



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer Schembri  
Margaret McCahan

**SUBJECT:** SEE BELOW

**DATE:** May 25, 2018

Approved

*D. D. S. L.*

Date

*5/25/18*

**SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE ASSOCIATION OF LEGAL PROFESSIONALS (ALP) FOR THE TERM OF JULY 1, 2018 THROUGH JUNE 30, 2021**

## RECOMMENDATION

It is recommended that the City Council approve the following actions:

- (a) Adopt a resolution approving the terms of a collective bargaining agreement between the City and the Association of Legal Professionals (ALP) for the term of July 1, 2018, through June 30, 2021, and authorizing the City Manager to execute an agreement with those terms.

## OUTCOME

Adoption of the resolution and authorization to execute an agreement would result in a collective bargaining agreement between the City of San Jose and the Association of Legal Professionals (ALP) and authorize the City Manager to execute an agreement with a term of July 1, 2018 through June 30, 2021 with those terms.

## BACKGROUND

The City of San Jose's collective bargaining agreement with the Association of Legal Professionals (ALP) will expire on June 30, 2018. ALP currently represents approximately thirty-nine (39) full-time equivalent positions. This unit is comprised of employees in the City Attorney's Office in the classifications of Senior Deputy City Attorney, Senior Deputy City Attorney I-IV, Deputy City Attorney I-IV, Legal Services Manager, Senior Legal Analyst, and

May 25, 2018

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

Page 2 of 3

Associate Deputy City Attorney. This unit also currently represents both classified and unclassified employees.

In March 2018, negotiations with ALP on a successor agreement commenced and, on or about May 22, 2018, the City and ALP reached an overall Tentative Agreement on the terms to be contained in the successor Memorandum of Agreement (MOA) between the City and ALP. The Tentative Agreement has been ratified by the ALP membership.

### **ANALYSIS**

A complete copy of the Tentative Agreement, and side letter, is attached (Attachment A). The following is a summary of the key provisions of the Tentative Agreement.

<b>Term</b>	July 1, 2018 through June 30, 2021
<b>Ongoing Non-Pensionable Compensation Increase</b>	Effective July 1, 2018, all salary ranges for employees holding positions in classifications assigned to ALP shall receive an approximate 5% ongoing non-pensionable compensation increase.
<b>General Wage Increase</b>	Effective June 30, 2019, all salary ranges for employees holding positions in classifications assigned to ALP will receive a pensionable base pay increase of approximately 3.0%. This will result in both the top and bottom step of the pay range being increased by approximately 3.0%.  Effective June 28, 2020, all salary ranges for employees holding positions in classifications assigned to ALP will receive a pensionable base pay increase of approximately 3.0%. This will result in both the top and bottom step of the pay range being increased by approximately 3.0%.
<b>Vacation Sell Back</b>	Beginning calendar year 2019, employees may sell back up to a maximum of sixty (60) hours of accrued vacation per calendar year (from 20 hours).
<b>Reopener</b>	During the term of the contract, the City and ALP agree that to the extent that they arise during the term of the contract, the parties agree to meet and confer over potential changes to City's healthcare program.

### **EVALUATION AND FOLLOW-UP**

No additional follow up action with the City Council is expected at this time.

**PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the June 5, 2018, City Council Agenda.

**COORDINATION**

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

**COMMISSION RECOMMENDATION/INPUT**

No commission recommendation or input is associated with this action.

**COST SUMMARY/IMPLICATIONS**

The ongoing increased cost of the ongoing non-pensionable compensation increase equivalent to approximately 5% of an employee's base pay as of July 1, 2018, will be approximately \$278,000 in FY 2018-2019. The budget actions for 2018-2019 will be brought forward as part of a Manager's Budget Addendum – Recommended Amendments to the 2018-2019 Proposed Operating and Capital Budgets. The increases in the General Fund will be offset by a corresponding decrease to the Salaries and Benefits Reserve. The ongoing increased cost of the 3% general wage increase effective June 30, 2019, is approximately \$263,000. The ongoing increased cost of the 3% general wage increase effective June 28, 2020, is approximately \$271,000. The ongoing increased cost of increasing the maximum number of accrued vacation hours that ALP represented employees are allowed to sell back is estimated to be approximately \$14,000.

**CEQA**

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.



JENNIFER SCHEMBRI  
Director of Employee Relations



MARGARET MCCAHAN  
Budget Director

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

2018 CITY OF SAN JOSE – ALP NEGOTIATIONS  
TENTATIVE AGREEMENT\*

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**TERM**

Three Year Term

**WAGES**

Fiscal Year 2018-2019

- 5% ongoing non-pensionable compensation increase effective Fiscal Year 2018-2019. Effective July 1, 2018, all employees holding positions in classifications assigned to ALP shall receive an approximate 5% ongoing non-pensionable compensation increase.

Fiscal Year 2019-2020

- 3% general wage increase effective Fiscal Year 2019-2020. Effective June 30, 2019, all salary ranges for employees holding positions in classifications assigned to ALP shall be increased by approximately 3%.

Fiscal Year 2020-2021

- 3% general wage increase effective Fiscal Year 2020-2021. Effective June 28, 2020, all salary ranges for employees holding positions in classifications assigned to ALP shall be increased by approximately 3%.

**HOLIDAYS**

See Attached

**HOUSEKEEPING**

Employee Commute Benefit Program – See Attached

Health Insurance – See Attached

**VACATION SELL BACK**

See Attached

**REOPENERS**

Healthcare Program – See Attached

2018 CITY OF SAN JOSE – ALP NEGOTIATIONS  
TENTATIVE AGREEMENT\*

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

FOR THE CITY:

J Schembri 5/25/18  
Jennifer Schembri Date  
Director of Employee Relations

MM 5/24/18  
Marco Mercado Date  
Assistant to the City Manager, OER

Carolyn Gibson 5/24/18  
Carolyn Gibson Date  
Executive Analyst, OER

FOR THE UNION:

Terra Chaffee 5/24/18  
Terra Chaffee Date  
President, ALP

J Calegari 5/24/18  
Jon Calegari Date  
Team Member, ALP

Carl Mitchell 5/24/18  
Carl Mitchell Date  
Team Member, ALP

Mark Vanni 5/24/18  
Mark Vanni Date  
Team Member, ALP

**2018 CITY OF SAN JOSE – ALP NEGOTIATIONS  
TENTATIVE AGREEMENT**

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**CITY PROPOSAL TO ALP - HOLIDAYS**

City Proposed Language:

**ARTICLE 27        HOLIDAYS**

27.1        Each calendar year, full-time employees who are on paid status before and after the holidays specified below shall receive (14) paid holidays, which include:

- |                        |                        |
|------------------------|------------------------|
| New Year's Day         | Columbus Day           |
| Martin Luther King Day | Veterans Day           |
| Presidents' Day        | Thanksgiving Day       |
| Cesar Chavez Day       | Day After Thanksgiving |
| Memorial Day           | Christmas Eve Day      |
| Independence Day       | Christmas Day          |
| Labor Day              | New Year's Eve Day     |

**CITY PROPOSAL TO ALP - HOUSEKEEPING**

City Proposed Language:

**ARTICLE 42           EMPLOYEE COMMUTE BENEFIT PROGRAM**

The Employee Commute Benefit Program shall be as follows:

- 42.1 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.
- 42.2 Participation in an Employee Commute Benefit Program through the Santa Clara Valley Transit Authority ("VTA") ~~Eco-Pass Program~~ will be available to eligible employees, subject to the terms of the Employee Commute Benefit Program, as defined in Article 26.1.
- 42.3 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.

# 2018 CITY OF SAN JOSE – ALP NEGOTIATIONS TENTATIVE AGREEMENT

## CITY PROPOSAL TO ALP - HOUSEKEEPING – HEALTH INSURANCE

City Proposed Language:

### ARTICLE 17 HEALTH INSURANCE

**17.1 Plans:** The City will provide health coverage for eligible employees and their dependents under one of the available plans for employee only or employee and dependents. Additional information regarding medical plans is available on the Human Resources website, in accordance with whichever one of the plans set forth in Subsections 17.1.1 through 17.2.4 that is selected by the employee.

~~17.1.1 High-Deductible HMO. As of the date of this Agreement, the City makes available the Kaiser Permanente \$1500 Deductible HMO Benefit Plan.~~

~~17.1.2 Non-Deductible HMO: As of the date of this Agreement, the City makes available the Kaiser \$25 HMO Plan, the Blue Shield \$25 HMO Plan, and the Blue Shield \$45 HMO Plan.~~

~~17.1.3 Non-Deductible POS. As of the date of this Agreement, the City makes available the Blue Shield POS Plan.~~

~~17.1.4 Non-Deductible PPO. As of the date of this Agreement, the City makes available the Blue Shield \$3500 PPO Plan and the Blue Shield \$100 PPO Plan.~~

**17.2 Rate Structure:** Each of the health coverage plans provided by the City will have a 4-tier rate structure as follows: (1) employee, (2) employee plus spouse/domestic partner, (3) employee plus child(ren), and (4) family.

**17.3 Premiums:** For full time employees, the monthly premium is as follows for whichever one of the health coverage plans, at whichever tier of the rate structure, an employee selects:

**17.3.1** The City pays eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan ~~(as of the date of this Agreement, the Kaiser \$25 HMO Plan)~~ for the tier of the rate structure selected by the employee, and the employee pays the remaining fifteen percent (15%).<sup>1</sup> ~~The City currently pays one hundred percent (100%) of the High Deductible HMO because the cost of the High Deductible HMO (as of the date of this Agreement, the Kaiser Permanente \$1500 Deductible HMO Benefit Plan) is equivalent to eighty-five percent (85%) of the cost of the lowest priced Non-Deductible HMO plan, the Kaiser \$25 HMO plan. This is subject to change on an annual basis based on changes to the premiums.~~

~~If the employee selects a plan other than the lowest priced Non-Deductible HMO plan, the Non-Deductible POS plan or the Non-Deductible PPO plan, the employee pays the difference between the total cost of the selected plan and the City's contribution toward the lowest priced Non-Deductible HMO plan.~~

**17.4 Dual Coverage:** An employee may not be simultaneously covered by City-provided medical benefits as a City employee, and as a dependent of another City employee or retiree.

<sup>1</sup> The City's contribution is prorated as follows for part-time employees based on hours scheduled:

- 30 – 39 hours = 75%
- 25 – 29 hours = 62.5%
- 20 – 24 hours = 50%
- Less than 20 hours = none



2018 CITY OF SAN JOSE – ALP NEGOTIATIONS  
TENTATIVE AGREEMENT

VACATION

City Proposed Language:

ARTICLE 28 VACATION

28.1 Vacation accrues at the following rates for each paid hour (either worked or paid absence):

Years of Service	Annual Hourly Accrual (Full Time)
1 – 5	120 hours
6 – 14	160 hours
15+	200 hours

28.2 Employees may only accrue vacation up to a maximum of two (2) times their annual accrual rate. Once an employee reaches their maximum accrued vacation limit, the employee will not accrue vacation until their vacation balance falls below the maximum limit, or until they have sold back an amount that brings them below their maximum accrual amount.

Years of Service	Maximum Accrued Vacation
1 – 5	240 hours
6 – 14	320 hours
15+	400 hours

~~28.2.1 Subject to tax counsel approval, effective calendar year 2016, employees~~ Employees may sell back up to a maximum of twenty (20) hours of accrued vacation per calendar year after July 1, 2016.

28.2.2 Beginning calendar year 2019, employees may sell back up to a maximum of sixty (60) hours of accrued vacation.

28.2.32 Internal Revenue Service (IRS) regulations require the City to report and withhold taxes on the value of the vacation time an employee is eligible to sell back. In order to ensure compliance with the IRS requirements and to avoid unanticipated tax consequences:

28.2.43 Employees must elect the number of vacation hours they will sell back during a calendar year, up to a maximum of sixty (60) ~~twenty (20)~~ hours, by the end of November of the prior year. If the employee does not submit an irrevocable election form to Payroll on or before the end of November, the employee will not be eligible to sell back any vacation hours during the next calendar year. ~~The election made in 2015 cannot be sold back until after July 1, 2016.~~

**2018 CITY OF SAN JOSE – ALP NEGOTIATIONS  
TENTATIVE AGREEMENT**

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- 28.2.54** The election to sell back vacation hours in any year is irrevocable. This means that employees must sell back the elected number of accrued vacation hours during that year. If the accrued vacation hours are not sold back within the designated calendar year the employee will be deemed to have received the value of the vacation hours elected in that calendar year and will be taxed by the IRS accordingly.
- 28.2.65** Employees can elect to sell back only vacation hours accrued during any given year, and any vacation hours accrued and carried over prior to that year are not eligible for sell back during that year.
- 28.2.76** Any vacation hours accrued during that year will not be available for use until the employee's accrued vacation hours in that year equal the number of hours the employee has elected to sell back. Those vacation hours accrued in the given year over the number of hours the employee elected to sell back in the given year will be available for use by the employee. This means that hours elected for sell back may only be used for sell back purposes and cannot be used for vacation time off purposes.
- 28.2.87** Employees may use any vacation hours accrued and carried over prior to the given year, subject to the normal rules of requesting use of vacation.

SIDE LETTER AGREEMENT

BETWEEN  
THE CITY OF SAN JOSE  
AND  
THE ASSOCIATION OF LEGAL PROFESSIONALS OF SAN JOSE (ALP)

**City Healthcare Program Reopener**

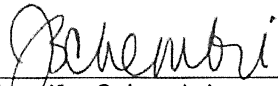
To the extent that they are a mandatory subject of bargaining and arise during the term of the successor Memorandum of Agreement (MOA) between the City of San Jose (City) and the Association of Legal Professionals of San Jose (ALP), the parties agree to meet and confer over potential changes to the City's healthcare program.

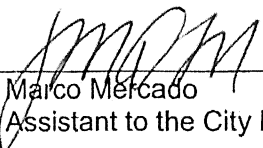
Either the City or ALP may provide notice to the other of its request to discuss potential changes to the City's healthcare program. The parties shall commence the discussions within ten (10) calendar days after the City or ALP receive notice from the other.

To the extent that any change to the City's healthcare program is a mandatory subject of bargaining, the parties shall meet and confer in good faith in an effort to reach a mutual agreement. If the parties reach impasse and no agreement is reached on those issues that are a mandatory subject of bargaining, either party may invoke the impasse procedures in accordance with the applicable provisions under the Employer-Employee Relations Resolution No. 39367 and/or the Meyers Milius Brown Act. All mandatory impasse procedures (mediation and factfinding (if requested by ALP)) shall be exhausted. The parties understand that this means that, notwithstanding any other provision in the successor MOA, 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.

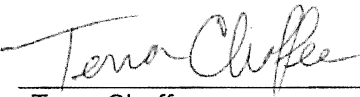
This Agreement is considered part of the tentative agreement for a successor MOA between the parties, and shall become effective only as part of the overall tentative agreement for a successor MOA, and when signed by all parties below and approved by the City Council. This agreement is effective only during the term of a successor MOA.

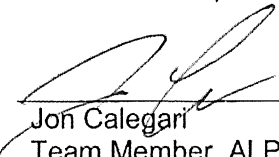
**FOR THE CITY:**


  
\_\_\_\_\_  
Jennifer Schembri                      5/25/18  
Director of Employee Relations                      Date

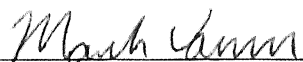
  
\_\_\_\_\_  
Marco Mercado                      5/24/18  
Assistant to the City Manager, OER                      Date

**FOR THE UNION:**

  
\_\_\_\_\_  
Terra Chaffee                      5/24/18  
Team Member, ALP                      Date

  
\_\_\_\_\_  
Jon Calegari                      5/24/18  
Team Member, ALP                      Date

  
\_\_\_\_\_  
Carl Mitchell                      5/24/18  
Team Member, ALP                      Date

  
\_\_\_\_\_  
Mark Vanni                      5/24/18  
Team Member, ALP                      Date