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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2011 JUL 21 PM 5: 57
TO: Office of the City Administrator
ATTN: Lemont Ewell
FROM: Department of Human Resources Management
DATE: July 26, 2011

RE: Resolution Approving the Memorandum of Understanding between the City of Oakland and the Service Employees International Union, Local 1021, Representing Employees in Representation Units SBI, SCI and SDI, Covering the Period from July 1, 2011 to June 30, 2013

SUMMARY

The City of Oakland has reached a tentative agreement on wages and other terms and conditions of employment with the Service Employees International Union, Local 1021. Key provisions include represented employees being subject to unpaid closure days (12 in FY 2009-10 and FY 2010-11); contributing an additional four percent (4%) to Public Employees Retirement System and additional language updates and revisions.

FISCAL IMPACT

It is estimated that the proposed two year contract would capture \$8.17M in savings for FY 2011-12 and \$7.61M for FY 2012-13 in all funds. This will be actualized by employees being subject to Mandatory Leave Without Pay Days and contributing an additional four percent (4%) to the Public Employees Retirement System.

BACKGROUND

The current Memorandum of Understanding between the City of Oakland and the Service Employees International Union (SEIU), Local 1021 expired June 30, 2011. This labor agreement represents the culmination of negotiations that began in the spring of 2011 with representatives of SERJ, Local 1021. Items of significance include twelve (12) Mandatory Leave Without Pay Days for the two fiscal years, including a December shut-down; a two-tiered retirement system (newly hired employees receive the 2.5% at 55 retirement benefit); represented employees contributing an additional four percent (4%) to the Public Employees Retirement System (PERS); an agreement to redeploy laid-off represented employees to vacant positions, where possible; an increase in compensatory time accrual limits; an alignment of provisions with other miscellaneous bargaining units, which includes vacation leave, school activities leave, contracting out, reopener, equity among bargaining units; and language changes related to acting pay, Workers Compensation, bilingual testing, sick and family death leave, personnel provisions and grievance procedures. On July 6 and 7, 2011, Local 1021 full-time employees ratified the tentative agreement, voting in favor of adoption.

KEY ISSUES AND IMPACTS

Discussed below are core economic issues, other economic matters and other significant tentative agreements.

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CORE ECONOMIC ISSUES

This tentative agreement represents nine percent (9%) concessions for FY 2011-12 and FY 2012-13. This is accomplished by represented employees paying four (4%) to PERS, and twelve (12) Mandatory Leave Without Pay Days.

Mandatory Leave Without Pay Days

The tentative agreement has a total of 12 Mandatory Leave Without Pay Days for FY 2011-12 and FY 2012-13, totaling a 5% concession. During the closure days, represented employees will not be able to use accrued leave nor will they accrue leave during those days. There will be three (3) closure days in December 2011 and four (4) days in December 2012 as listed below:

- December 2011: 27, 28, and 29
- December 2012: 26, 27, 28, and 31

The remaining closure days, nine (9) in FY 2011-12 and eight (8) in FY 2012-13, will be determined by the City. Additionally, the City will exercise its discretion to determine which represented employees are required to work on Mandatory Leave Without Pay Days (MLWOP), generally limited to emergency and revenue-generating functions. These employees will be required to take an equivalent amount of days off at another time to foster equity in the bargaining unit.

Four (4%) additional contribution to PERS

The total retirement contribution rate for a SEIU represented employee is approximately 31%. The Employee Paid Member Contribution (EPMC) is 8% and the remaining 23% is the employer share. Currently, represented employees pay their entire EPMC. Through this tentative agreement, represented employees will pay an additional four percent (4%) of salary to PERS. Represented employees will not have access to this contribution if they separate from the City nor will they receive any retirement enhancements as a result of the additional contribution.

Two-tier Retirement – Article 6

The parties agreed to reduce the retirement benefit for employees newly hired ninety (90) days after the MOU is adopted by the City Council. The retirement benefit will be 2.5% at 55 for these employees. While there will not be immediate savings, there will be considerable savings actualized over time. In addition to the lower benefit, newly hired employees will have their final wage calculated based on the highest average annual compensation during the three consecutive years of employment immediately preceding the effective date of their retirement. This will also render significant savings over time.

OTHER ECONOMIC MATTERS

In addition to the above tentative agreements related to economic proposals, there are tentative agreements on other economic matters, including a “re-opener” provision and a sideletter regarding equity among bargaining units.

Re-opener

In the event that the City’s financial situation should greatly improve based on objective financial information, the Union will have an option to re-open the contract on the narrow terms of wages and/or number of closure

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days. The ability for the Union to re-open requires a 10% increase in property tax, utility tax, real estate transfer and sales tax revenues from FY 2010-11 to FY 2011-12.

Equity among bargaining units

This provision will be "Appendix H" of the MOU. It provides the union the right to re-open the contract if equivalent percentage in economic concessions is not obtained by other bargaining units for FY 2011-12 and FY 2012-13. Essentially, if the City is unable to achieve equivalent percentage savings from other units, the Union shall have the option to re-open negotiations to determine how the same reduction can be achieved.

Professional Development – Appendix C

As part of the tentative agreement, an annual professional development reimbursement has been broadened to include three additional classifications: Automotive Equipment Mechanic, Equipment Body Repair Worker and Heavy Equipment Mechanic. The professional development reimbursement provides up to one hundred dollars (\$100) per year for items related to professional development, which may include books, subscriptions and job-related tools and equipment. It may also include dues to job-related professional organizations, registration, application or examination fees for registration or certification within a represented employee's profession.

OTHER SIGNIFICANT TENTATIVE AGREEMENTS

Redeployment

In the event of a Reduction in Force (RIF), the parties tentatively agreed that the City shall, to the extent possible, "redeploy" all unit members who are subject to layoff to a budgeted vacant position outside the employees' current classification in order to avoid layoffs, as long as the represented employee meets the minimum requirements of the vacant position.

The agreement provides the City with the sole discretion to determine whether a represented employee meets the minimum requirements of a budgeted vacant position. Yet, the City did agree to meet and discuss with the Union the redeployment plan, prior to implementation. There is no legal obligation for the City to agree with the Union through these discussions. Additionally, this provision will expire June 30, 2012, unless so extended by mutual agreement.

Grievance Procedure – Article 15

There are three changes to the current grievance procedure. First, the Union would be allowed to file the written grievance within fifteen (15) working days of the informal meeting with the supervisor or thirty (30) working days after the unit member or Union should have reasonably been aware of the occurrence, whichever is earlier. Previously, the Union had to file all grievances in writing within twenty (20) days after the unit member or Union should have reasonably been aware of the occurrence. Second, effective January 1, 2012, Department heads are required to hold a meeting at Step Two to address the grievance. If no Step Two meeting is held within the agreed upon time frame, the grievance automatically moves to Step Three. The implementation date is delayed so Employee Relations can provide Department Heads the resources and training to effectively respond to grievances. Third, the parties tentatively agreed that at Step Three the person shall not be the same person who replied at Step Two. This codifies what already exists and is current practice.

Contracting Out – Article 14

This provision is consistent with other miscellaneous labor contracts. In this provision, the City will provide

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copies of Request for Proposals (RFP), Request for Qualifications (RFQ) or solicitation of bids for a professional services contract that may reasonably be expected to exceed \$100,000 over a period of one year or less. These copies will be sent from Departments to Employee Relations, who will forward the copies to affected Unions.

Once the Union receives such materials, it may notify the City within ten (10) working days of receipt that it wishes to meet and discuss on the ability of represented employees, including those on a reinstatement list, to perform such work. The parties' discussion does not have to result in agreement.

Comp Time – Article 5

The parties have tentatively agreed to raise the number of hours that represented employees are able to accrue from 48 to 72 hours. The parties also agreed to change the number of hours for employees in the Fire Communications Dispatcher classification to match the level of employees in the Police Communications Dispatcher classification, from 100 to 240 hours. There are currently 16 employees in the Fire Communications Dispatcher classification.

Vacation Leave – Article 10

While the changes to the article are improvements for represented employees, they also improve alignment across miscellaneous MOUs. Mirroring the Local 21 MOU, represented employees will be awarded an additional vacation day for every fifth (5th) year of service. Other changes that mirror Local 21 include requiring department heads or designees to respond in a timely fashion to vacation requests (seven days to approve); increasing the vacation sell back level (from 10 to 15 days annually); and reducing the required vacation use to qualify to sell back vacation (from 10 to five days). Finally, represented employees can take vacation in one hour increments in special circumstances.

Personal Business Leave – Article 10

Personal business leave is drawn from a represented employees vacation balance. The parties have tentatively agreed to increase the amount of personal business leave from two and a half (2.5) to four (4) days. Represented employees are required to seek prior approval and supervisors must respond on the same day. If a represented employee is unable to seek approval in advance because of unusual circumstances, he/she must notify the supervisor as close to the start of the regularly scheduled shift. The supervisor may inquire and seek verification to approve the unintended absence.

Workers' Comp – Article 8

The parties have tentatively agreed that On-the-Job Injury/Illness Leave is directly linked to State-mandated Workers' Compensation Temporary Disability. Employees who claim a work-related injury or illness will be preliminarily eligible for On-the-Job Injury/Illness Leave, while the causation of injury is being determined. To be eligible for this leave, the employee must provide medical verification that they are unable to work due to a work-related injury or illness. The City can recover any overpayment of this leave benefit due to disqualification of the claim or otherwise determining that it is ineligible for WC temporary disability benefits. Employees are also required to fully participate in offered transitional duty assignments or risk forfeiture of this benefit.

Sick Leave and Family Death Leave – Article 8

There are several language changes to this article. First, the City has agreed to only require medical verification from represented employees if they are absent in excess of three (3) workdays, unless a represented employee is on attendance management where he/she would be required to verify every absence. Second, under family illness,

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the definition of family has been expanded to include "step parent." Similarly, in regards to "Family Death Leave," the work "immediate" has been removed from the title of the definition and the section now includes step parent, brother-in-law, sister-in-law, nieces or nephews.

School Activities Leave – Article 8

This is a new section that mirrors both State Law and the Local 21 MOU. The state law is the Family-School Partnership Act. It allows for a parent, guardian, or grandparent having custody of a child in kindergarten or grades 1 to 12, inclusive, or attending a licensed child day care facility, to take up to forty (40) hours each year, not exceeding twelve (12) hours in any calendar month of the year, to participate in activities of the school or licensed child day care facility of any of the represented employee's children. Vacation or Compensatory Time Leave is used when a represented employee uses this leave. Represented employees are required to give their supervisor notice at least three (3) workdays prior to the planned absence.

Acting Pay – Article 5

The parties tentatively agreed to require authorization of the City Administrator or the Personnel Director for acting assignments in excess of thirty (30) calendar days. Additionally, the City shall make every reasonable effort to rotate Acting Pay by rank order of an existing eligibility list in the appropriate classification or, if there is no eligible list, the City shall make every reasonable effort to rotate by seniority.

Bilingual Testing – Article 5

The Union expressed concerns about the manner in which represented employees are tested to become certified bilingual speakers. The City agreed to meet with the Union within sixty (60) days following the ratification of the agreement to discuss, and possibly update, the examination and testing procedures.

Rotating Assignments – Article 12

The parties tentatively agreed that Departments, where practical, shall consider establishing a rotation assignment plan that would allow employees to be cross trained for different assignments within their classification. This section would enable represented employees to have exposure to a broader range of responsibilities. As resources are reduced, it will enable Departments to establish rotation assignment plans to better utilize represented employees within their classifications.

Personnel Provisions (File) – Article 14

This article includes three changes. First, language was added so a represented employee that was promoted may have three additional months added to the promotional probationary period, which is six months. Prior to this change, the City did not have the option to continue to evaluate a represented employee's performance and could only demote them if there was a question about their ability to succeed in the position. Second, the dates that performance evaluations are due to probationary employees does not have to be within 14 calendar days. Instead it will be "on or about" the due date of the evaluation.

Finally, the parties tentatively agreed to add language regarding administrative interviews, which are conducted in conjunction with an investigation. The City agreed to provide notification of an administrative interview in writing, with a copy to the Union, and provide a minimum of two working days. Subject represented employees will receive notice of the results of the investigation.

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Safety Shoe Voucher – Article 5

The parties tentatively agreed to add three classifications to receive an annual safety shoe voucher. The classifications, Fire Equipment Technician, Reproduction Assistant and Reprographic Offset Operator, already receive safety shoes based on safety needs determined by Risk Management. Adding these classifications to the MOU simply codifies what already exists.

SUSTAINABLE OPPORTUNITIES

No sustainable opportunities have been identified.

DISABILITY AND SENIOR CITIZEN ACCESS

The agreement contains a “non-discrimination” provision, which states that the City will make reasonable accommodations to the extent the law permits at the time the accommodation is implemented. There are no changes to this provision. There are no senior citizen access issues contained in this report.

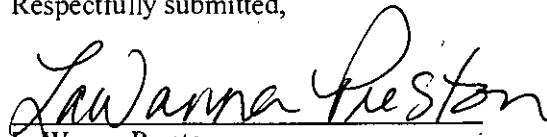
RECOMMENDATION AND RATIONALE

Staff recommends that Council approve the tentative agreement negotiated with the Service Employees International Union (SEIU), Local 1021. Represented employees from Local 1021 have ratified this agreement through a vote of the union’s membership. The tentative agreement meets the interests of both parties and represents a fair and reasonable settlement.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the resolution.

Respectfully submitted,



LaWanna Preston

Human Resources Manager

Department of Human Resources Management

Prepared by:

Ian Appleyard, Principal Human Resource Analyst

Department of Human Resources Management

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

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City Attorney

OAKLAND CITY COUNCIL

FILED
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RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OAKLAND AND THE SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 1021, REPRESENTING EMPLOYEES IN REPRESENTATION UNITS SB1, SCI AND SD1 COVERING THE PERIOD FROM JULY 1, 2011 THROUGH JUNE 30, 2013.

WHEREAS, the Memorandum of Understanding to be entered into between the City of Oakland and the Service Employees International Union, Local 1021 has been presented to the City Council for determination pursuant to Section 3505.1 of the Government Code of the State of California; and

WHEREAS, the key provisions of the Memorandum of Understanding are described in the Report from the City Administrator dated July 26, 2011; and

WHEREAS, the terms and conditions contained in said Memorandum of Understanding are in the best interests of the City; now, therefore, be it

RESOLVED: That said agreement be, and is, hereby approved; and, be it

FURTHER RESOLVED: That the provisions of said Memorandum of Understanding, are effective July 1, 2011 through June 30, 2013.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California