Summary Title: Adoption of MOA for Classified Employees - SEIU

Title: Adoption of Resolution Amending Section 1401 of the Merit System Rules and Regulations to Incorporate a Side Letter with SEIU Local 521 to Extend the Term of the Memorandum of Agreement for One Additional Year, Through June 30, 2012, and Add a Provision for a Flexible Spending Arrangement

From: City Manager

Lead Department: Human Resources

Recommendation
Staff recommends that Council adopt the attached resolution amending Section 1401 of the Merit System Rules and Regulations to incorporate a side letter to the Memorandum of Agreement (“MOA”) between the City of Palo Alto and SEIU Local 521 to extend the term for one additional year, through June 30, 2012, and add a provision for a Flexible Spending Arrangement (“FSA”) for SEIU employees.

Background
In August 2, 2010, the City and SEIU Local 521 entered into a MOA expiring on June 30, 2011 in which the parties agreed to structural changes to employee compensation that the City had unilaterally implemented in October 2009. These changes included increased employee contributions toward pension costs, employee contributions toward medical costs, elimination of two floating holidays and tuition benefits, and implementation of a second tier pension formula.

This unit currently has 582 budgeted full-time positions in FY 2012 and includes workers in all departments such as Building Inspectors, Librarians, Heavy Equipment Operators, Parks Maintenance workers, 9-1-1 Dispatchers, and Administrative Associates.

Discussion
In the spring of 2011 the City and SEIU discussed adding another year to the contract consistent with existing terms. In early May 2011 the SEIU membership ratified the one-year rollover which would extend the term of the existing MOA from June 30, 2011 to June 30, 2012. The result of this rollover is that it will freeze pay at the 2009-10 level (no adjustments to base wages based on cost of living or market adjustments) and maintain the structural changes to benefits.
Based on input from their members, SEIU also requested that the City establish a Flexible Spending Arrangement (FSA) in accordance with IRS Section 125 for employees in that unit. The City already offers participation in an FSA to the Management and Professional employees. The City agreed on the condition that such a program be implemented only if there was no cost to the City. SEIU is in agreement with that condition and staff is working with the City’s current benefits vendor to define the plan terms in accordance with Council direction and will provide terms of participation to SEIU within 120 days of adoption of this side letter.

**Resource Impact**
The structural changes agreed to in the MOA that will continue to provide savings in this fiscal year are as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>FY 2012</th>
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<tbody>
<tr>
<td>Employee Contribution of 5.75% to pension (or 5% for those in 2@60 formula)</td>
<td>$2,475,000</td>
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<tr>
<td>Elimination of Tuition and Training Benefit</td>
<td>$582,000</td>
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<tr>
<td>Elimination of two (2) floating holidays</td>
<td>$326,000</td>
</tr>
<tr>
<td><strong>Total Savings</strong></td>
<td><strong>$3,383,000</strong></td>
</tr>
<tr>
<td>Medical Cost Share effective 4/1/2011</td>
<td>$520,000</td>
</tr>
<tr>
<td>Second Tier Pension Formula of 2%@60 effective 7/17/10</td>
<td>$231,000*</td>
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*Savings from the second tier pension formula of 2%@60, which took effect July 17, 2010, will not be realized until FY 2013 as a result of a two year lag in the PERS allocation of costs. Based on a number of assumptions, staff estimates an eventual credit to Palo Alto of $231,000 for FY 2012.

**Policy Implications**
This recommendation is consistent with City Council direction to achieve structural changes in employee compensation for short-term and long-term savings.

Approval of this side letter also presents the first opportunity for staff to implement a process change that was identified as part of the City Manager’s analysis of measures to promote staffing flexibility and efficiencies. Historically, when the City has approved a MOA it has adopted a resolution incorporating the MOA into the Merit System Rules and
Regulations and a separate resolution with a “Compensation Plan” that restates all of the terms related to compensation and benefits from the MOA. Because the separate compensation plan is effectively redundant (terms related to compensation are copied and pasted into a new document to serve as the compensation plan) and creates room for clerical errors because a new document is created from the terms of a MOA, staff reviewed this process to determine possible efficiencies.

Two authorities have provided the basis for “Compensation Plans:” (1) Article III of the Charter, in which sections 12, 18 and 21 require the Council to approve employee salary and wage scales, establish a system for personnel management, and approve salaries and compensation for officers, deputies and assistants; and (2) PAMC section 2.28.080(f), which requires the budget to reflect changes to employee compensation. However, there is no explicit requirement in the Charter, the Code, or the Merit System Rules that requires approval of a separate “Compensation Plan” where a MOA already states all of the terms of compensation. Further, as a practical matter, because the MOA contains a fully comprehensive description of all of the compensation, benefits, and rules that apply to a represented group, most users look to the MOA rather than the compensation plan to determine such matters.

Therefore, beginning with this agreement, staff plans to simplify and streamline the approval process into a single document by moving away from adopting separate compensation plans where a MOA establishes terms and conditions of employment. Thus, there will be a single document for each group; MOAs will serve as the agreement and compensation plan for represented groups and compensation plans will still be approved for unrepresented groups.

**Environmental Review**
Approval of a side letter to this MOA is not a project subject to review under the California Environmental Quality Act (CEQA).

**Attachments:**
- Resolution Implementing Side Letter Dated 6-30-11  (PDF)
- Side Letter Date 6-30-11  (PDF)

Prepared By: Sandra Blanch, Interim Director, Human Resources
Department

Department Head: Sandra Blanch, Interim Director, Human Resources

City Manager Approval: James Keene, City Manager
Resolution No. ________
Resolution of the Council of the City of Palo Alto
Amending Section 1401 of the Merit System Rules and Regulations Regarding the 2010-2011 Memorandum of Agreement between the City of Palo Alto and Service Employees International Union (SEIU) Local 521 to Extend the Term of the 2010-2011 Memorandum of Agreement for One Additional Year and Add a Provision for a Flexible Spending Arrangement

The Council of the City of Palo Alto does RESOLVE as follows:

SECTION 1. Section 1401 of the Merit System Rules and Regulations is hereby amended to read as follows:

"1401. Memorandum of agreement incorporated by reference. That certain memorandum of agreement by and between the City of Palo Alto and Local 521, SEIU, consisting of a Preamble and Articles I through XXVII and Appendices A through I, attached thereto and incorporated therein, for a term commencing July 1, 2010, and expiring June 30, 2011, as amended to extend the term for one year through June 30, 2012 and add a provision for a Flexible Spending Arrangement, is hereby incorporated into these Merit System Rules and Regulations by reference as though fully set forth herein. Said memorandum, as amended, shall apply to all employees in classifications represented by said Local 521, SEIU, except where specifically provided otherwise herein.

In the case of conflict with this chapter and any other provisions of the Merit System Rules and Regulations, this chapter will prevail over such other provisions as to employees represented by said Local 521."

SECTION 2. The Memorandum of Agreement ("MOA") incorporated into the Merit System Rules and Regulations by Section 1 of this Resolution amends the MOA incorporated into the Merit Rules by Resolution No. 9087 by incorporating the side letter set forth in Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 3. The changes provided for in this resolution shall not affect any right established or accrued, or any offense or act committed, or any penalty of forfeiture incurred, or any prosecution, suit, or proceeding pending or any judgment rendered prior to the effective date of this resolution.
SECTION 4. The Council finds that this is not a project under the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

________________________  __________________________
City Clerk               Mayor

APPROVED AS TO FORM:

________________________
City Manager

________________________
Senior Deputy City Attorney

________________________
Director of Administrative Services

________________________
Director of Human Resources
** NOT YET APPROVED **

EXHIBIT "A"

Side Letter to the 2010-2011 Memorandum of Agreement
WHEREAS, on August 2, 2010 the City Council approved a Memorandum of Agreement ("MOA") between the City of Palo Alto ("City") and the Service Employees International Union Local 521 (SEIU) (collectively referred to as the "Parties") for the period of July 1, 2010 through June 30, 2011; and

WHEREAS, in Spring 2011 the City and SEIU discussed adding another year to the contract;

WHEREAS, SEIU members voted to ratify a one-year rollover with the existing terms and provisions below.

NOW, THEREFORE, SEIU and the City agree as follows:

Section 1. The term of the existing MOA between the City and SEIU shall be extended for a period of one year and Article XXVI of the MOA ("Term") is hereby modified to read as follows:

The Term of this Memorandum of Agreement shall commence on July 1, 2010, and shall expire on June 30, 2012. Either party may serve written notice upon the other party during the period between ninety (90) and sixty (60) days prior to June 30, 2012, of its desire to amend this Memorandum of Agreement. If, at the time this Memorandum of Agreement would otherwise terminate, the parties are negotiating a new Memorandum of Agreement, upon mutual agreement the terms and conditions of this Memorandum shall continue in effect.

Section 2. SEIU employee participation in Medical Flexible Spending Account. Within 120 days of Council adoption of this Side Letter Agreement, the City will develop and present a program to SEIU to provide employees in this unit to voluntarily fund their own Medical Flexible Spending Account (the “FSA”). SEIU agrees that implementation, administration, and all other costs associated with implementing and providing the FSA on an ongoing basis shall be paid by employees with no cost to the City. SEIU further understands and agrees that FSA plans are subject to federal law and Internal Revenue Service ("IRS") rules and regulations and that all matters related to the FSA shall be excluded from the grievance requirements of this MOA.
SEIU Local 521

By: [Signature]

By: [Signature]

Date: 6/30/2011

City of Palo Alto

SUBJECT TO CITY COUNCIL APPROVAL

By: [Signature]

Date: 6/30/11

Approved as to form:

[Signature]
Sr. Deputy City Attorney