

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri

SUBJECT: SEE BELOW

DATE: May 6, 2022

Approved

Date

05/06/22

SUBJECT: TERMS OF A SIDE LETTER AGREEMENT BETWEEN THE CITY OF SAN JOSE, THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3) AND AMENDING THE PAY PLAN

RECOMMENDATION

Adopt a resolution to:

- A. Approve the terms of a Side Letter Agreement with the International Union of Operating Engineers, Local No. 3 (OE#3) to provide the following:
1. Provide employees in the Maintenance Assistant FT/PT (3108/3109) classification with an approximate 3.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;
 2. Provide employees in the Maintenance Worker I FT/PT (3113/3112) classification with an approximate 14.60% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;
 3. Provide employees in the Maintenance Worker II (3114) classification with an approximate 14.30% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council;
 4. Provide employees in the Senior Maintenance Worker (3115) classification with an approximate 9.15% pensionable pay increase effective the beginning of the first full pay period after the Side Letter Agreement has been signed by all parties and has been approved by the City Council; and
 5. Effective June 26, 2022, Council Policy 3-3 Living Wage Policy will no longer apply to employees represented by OE#3.

B. Amend the City of San José Pay Plan as follows:

1. Amend the City of San José Pay Plan to increase the annual salary range of the classification of Maintenance Assistant FT/PT (3108/3109) to \$47,819.20 – \$60,985.60, effective May 29, 2022;
2. Amend the City of San José Pay Plan to increase the annual salary range of the classification of Maintenance Worker I FT/PT (3113/3112) to \$60,028.80 – \$73,008.00, effective May 29, 2022;
3. Amend the City of San José Pay Plan to increase the annual salary range of the classification of Maintenance Worker II (3114) to \$66,664.00 – \$81,078.40, effective May 29, 2022; and
4. Amend the City of San José Pay Plan to increase the annual salary range of the classification of Senior Maintenance Worker (3115) to \$78,644.80 – \$95,680.00, effective May 29, 2022.

OUTCOME

Adoption of the resolution will approve a Side Letter Agreement between the City and OE#3 to allow for a pensionable pay increase for the Maintenance Assistant FT/PT (3108/3109), Maintenance Worker I FT/PT (3113/3112), Maintenance Worker II (3114) and Senior Maintenance Worker (3115) classifications as provided in the table below:

Classification	Pensionable Increase
Maintenance Assistant FT/PT (3108/3109)	3.60%
Maintenance Worker I FT/PT (3113/3112)	14.60%
Maintenance Worker II (3114)	14.30%
Senior Maintenance Worker (3115)	9.15%

Further, the City of San José's Pay Plan will be amended to change the salary ranges for the classifications noted above in accordance with the terms of the Side Letter Agreements.

Additionally, the City and OE#3 agree that Council Policy 3-3 Living Wage Policy will no longer apply to employees represented by OE#3 effective June 26, 2022.

BACKGROUND

Maintenance Worker Series

Classifications in the Maintenance Worker series are responsible for various tasks, including, but not limited to, performing work in the maintenance and repair of streets, sewers, parks, landscaping, and public facilities.

As part of an overall agreement on a successor Memorandum of Agreement (MOA) in October 2021, the City and OE#3 signed a side letter agreement where the City would conduct a review of the Maintenance Worker series salaries, including one specifically for the Maintenance Worker series assigned to the Sewer Division in the Department of Transportation, due to recruitment and retention concerns in the classification series (Attachment A).

The City conducted a survey of comparable classifications in Bay Area agencies in December 2021 which revealed that the City of San José salary ranges for the majority of the classifications in the Maintenance Worker series were significantly under Bay Area market for similar classifications.

On April 12, 2022, the City and OE#3 signed a subsequent side letter agreement that would bring the salary ranges of the Maintenance Worker series to 100% of the market rate determined in the December 2021 survey, resulting in the following pensionable wage increases (Attachment B):

Classification	Pensionable Increase
Maintenance Assistant FT/PT (3108/3109)	3.60%
Maintenance Worker I FT/PT (3113/3112)	14.60%
Maintenance Worker II (3114)	14.30%
Senior Maintenance Worker (3115)	9.15%

Classification	Current Pensionable Salary Range (Annual)	New Pensionable Salary Range (Annual)
Maintenance Assistant FT/PT (3108/3109)	\$46,155.20 – \$58,864.00	\$47,819.20 – \$60,985.60
Maintenance Worker I FT/PT (3113/3112)	\$52,374.40 – \$63,710.40	\$60,028.80 – \$73,008.00
Maintenance Worker I (3114)	\$58,323.20 – \$70,928.00	\$66,664.00 – \$81,078.40
Senior Maintenance Worker (3115)	\$72,051.20 – \$87,651.20	\$78,644.80 – \$95,680.00

Council Policy 3-3 Living Wage Policy

Council Policy 3-3, titled Living Wage Policy, was enacted by the City Council on November 17, 1998, when it adopted Resolution No. 68554. While not obligated to do so under the Living Wage Policy, the City has adhered to this Policy with respect to its own workforce, and in doing so this has created instances of salary compaction in areas of the City's workforce, including within the Maintenance Worker series. On April 12, 2022, as part of an agreement to provide a special pensionable wage increase to the Maintenance Series as described above, the City and OE#3 also agreed that effective June 26, 2022, starting in Fiscal Year 2022-2023, Council Policy 3-3 will no longer apply to employees represented by OE#3. As part of this agreement, eligible employees in OE#3-represented classifications shall continue to receive the recent Fiscal Year

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2021-2022 living wage rate applicable to their classifications until such time that they reach a salary step that exceeds the living wage rate, and that these employees will only be eligible for negotiated wage increases agreed to between the City and OE#3 on a prospective basis starting after June 26, 2022. Additionally, the City and OE#3 have agreed that the City will continue to review classifications on an as needed basis for the purpose of addressing any compaction issues that have resulted from the living wage.

ANALYSIS

The following is a summary of the key provisions contained in the Side Letter Agreements:

Maintenance Assistant FT/PT Pensionable Increase	Effective the first pay period after the agreement has been signed by all parties and has been approved by the City Council, employees in the Maintenance Assistant FT/PT classification shall receive a pensionable wage increase in the amount of 3.60%. This will result in an increase to the top and bottom of the salary range in the Pay Plan for the Maintenance Assistant FT/PT classification.
Maintenance Worker I FT/PT Pensionable Increase	Effective the first pay period after the agreement has been signed by all parties and has been approved by the City Council, employees in the Maintenance Worker I FT/PT classification shall receive a pensionable wage increase in the amount of 14.60%. This will result in an increase to the top and bottom of the salary range in the Pay Plan for the Maintenance Worker I FT/PT classification.
Maintenance Worker II Pensionable Increase	Effective the first pay period after the agreement has been signed by all parties and has been approved by the City Council, employees in the Maintenance Worker II classification shall receive a pensionable wage increase in the amount of 14.30%. This will result in an increase to the top and bottom of the salary range in the Pay Plan for the Maintenance Worker II classification.
Senior Maintenance Worker Pensionable Increase	Effective the first pay period after the agreement has been signed by all parties and has been approved by the City Council, employees in the Senior Maintenance Worker classification shall receive a pensionable base pay increase in the amount of 9.15%. This will result in an increase to the top and bottom of the salary range in the Pay Plan for the Senior Maintenance Worker classification.
Council Policy 3-3	The City and OE#3 agree that Council Policy 3-3 Living Wage Policy will no longer apply to employees represented by OE#3 effective June 26, 2022.

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CONCLUSION

Due to the recruitment and retention issues in the Maintenance Worker series, it is recommended that the City Council adopt the Administration's recommendation outlined in this memorandum which would provide a pensionable base pay increase to the Maintenance Assistant FT/PT (3108/3109), Maintenance Worker I FT/PT (3113/3112), Maintenance Worker II (3114) and Senior Maintenance Worker (3115) classifications, as indicated above.

Based on the recommended adjustments to the salary ranges of the various classification as set forth above, the City of San José's Pay Plan will be amended to change the salary ranges for the classifications in accordance with the terms of the Side Letter Agreements.

Additionally, the City and OE#3 agree that Council Policy 3-3 Living Wage Policy will no longer apply to employees represented by OE#3 effective June 26, 2022.

EVALUATION AND FOLLOW-UP

No further follow-up with the City Council related to this action is anticipated at this time.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum has been posted on the City Clerk's website as part of the May 17, 2022, City Council Meeting Agenda.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

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COST SUMMARY/IMPLICATIONS

The additional ongoing costs pertaining to the base pay increase for the Maintenance Assistant FT/PT (3108/3109), Maintenance Worker I FT/PT (3113/3112), Maintenance Worker II (3114) and Senior Maintenance Worker (3115) classifications is approximately \$2.03 million in all funds, of which approximately \$587,000 is in the General Fund. The increased costs for the remainder of 2021-2022 are anticipated to be absorbed within the Department's existing budget. If the increases cannot be absorbed, the Administration will bring forward recommendations to increase the existing appropriation in 2021-2022 as part of the year-end budget process. Because of the timing of this agreement, the recommended increases for 2022-2023 are not included in the Base Budget and recommendations to adjust the various Department's personal services budget to include these increases will be brought forward through the 2022-2023 Adopted Budget process. The ongoing increases will be factored into the annual development of the 2023-2024 Base Budget.

CEQA

Not a Project, File No. PP17 008, General Procedure & Policy Making resulting in no changes to the physical environment.


JENNIFER SCHEMBRI
Director of Employee Relations
Director of Human Resources

The principal authors of this memorandum are Julianne Miyashiro, Executive Analyst in the Office of Employee Relations, and Bill Gold, Senior Executive Analyst in the Office of Employee Relations. For questions, please contact Jennifer Schembri, Director of the Office of Employee Relations and Director of Human Resources, at (408) 535-8150.

Attachments

SIDE LETTER AGREEMENT

BETWEEN
THE CITY OF SAN JOSE
AND
THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 3 (OE#3)


Classification Review – Maintenance Worker Series and Maintenance Worker Series in the Sewer Division

The City and the International Union of Operating Engineers, Local 3 (OE#3) agree that the City will conduct a classification review for the Maintenance Worker series, including a classification review specifically for the Maintenance Worker series assigned to the Sewer Division in the Department of Transportation.

Following these reviews, the City agrees to meet and confer with OE#3 over the results of these reviews, including classification changes and/or wage adjustments recommended as a result of the studies. This shall not be construed as an agreement to change anything related to classification structure and applicable benefits for classifications represented by OE#3.

This Agreement shall be considered part of the overall Agreement for a successor MOA, and will become effective when signed by all parties below. The goal of the parties is to complete the classification reviews within nine (9) months of the effective date of this Agreement.

FOR THE CITY:



10/21/21

Jennifer Schembri

Date

Director of Employee Relations
Director of Human Resources

FOR THE UNION:



10/21/21

Mary Blanco

Date

Business Representative
OE#3, Local 3

SIDE LETTER AGREEMENT

BETWEEN
THE CITY OF SAN JOSE
AND
THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL NO. 3 (OE#3)

MAINTENANCE WORKER SERIES SPECIAL WAGE ADJUSTMENT AND CHANGES TO THE CITY'S LIVING WAGE

Effective the first full pay period after this agreement is signed by all parties below and approved by the City Council in open session, employees in the classifications listed below shall receive the following pensionable wage increase:

Classification	Pensionable Increase
Maintenance Assistant FT/PT (3108/3109)	3.60%
Maintenance Worker I FT/PT (3113/3112)	14.60%
Maintenance Worker II (3114)	14.30%
Senior Maintenance Worker (3115)	9.15%

This will result in an increase to the top and bottom of the salary range of employees in the classifications noted above. The City and OE#3 agree to defer discussions related to the results of a classification review for the Maintenance Worker Series in the Sewer Division in the Department of Transportation until negotiations over a successor Memorandum of Agreement (MOA) occur in 2024.

Further, effective Fiscal Year 2022-2023, the City and OE#3 agree that Council Policy 3-3 Living Wage Policy will no longer apply to employees represented by OE#3. Thus, the parties agree that:

- Eligible employees in OE#3-represented classifications shall continue to receive the appropriate Fiscal Year 2021-2022 living wage rate until such time that they reach a salary step that exceeds the living wage.
- Employees represented by OE#3 who were otherwise eligible for living wage increases under the Living Wage Policy prior to this agreement, will only be eligible for negotiated wage increases agreed to between the City and OE#3 going forward (e.g., for Fiscal Year 2022-2023 and beyond).

Example:

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10	Step 11
Maintenance Assistant (PT Unbenefited)	\$22.19	\$22.73	\$23.30	\$23.90	\$24.48	\$25.08	\$25.69	\$26.31	\$26.97	\$27.61	\$28.30

- Part-time unbenefited employees in Steps 1 – 6 of the Maintenance Assistant classification currently earn the unbenefited living wage of \$25.31 per hour. Upon approval of this Agreement, eligible employees will continue to earn the unbenefited living wage of \$25.31. Per Article 5.1.1.2 of the 2021-2024 OE#3 MOA, OE#3-represented classifications will receive a 3.00% general wage increase effective the first full pay period in Fiscal Year 2022-2023. As such, the unbenefited living wage for OE#3-represented classifications will increase by 3.00%, from \$25.31 to \$26.04, and any OE#3-represented part-time unbenefited employee who is in a salary step below that rate will receive \$26.04 per hour until they reach a salary step that is greater than the Fiscal Year 2021-2022 living wage rate.

- The City will continue to review classifications on an as needed basis for the purpose of addressing any compaction issues that have resulted from the living wage.

This Side Letter will resolve the agreement reached on October 21, 2021, to meet and confer over the results of a classification review by July 2022 for the Maintenance Worker Series and the Maintenance Worker Series in the Sewer Division, and shall become effective on the first full pay period after this agreement has been signed by all parties below and approved by the City Council in open session.

FOR THE CITY:

 4/12/2022
Jennifer Schembri Date
Director of Employee Relations
Director of Human Resources

 4/12/2022
Elsa Cordova Date
Assistant to the City Manager
Office of Employee Relations

FOR THE UNION:

 4/12/2022
Jeremy Cabaccang Date
Business Representative, OE#3