduled shift.

b) In the event an employee is sent home due to insufficient work availability, the employee shall be notified of the guaranteed minimum pay they will receive for that shift.

Section 4: Payment Calculation

The minimum pay guarantee outlined in this Article shall be calculated based on the employee's regular rate of pay for the scheduled shift and shall include any applicable differentials or premiums.

Section 5: Record-Keeping

The City shall maintain accurate records of all instances where employees were sent home due to lack of work, including the date, time, and reason for the lack of work, along with the corresponding payment provided to the affected employees.

Article X Split Shift:

A split shift shall be defined as a daily work schedule, regardless if it's regularly scheduled or due to an emergency, that is interrupted by non-paid, non-working periods established by the City, other than bona fide rest or meal periods.

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Employees who are assigned to, and work, a split shift as defined in this Section shall be paid at the California state minimum wage rate during the hours of non-work, in addition to the shift differential for hours worked during the “swing” or “night shift”.

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ARTICLE 12 Bilingual Pay

12.5 Bilingual Pay – FT/PT. ~~Eligible Employee. A~~ To be eligible for a bilingual pay premium pay, an employee must meet at least one of the following eligibility requirements and must be certified as bilingual for oral communication, written translation or sign language duties according to the current established procedure. Before changing the current procedure, the City agrees to discuss any proposed change with the Union.

1. The employee is currently assigned to a position selectively certified based on bilingual ability by the Director of Human Resources, or designee; or
2. The duties currently assigned/currently being performed by an employee have been designated by the Department Director or designee as requiring utilization of a non-English language on a regular basis.

Employees shall be eligible for bilingual pay for each language they are certified for.

~~Each department is responsible for ensuring that employees receiving a bilingual pay premium pay meet the requirements set forth herein.~~

12.5.1 Each full-time employee who meets the above eligibility requirements shall be compensated for performing oral communication, or sign language duties, ~~at the rate of twenty-nine dollars (\$29) per biweekly pay period or for performing~~ written and oral translation duties at the rate of ~~forty six~~ sixty dollars (\$460) per biweekly pay period for each pay period actually worked.

12.5.2 Each part-time benefited employee who meets the above eligibility requirements shall be compensated for performing oral communication, ~~or~~ sign language duties, ~~at the rate of nineteen dollars (\$19) per biweekly pay period or for performing~~ written and oral translation duties at the rate of ~~thirty~~ fifty dollars (\$3050) per biweekly pay period for each pay period actually worked.

12.5.3 Each part-time unbenefited employee who meets the above eligibility requirements shall be compensated for performing oral communication, sign language duties, or performing written and oral translation duties at the rate of ~~fifteen~~ fifteen cents (\$0.15) per hour.

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12.5.4 If an eligible employee is on paid leave for a period of one (1) full pay period or more, the employee will not receive bilingual pay for that period.

12.5.5 If an employee is denied bilingual pay under the requirements set forth in this article, the employee may appeal in writing to the Department Director, or designee, for reconsideration. If the employee is dissatisfied with the decision of the Department Director, or designee, the employee may apply in writing for reconsideration with the Director of Human Resources. The written decision of the Director of Human Resources shall be final, with no process for further appeal.

~~12.5.6 If an employee who receives bilingual pay refuses to provide interpretation or translation services for which they are certified, the employee shall no longer be eligible to receive bilingual pay.~~

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Reallocation / Classification Study

During the term of this agreement, and on a quarterly basis, workers may request a classification study. A reallocation / reclassification application shall be submitted to Human Resources on the authorized online request form. The classification study may be for reclassification to a newly created higher classified position or for reallocation to an existing higher city code.

A Committee, made up of an equal number of representatives from HR and the Union, will meet as needed, after the close of the window, to determine which submitted requests will be accepted for study, which requests will be placed in a deferred status, and which requests will be denied. The Committee will base their consideration on a number of factors, which may include classification levels, recruitment or retention difficulties, fiscal impact, and new responsibilities assigned but not covered on existing job specifications. The Committee will finalize the list and the scope of each study (i.e. full classification study, job specification revision, salary review, etc.) within forty-five (45) days after the first meeting. Requests in the deferred status not initiated for study by HR before the next window may be considered by the committee without requiring a new request, however, an updated PCQ and job application may be requested.

If the request is incomplete, HR will notify the worker to complete the request, along with a due date for completing the request.

HR will notify workers of the status of their request (i.e. accepted, deferred, or denied) and the scope where appropriate within seven (7) days of the committee's decision. Furthermore, if the request is deferred or denied, the worker shall be notified as to the reasons behind the decision.

Workers who are under a self-initiated study shall not be permitted to submit a request. Workers whose classification study was denied shall not be permitted to request another classification study, for the same coded position, until one additional window has passed.

If the study is denied, the worker may appeal to the Committee. The appeal shall be submitted in writing within ten (10) working days of the receipt of the denial and acted upon, by the committee, within thirty (30) days. The Committee shall determine the procedure of the appeal, including all factors and information necessary for the appeal. The Committee shall provide the Union and Director of Personnel with the list of the appeal decisions.

The Director will provide a list of accepted studies, including those accepted on appeal, and the expected completion date. If HR determines some assigned duties fall outside

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of the worker's classification, HR will notify the appointing authority to remove such duties within ten (10) working days of that determination.

If a study is accepted, or approved on appeal, the completed study shall be posted to the Union no later than 6 months after the date of acceptance or favorable appeal determination, unless otherwise agreed to by both parties.

If it is recommended that the worker's position be reclassified or reallocated, all Civil Service Rules that apply to regular classification studies, such as test requirements, meeting the employment standards, serving a new probation period, etc. shall apply.

In the event the reallocation request has been approved for review, and was subsequently denied by the Director of Human Resources, the Union may submit the matter to mediation with the California State Mediation and Conciliation Service (SMCS). The mediator shall be provided as determined by SMCS.