

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN JOSE APPROVING THE TERMS OF AN AGREEMENT  
BETWEEN THE CITY OF SAN JOSE AND THE OPERATING  
ENGINEERS, LOCAL NO. 3 (OE#3), WITH A TERM OF  
OCTOBER 1, 2019 – JUNE 30, 2021, AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE AN AGREEMENT WITH OE#3**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. That the terms of a collective bargaining agreement between the City of San José and the Operating Engineers, Local No. 3 (OE#3), with a term of October 1, 2019 through June 30, 2021, are hereby approved. The City Manager is hereby authorized to execute an agreement with those terms on behalf of the City of San José.
2. The general terms of the agreement are set out and described in the Memorandum to the Mayor and City Council from Jennifer Schembri, Director of Employee Relations, dated September 3, 2019, and attached hereto as Attachment A and incorporated in this Resolution.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

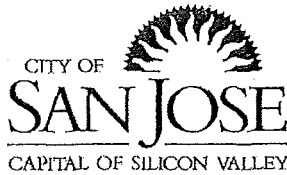
ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk



COUNCIL AGENDA: 9/17/19  
FILE: 19-791  
ITEM:

## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer Schembri

**SUBJECT:** SEE BELOW

**DATE:** September 3, 2019

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Approved

Date

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**SUBJECT: APPROVAL OF THE TERMS OF AN AGREEMENT WITH THE  
INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL  
UNION NO. 3 (OE#3) FOR THE TERM OF OCTOBER 1, 2019  
THROUGH JUNE 30, 2021**

### RECOMMENDATION

Adopt a resolution approving the terms of a collective bargaining agreement between the City and the International Union of Operating Engineers, Local Union No. 3 (OE#3) for the term of October 1, 2019 through June 30, 2021, and authorizing the City Manager to execute the 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 José and the International Union of Operating Engineers, Local Union No. 3 (OE#3) and authorize the City Manager to execute an agreement with a term of October 1, 2019, through June 30, 2021 with those terms.

### BACKGROUND

The City of San José's collective bargaining agreement with the International Union of Operating Engineers, Local Union No. 3 (OE#3) will expire on September 30, 2019. OE#3 currently represents approximately 753 full-time equivalent positions. This unit includes employee job classifications such as Maintenance Worker I/II, Parking Traffic Control Officer, Maintenance Assistant, Groundswoker, and Wastewater Operator I/II/III.

In July 2019, negotiations with OE#3 on a successor agreement commenced and, on or about August 22, 2019, the City and OE#3 reached an overall Tentative Agreement on the terms to be contained in the successor Memorandum of Agreement (MOA) between the City and OE#3.

The Tentative Agreement has been ratified by the OE#3 membership.

HONORABLE MAYOR AND CITY COUNCIL

September 3, 2019

Subject: Approval of the Term of an Agreement with the International Union of Operating Engineers, Local No. 3 (OE#3), for the term of October 1, 2019 through June 30, 2021

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### **ANALYSIS**

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

|   |  |
|---|--|
| <b>Term</b>                                   | October 1, 2019 through June 30, 2021  |
| <b>General Wage Increase</b>                  | <p>Effective October 6, 2019, all salary ranges for employees holding positions in classifications assigned to OE#3 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%.</p> <p>Effective June 28, 2020, all salary ranges for employees holding positions in classifications assigned to OE#3 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%.</p>            |
| <b>Incorporation of Side Letter Agreement</b> | <p>The current Side Letter Agreement regarding Shift Differential for employees assigned to a twelve (12) hour shift at the Regional Wastewater Facility will be incorporated into the successor MOA.</p> <p>Employees assigned to work an on-going, regular shift of twelve (12) hours or more at the Regional Wastewater Facility (RWF), which is regularly scheduled to start between the hours of 6:00 a.m. to 6:00 p.m. shall be paid a shift differential of \$1.55 per hour for each eligible hour, to the nearest fifteen (15) minutes, of work performed between the hours of 2:00 p.m. and 6:00 p.m.</p> |
| <b>Reopeners</b>                              | During the term of the contract, the City and OE#3 agree to that to the extent they arise during the term of the contract, the parties agree to meet and confer over potential changes to the 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 September 17, 2019, City Council Agenda.

HONORABLE MAYOR AND CITY COUNCIL

September 3, 2019

Subject: Approval of the Term of an Agreement with the International Union of Operating Engineers, Local No. 3 (OE#3), for the term of October 1, 2019 through June 30, 2021

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### COORDINATION

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

### COMMISSION RECOMMENDATION/INPUT

This agreement was not coordinated with any board or commission.

### COST SUMMARY/IMPLICATIONS

The increased cost of the 3% general wage increase effective October 6, 2019 is approximately \$1.7 million in all funds, of which \$563,000 is in the General Fund. This increase for 2019-2020 was anticipated and funding to offset the increase in the General Fund was set aside in the Salaries and Benefits Reserve as part of the 2019-2020 Adopted Budget. The increases to the special funds will generally be offset by corresponding decreases to the *unrestricted ending fund* balance in those funds or an alternative funding source. The Administration will bring forward any recommended budget actions to increase the budget, offset by a corresponding decrease to the Salaries and Benefits Reserve or an alternative funding source, for City Council approval as part of the 2018-2019 Annual Report. The ongoing increased cost of the 3% general wage increase effective June 28, 2020 is approximately \$2.3 million, of which \$773,000 is in the General Fund. The ongoing increased costs will be factored in the development of the 2020-2021 Base Budget process.

### CEQA

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

/s/

JENNIFER SCHEMBRI

Director of Employee Relations

Director of Human Resources

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

Attachment A – OE#3 Tentative Agreement

**2019 CITY OF SAN JOSE – OE#3 NEGOTIATIONS  
TENTATIVE AGREEMENT**

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**TERM**

October 1, 2019 – June 30, 2021

**WAGES**

Fiscal Year 2019-2020

- 3% general wage increase effective Fiscal Year 2019-2020. Effective October 6, 2019, all salary ranges for employees holding positions in classifications assigned to OE#3 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 OE#3 shall be increased by approximately 3%.

**INCORPORATION OF SIDE LETTER AGREEMENT**

Shift Differential for employees assigned to a twelve (12) hour shift at the Regional Waste Water Facility – See Attached

**REOPENERS**

City Healthcare Program – See Attached

2019 CITY OF SAN JOSE – OE#3 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 this document is not part of the Tentative Agreement.

FOR THE CITY:

J Schembri 8/22/19  
Jennifer Schembri Date  
Director of Employee Relations

E Cordova 8/22/19  
Elsa Cordova Date  
Assistant to the City Manager, OER

Rand Perry 8/22/19  
Randi Perry Date  
Executive Analyst, OER

Napp Fukuda 8/27/19  
Napp Fukuda Date  
Asst. Director, Environmental Services

Rick A Scott 8/22/19  
Rick Scott Date  
Deputy Director, Dept. of Transportation

FOR THE UNION:

Mary Blanco 8/22/19  
Mary Blanco, Business Representative Date  
Operating Engineers, Local 3 (OE#3)

Paul Prange 8/22/19  
Paul Prange Date  
Team Member, Operating Engineers, Local 3 (OE#3)

Brett Benitez 8/22/19  
Brett Benitez Date  
Team Member, Operating Engineers, Local 3 (OE#3)

Larry Brown 8-28-19  
Larry Brown Date  
Team Member, Operating Engineers, Local 3 (OE#3)

2019 CITY OF SAN JOSE – OE#3 NEGOTIATIONS  
TENTATIVE AGREEMENT

**CITY PROPOSAL TO OE#3 – SHIFT DIFFERENTIAL**

City Proposed Language:

**ARTICLE 5 WAGES AND SPECIAL PAY**

Shift Differential. Eligible employees, as defined herein, regularly assigned to work a swing shift, shall be paid a shift differential of \$1.55 per hour for each eligible hour, as defined herein, to the nearest fifteen (15) minutes, of work performed. Eligible employees, as defined herein, regularly assigned to work a graveyard shift shall be paid a shift differential of \$1.75 per hour, as defined herein, to the nearest fifteen (15) minutes of work performed.

5.3.1 Eligibility and Application. To be eligible for payment of shift differential, an employee must be assigned to an on-going, regular shift of eight (8) hours or more which is regularly scheduled to start between the hours of:

- 2:00 p.m. and 11:59 p.m. (i.e. swing shift), or
- 2:00 midnight and 5:59 a.m. (i.e. graveyard shift)

Employees assigned to work an on-going, regular shift of twelve (12) hours or more at the Regional Wastewater Facility (RWF), which is regularly scheduled to start between the hours of 6:00 a.m. to 6:00 p.m. shall be paid a shift differential of \$1.55 per hour for each eligible hour, to the nearest fifteen (15) minutes, of work performed between the hours of 2:00 p.m. and 6:00 p.m.

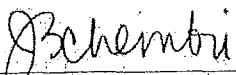
If the employee's shift starts within the time period defined above and the employee works a minimum of two (2) hours within that time period, the employee shall be compensated with shift differential for the entire shift.

If the employee's shift starts within the time period defined above and the employee works less than two (2) hours within that time period, the employee shall be compensated with shift differential for the number of hours of work actually performed within that time period.

5.3.2 Except as otherwise required by applicable State or Federal law, shift differential pay shall not be included as regular compensation in computing other benefits.

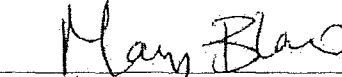
*\* This agreement is considered tentative and shall not be considered final or binding until a final agreement on all terms has been reached and both ratified by union members and approved by the City Council.*

FOR THE CITY:

  
Jennifer Schembri  
Director of Employee Relations  
Director of Human Resources

8/22/19  
Date

FOR THE UNION:

  
Mary Blanco, Business Representative  
Operating Engineers, Local 3 (OE#3)

8/22/19  
Date

SIDE LETTER AGREEMENT

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

**City Healthcare Program Reopener**

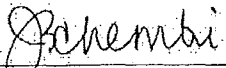
To the extent that they are a mandatory subject of bargaining and arise during the term of the successor Memorandum of Agreement (MOA) between the City of San Jose (City) and the International Union of Operating Engineers, Local No. 3 (OE#3), the parties agree to meet and confer over potential changes to the City's healthcare program.

Either the City or OE#3 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 OE#3 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 Millias Brown Act. All mandatory impasse procedures (mediation and factfinding (if requested by OE#3)) 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.

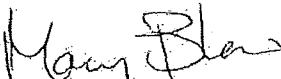
This Agreement is considered part of the tentative agreement for a successor MOA between the parties, and shall become effective only as part of the overall tentative agreement for a successor MOA, and when signed by all parties below and approved by the City Council. This agreement is effective only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

FOR THE CITY:

  
\_\_\_\_\_  
Jennifer Schembri  
Director of Employee Relations  
Director of Human Resources

8/22/19  
Date

FOR THE UNION:

  
\_\_\_\_\_  
Mary Blanco, Business Representative  
Operating Engineers, Local 3 (OE#3)

8/22/19  
Date