NEW BUSINESS

AGENDA ITEM 15.2
TO: Mayor and City Council

FROM: Bob Deis, City Manager

SUBJECT: AUTHORIZE THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE STOCKTON FIREFIGHTERS LOCAL 456 CONSISTENT WITH THE TERMS OF THE RATIFIED AGREEMENT

RECOMMENDATION

It is recommended that the City Council authorize by motion the City Manager to execute a Memorandum of Understanding, including Waiver and Release of Claims between the City of Stockton and the Stockton Firefighters’ Local 456, consistent with the terms of the tentative agreement ratified by Stockton Firefighters’ Local 456, International Association of Fire Fighters for the Fire Unit, and authorizes the City Manager to take whatever actions are appropriate to implement the Memorandum.

Summary

The current Memorandum of Understanding between the City and this bargaining unit expired on June 30, 2011. Representatives of the City and Stockton Firefighters’ Local 456 had met and conferred for 5 months on a successor agreement before the City declared impasse. Representatives of the City and Stockton Firefighters’ Local 456 did reach a tentative agreement on July 1, 2011 for a successor Memorandum of Understanding in mediation. Unfortunately, the Fire Unit membership did not vote to approve the tentative agreement.

The City Council therefore, on August 9, 2011, voted under its authority under Government Code Section 3503.4 to move forward to resolve the impasse by unilaterally implementing as wages, terms and conditions of employment for the Fire unit the City’s Last, Best and Final Offer made prior to mediation.

The City and Fire union representatives met after the Council Unilateral Implementation and were able to reach a second tentative agreement in September. The Fire union went through a second ratification process. The Fire union on October 10, 2011, notified the City that their membership had approved the second tentative agreement. This agreement (Attachment A) is presented for Council’s consideration and staff recommends approval.

I wish to thank both the leadership and the general membership of Local 456 for having the courage to negotiate and ratify an agreement during these unprecedented times.
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DISCUSSION

Background

The City has had substantial fiscal shortfalls over the past several years. During this time the City’s workforce has reduced by approximately 25%, with staffing reductions occurring primarily in departments other than Fire. The City has also negotiated concessions with other labor groups both permanent, and temporary, to deal with the City’s ongoing fiscal shortfalls. On May 17, 2011, the City declared a fiscal emergency due to declines in revenue, rising costs and threatened service reductions. Despite these service reductions and wage concessions from other units in the past few years, the City’s fiscal circumstances continued to decline and the City has a $37 million dollar general fund deficit in fiscal year 2011-12. On June 21, 2011, after taking public testimony, the City Council adopted a final budget for fiscal year 2011-12 that combines program service reductions with compensation and benefit reductions in order to adjust expenditures to available revenue. The City has also reached agreement with six other unions on wage and benefit reductions for this fiscal year.

The City had met with Stockton Firefighters’ Local 456 from February to June 2011 to reach an agreement. On June 20, 2011, the City declared impasse when it appeared that the parties could not reach an agreement on terms for a successor contract. The parties agreed to use a State mediator to help resolve their dispute and the parties met with the mediator on June 29 and July 1. From that mediation the parties reached a tentative agreement on July 1. The City was notified on August 1, 2011, that the union membership had not ratified the tentative agreement. The City Council therefore on August 9, 2011, voted under its authority under Government Code Section 3503.4 to move forward to resolve the impasse by unilaterally implementing changes in wages, terms and conditions of employment for the Fire unit consistent with the City’s Last, Best and Final offer prior to mediation. The City also eliminated 47 authorized Fire positions and laid off 36 firefighters on July 1, 2011, based on a side letter agreement.

The parties continued to have discussions and have reached a second tentative agreement in September. The Fire union notified the City in early October that their membership had voted to ratify the new tentative agreement. This new agreement is now on the Council agenda for their consideration.
Present Situation

The Fire unit agreement includes but is not limited to, the following modifications. The major changes in the compensation for employees in this unit are summarized as follows:

- Agrees that any City of Stockton employee hired on or after July 1, 2011, in this unit shall not receive any retiree medical benefit.
- Agrees that the City shall amend its PERS contract to provide a new lower benefit level retirement tier/employee pension benefits for any City of Stockton employee in this unit hired after the PERS contract is amended but no earlier than July 1, 2011. The City shall adopt a new tier that provides 3@55 formula, with 3 years Final Average Salary, and no other additional benefits. These employees shall also pay their own mandatory PERS contribution.
- Eliminates all minimum and constant staffing requirements effective July 1, 2011.
- Agrees that the employees shall pay 9% of salary towards the Employer’s PERS, effective August 1, 2011, and that this contribution shall be on a post tax basis unless the IRS provides the City of Stockton a private letter ruling allowing this contribution on a pre tax basis. Additionally, the City agrees to work with PERS to determine whether a PERS contract amendment is possible under Section 20516 provisions for cost-sharing to allow for some or all of the 9% contribution to be made on a pre-tax basis.
- Agrees that the 2010 salary increases are eliminated and no additional salary increase shall occur during the term of the MOU.
- Agrees to the elimination of the Educational Incentive Add Pay of 3% effective August 1, 2011.
- Agrees to the elimination of the current Longevity Add Pay of 5% or 11.25 % for all unit employees effective August 1, 2011, except however the current employees in this unit receiving Longevity Pay as of that date and through June 30, 2012 shall have their current Longevity Pay reduced by 2.5% and then frozen.
- Agrees to the implementation of Medical Plan design changes in the City’s Modified Medical Plan effective September 1, 2011, as summarized in Appendix B. It also expands the number of medical plans offered to employees.
- Establishes effective September 1, 2011, a maximum City contribution towards the Employee’s costs for the City’s Modified Health Plan or any other City offered Health Plan that the parties have agreed to. The City Maximum contribution shall be $481.00 per month for Employee Only, $875.00 per month for Employee plus one dependent, and $1165.00 per month for family (2 or more dependents). Employees will be responsible for any costs associated with their health insurance that exceeds these maximum amounts.
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- Agrees to a reduction in sick leave accruals from 15 days per year to 12 for employees, and makes other changes to sick leave cash out provisions at retirement.
- Agrees to reductions in the vacation leave accruals, and makes other changes to vacation sell back and accrual maximums. Gives employees till June 30, 2012 to get their accrued vacation under the new maximum accrual caps.
- Agrees that the Fire Chief, Fire Unit and staff will collaborate on a written administrative policy that addresses the Union’s concern regarding vacation time off and the City’s requirement that the Fire Department operate within its budget.
- Eliminates Longevity vacation benefits. For those Longevity vacation hours already accrued, freezes the value of those hours based on the employee’s salary as of June 30, 2011. Also eliminates any ability to sell back any of these hours, except at separation.
- Eliminates the Tiller Add Pay and Unassigned Paramedic Add Pay effective August 1, 2011, except however the current employees receiving these Add Pays shall be grandfathered in and shall retain them until they are no longer assigned to these duties.
- Agrees to convert a current City contribution for deferred compensation to a City contribution to a Health Reimbursement Arrangement (HRA) account for the employees use.
- Has a July 1, 2011 to June 30, 2012 term.
- Establishes a separate salary range for 40-hour employees versus 56-hour employees to correct internal inconsistencies in payroll. Increases Administrative Add pay for employees working a 40-hour assignment to equalize effect of reduction in the salary range.
- Provides for a waiver and full release of all claims for both parties resulting from the City’s 2010 emergency declaration and actions temporarily suspending 2010 salary increases. Provides for no back pay of any disputed salaries from this 2010 action (Appendix C).

FINANCIAL SUMMARY

This agreement with the changes in compensation included will create approximately $9,021,000 in general fund and $827,000 in non-general fund programs savings in fiscal year 2011-12. In addition to these savings, changes in practices will allow approximately $9.5 million in other budgeted costs to be achieved thru staffing changes.

The adopted 2011-12 budget anticipated these savings as part of an overall reduction of $19 million in the Fire Department General Fund budget. The 2011-12 budget will be closely monitored and budget updates will be provided to Council on a regular basis.
The Waiver and Release of Claims agreement eliminates the possibility of additional unbudgeted back pay resulting from the 2010 emergency actions. If full back pay was required this would have cost the City as much as $4 million in potential payments, none of which was budgeted.

Respectfully submitted,

[Signature]

BOB DEIS
CITY MANAGER

BD:AG:sa

Attachment A – Memorandum of Understanding

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CITY OF STOCKTON

FIRE UNIT
MEMORANDUM OF UNDERSTANDING

The Stockton Firefighters' Local 456, International Association of Firefighters and representatives of the City of Stockton have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment for employees in the representation unit identified in Section 1 of this Memorandum of Understanding, have exchanged freely information, opinions, and proposals, and have endeavored to reach agreement on all matters relating to the employment conditions and employer employee relations of such employees.

This Memorandum of Understanding is entered into pursuant to the Meyers Milius Brown Act (Government Code sections 3500 3511)("MMBA") and has been jointly prepared by the parties.

This Memorandum of Understanding shall be presented to the Stockton City Council as the joint recommendations of the undersigned regarding wages, hours, and other terms and conditions of employment for the period commencing July 1, 2011 July 1, 2011, and ending on June 30, 2012 June 30, 2012. This Memorandum of Understanding reflects and incorporates an extension to the original term of July 1, 2003 through December 16, 2007. This agreement shall supersede all other existing agreements on the matters set forth herein.

(As amended, approved and adopted by Stockton City Council on December 11, 2007
INSERT DATE]
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SECTION 1. RECOGNITION

1.1. City Recognition

The City Manager, or any person or organization duly authorized by the City Manager, is the representative of the City of Stockton, hereafter referred to as the "City," in employer-employee relations as provided in Resolution No. 32,538, adopted by the City Council on August 4, 1975.

1.2. Union Recognition

The Stockton Firefighters' Local 456 (formerly Local 1229), International Association of Firefighters, hereafter referred to as the "Union," is the recognized employee organization for the Firefighters' Unit, certified pursuant to Resolution No. 32,548, adopted by the City Council on August 11, 1975.
SECTION 2. UNION SECURITY

2.1. Dues Deduction

a. General. The Union may have the regular dues of its members within the representation unit deducted from employees' paychecks under procedures prescribed by the City for such deductions. The Union has the exclusive privilege of dues deduction for its members.

Payroll deductions shall be for a specified amount, consistent for all employee-members of the Union, and shall not include fines and fees.

Authorization, cancellation, or modification of payroll deductions shall be made upon forms provided or approved by the City. The payroll deduction authorized shall remain in effect until:

(1) Canceled or modified by the employee through written notice to the City; or

(2) The first day of the calendar month following the employee's transfer to a position represented by another employee organization; or

(3) The employee terminates his or her employment with the City.

Amounts deducted and withheld by the City shall be transmitted to the officer designated in writing by the Union as the person authorized to receive such funds, at the address specified.

In addition to the deduction of dues, the City will deduct from the paychecks of Union members who request it, premiums for group insurance and investment plans sponsored by the Union. Such deductions shall be made in one lump sum and only upon receipt of a signed authorization from the employee on a form that is satisfactory to the City. Such authorizations may be made or changed no more frequently than twice yearly.

The employee's earnings must be sufficient after all other required deductions are made, to cover the amount of the deductions herein authorized. When an employee is in a non pay status for an entire pay period, no withholdings will be made from future earnings to cover that pay period nor will the employee deposit the amount with the City which would have been withheld if the employee had been in a pay status during that period. In the case of an employee who is in a non pay status during part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made. All other required deductions shall have priority over the employee organization deduction.
b. **Indemnity and Refund.** The Union shall indemnify, defend, and hold the City harmless against any claim made or any suit initiated against the City in connection with or as a result of any employee-authorized deduction and/or payment of Union dues or premiums for benefits. In addition, upon presentation of supporting evidence, the Union shall refund to the City any amounts paid to it in error.

### 2.2. Use of City Facilities

The Union shall be allowed by the City department in which it represents employees use of space on available bulletin boards for communications having to do with official Union business, such as times and places of meetings, provided such use does not interfere with the needs of the department.

Any representative of the Union shall give notice to the Fire Chief or the Fire Chief's designated representative when contacting Department employees on City facilities during the duty period of the employees, provided that solicitation for membership or other internal Union business shall be conducted during the non duty hours of all employees concerned. Prearrangement for routine contact may be made with the Fire Chief or the Fire Chief's designated representative and when made shall continue until revoked by the Fire Chief.

City buildings and other facilities may be made available for use by City employees and the Union or their representatives in accordance with such administrative procedures as may be established by the City Manager or department heads concerned.

Members of the Union are prohibited from using City equipment and/or time for their personal use.

### 2.3. Advance Notice

Except in cases of emergency, the Union shall be given reasonable advance written notice of the proposed change to any ordinance, resolution, rule, or regulation to be adopted by the City that relates to matters within the scope of representation and shall be given the opportunity to negotiate, if requested, with the management representatives designated by the City Manager.

In cases of emergency which constitute an imminent threat to the City's financial and/or other resources, the City may immediately implement any emergency measures the City deems necessary to prevent the public business and/or the City's operations from being financially or otherwise impaired and deal with the emergency at hand. At the earliest practicable date thereafter, the Union shall be provided with the notice described above and be given an opportunity, if requested, to negotiate changes to the content of said notice with the management representatives designated by the City Manager.
2.4. **Attendance At Meetings By Employees**

City employees who are official representatives or unit representatives of the Union shall be given reasonable time off with pay to attend meetings with City management representatives or be present at City hearings where matters within the scope of representation or grievances are being considered. The use of official time for this purpose shall be reasonable and shall not interfere, as determined by the City, with the performance of City services. Such employee representatives shall request an excused absence, prior to the scheduled meeting, whenever possible. Except by mutual agreement, the number of employees excused for such purposes shall not exceed three (3) per recognized bargaining unit.

Effective July 1, 2003, the City shall allocate to the Union five hundred (500) hours each calendar year for the purpose of a Union Time Bank. This time off shall be used by Union representatives for matters not already covered in section 2.4 (a) above. The maximum number of hours for the Union Time Bank that shall be allowed on the books at any one time is one thousand (1000) hours. The use of the Union Time Bank shall be reasonable, as determined jointly by the Union President and Fire Chief. Such employee representatives requesting Union time off shall request prior to the scheduled time off.
SECTION 3. COMPLIANCE WITH LAWS

3.1. Non-Discrimination/Equal Employment

The City and the Union agree that there shall be no discrimination of any kind on the basis of race, creed, color, religion, national origin, sex, sexual orientation, disability, age, political affiliation, legitimate Union activity, or on any other basis prohibited by applicable federal and State law against any employee or applicant for employment. In addition, the Union shall cooperate with the City, to the extent authorized by federal and State laws and regulations, in furthering the City's objective of promoting equal employment opportunities.

3.2. City Charter

The City of Stockton Charter, Article XVI, Section 1607 is attached as Appendix "A" as reference.