

7/27/16
Dennis
for City

May Blue
7/27/16

City of Cupertino Proposal to OE3

TENTATIVE AGREEMENT

Distributed on July 27, 2016

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SECTION 14: PAID ABSENCES

14.1 Fixed Holidays

The City provides the following fixed paid holidays for eligible employees covered by this agreement:

1. New Year's Day
2. Martin Luther King Day
3. Presidents' Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. Day Following Thanksgiving
10. Christmas Eve
11. Christmas Day
12. New Year's Eve

When a holiday falls on a Sunday, the following Monday shall be observed as the non-work day. When a holiday falls on a Saturday, the previous Friday shall be observed as the non-work day.

Nothing contained herein shall preclude the right of the Department Head, with the approval of the appointing authority, to reschedule work assignments or hours of work to meet emergency situations and other administrative necessities caused by the observance of a holiday or non-work day or period; provided, however, that all such affected employees are duly compensated for said rescheduled work assignments.

14.1.1 Holiday Pay

In order for an employee to receive his/her regular pay for a holiday or designated non-work day, work must be performed on the regular scheduled day before and the regular scheduled day after the holiday or designated non-work day. Employees on vacation, injury leave, approved short term leave of absence, with or without pay, or who submit satisfactory evidence of personal illness shall be considered as working their regular schedule for pay purposes.

14.2 Floating Holiday Leave

In addition to the foregoing paid holidays, eligible employees shall earn 20 hours of holiday leave per year that may be used in increments of not less than one (1) hour. Floating holiday leave shall be earned at a rate of .77 hours per paid period. Floating holiday leave may be accumulated up to 40 hours. Holiday leave shall be taken at the discretion of the employee subject to prior supervisory approval.

14.3 Vacations

All employees, other than those holding temporary status, whose work assignment is of a recurring nature of not less than a normal work week shall accrue vacation credits during the calendar year. Accrued vacation may be taken with prior supervisory approval.

Upon termination of employment, unused vacation may not be used to extend final employment date beyond the annual rate of vacation being earned.

Represented employees may convert, on a twice per calendar year basis, unused vacation time for payment subject to the following conditions:

1. The employee must have accrued vacation of at least 120 hours.
2. Any payments made for unused vacation will be subject to all appropriate taxes.
3. Minimum exchange will be 8 hours; maximum exchange will be 80 hours.
4. All changes are irrevocable.

✓ 14.3.1 Vacation Accrual Rate

Benefited full-time employees accrue vacation in accordance with the following schedule. Benefited employees who work less than a full-time work schedule accrue vacation in accordance with the following schedule on a pro-rated basis.

<u>Service Time</u>	<u>Hrs of Accrual Per Pay Period</u>	<u>Annual Accruals</u>	<u>Maximum Accrual</u>
0 - 3 Years	3.08	80 Hours	160 Hours
4 - 9 Years	4.62	120 Hours	240 Hours
10 - 14 Years	5.24	136 160 Hours	272 Hours
15 - 19 Years	6.16	160 176 Hours	320 Hours
20 + Years	6.77	176 192 Hours	352 Hours

An employee may accrue no more vacation credit than what is listed above ~~twice the annual rate being earned.~~

✓ 14.3.2 Full vacation leave shall be taken at one time by any one employee whenever possible. The time during the calendar year at which an employee shall take his/her vacation shall be determined with due regard for the wishes of the employee and particular regard for the needs of the service. Vacation leave of less than the full amount earned may be taken with the approval of the Supervisor.

Vacation requests must be approved by the employee supervisor in advance in writing. The time during the calendar year at which an employee shall take his/her vacation shall be determined with due regard for the wishes of the employee and particular regard for the needs of the service.

14.3.3 On termination of employment or on receiving a leave of absence of more than three (3) months, an employee who has completed 12 months of continuous service with the City shall be entitled to receive compensation for all earned but unused vacation accrued at the time of termination or at the start of said leave of absence.

14.3.4 The accrual of vacation credits for those employees whose normal work week is of not less than one-half (1/2) time shall be prorated according to the time of the recurring work assignment as to the normal work week.

14.4 Sick Leave – PER SIGNED TA ON 7.27.16

14.5 Sick Leave Verification

A Department Head or supervisor may require employees to furnish reasonable acceptable evidence, including a doctor's certificate, to substantiate a request for sick leave if the sick leave exceeds three (3) consecutive workdays. A supervisor may also require a doctor's certificate or other form of verification where leave abuse is suspected.

If it appears that an employee is abusing sick leave or is using sick leave excessively, the employee will be counseled that the continued use of sick leave may result in a requirement to furnish a medical certificate for each such subsequent absence for sick leave regardless of duration. Continued abuse of leave or excessive use of sick leave may constitute grounds for discipline up to and including dismissal.

✓ 14.6 Personal Leave

The City shall allow accumulated sick leave to be used for conducting personal business which cannot be conducted outside regular working hours or for family medical emergencies.

All personal leave requests, except in cases off bon-a-fide and unforeseen emergencies shall be submitted by the employee to the employee's supervisor in writing at least five working days prior to the first day of the requested leave. Personal leave requests must be approved by the employee supervisor in advance in writing. All personal leave must be taken in increments of not less than one (1) hours or one full regularly assigned shift.

14.7 Bereavement Leave- PER TA ALREADY SIGNED BY THE PARTIES

14.8 Military Leave

Military leave shall be granted in accordance with the provisions of state law. All employees entitled to military leave shall give their supervisor an opportunity, within the limits of military requirements, to determine when such leave shall be taken.

14.9 Pregnancy Disability Leave:

An employee disabled by pregnancy is eligible for up to four months of unpaid pregnancy disability leave (PDL) as defined by law. This leave is to be used when the employee is disabled due to pregnancy or child birth or related medical condition, including but not limited to, morning sickness, pregnancy complications and prenatal appointments. Accrued sick leave may be used during the leave, and the employee has the option to use accrued vacation, floating holidays and/or compensatory time in order to receive pay during the leave. If the employee is also eligible for leave under the Federal Family Medical Leave Act (FMLA), the leave the employee takes for pregnancy disability will be run concurrently with the employee's entitlement to up to 12 weeks of FMLA leave. Employees otherwise eligible for health insurance benefits (medical, dental and vision) will continue to receive such benefits during the period of the PDL leave up to four months as defined by law per 12 month period.

After PDL and FMLA leave, if applicable, expires and if the employee is on unpaid status or the employee has less than 20 hours per week on their timesheet, the employee may elect to continue and enroll in COBRA benefits at employee's expense.

The employee will be accruing sick leave, floating holiday and vacation leave during the period of time, if any, and the employee is in paid status. Any time the employee's hours adjust to less than 40 hours per week, however of paid status, the employee's accrual rates (sick leave, vacation leave, floating holiday) will be prorated and be adjusted accordingly. Sick leave, floating holiday and vacation leave do not continue to accrue during any period the employee is on unpaid status.

Under the California Family rights Act (CFRA) eligible employees are entitled up to 12 additional weeks of leave to bond with the baby. To be eligible for the CFRA bonding leave, employee must be employed by the City for at least one year and have worked at least 1250 hours during the year preceding the leave. The leave is unpaid, but the employee may use floating holiday, compensatory time and vacation leave in order to receive pay during the leave. The employee may use sick leave for a baby's illness or doctor's appointment when applicable to receive pay during the leave. Bonding leave must be used within one year of the birth of the baby.

An employee who plans to take PDL must give reasonable notice (not less than 4 weeks if anticipated or as soon as possible if the leave is unforeseen) before the date employee expects to take the leave. As with all other employees returning from medical leave, employees returning from PDL leave of at least 3 days are required to provide a doctor's note clearing them to return to work. If an employee requires reasonable accommodations as a result of pregnancy, employee should consult with Human Resources. Employees disabled by pregnancy and employees on leave to bond with a baby may be eligible for benefits under State Disability Insurance. Additional information is available at www.edd.ca.gov/Disability and from Human Resources.

14.10 Adoption Leave;

Upon request, a leave of absence without pay for up to four (4) work weeks will be granted to adoptive parents. Such leave must be used within one year of the adoption. The city will pay health and welfare benefits for the duration of the leave as the same rate as prior to the leave consistent with the contributions as provided for under the existing MOU.

If the employee is eligible for FMLA/CFRA (employed by the city for at least one year and worked at least 1250 hours during the year preceding the leave), employee may be eligible for up to 12 work weeks total (the above four (4) work weeks plus an additional eight (8) work weeks) for bonding with the adopted child during the first year after adoption. The employee may be eligible for health benefits during the twelve (12) work week period at the same rate as prior to the leave as provided for under the existing MOU.

During adoption leave, accrued vacation may be used by the employee at his or her option in order to receive for the leave. Sick leave may only be used during the leave in the event of illness or medical appointments of the adoptive child during the leave.

14.11 Absence Notification

An employee is expected not to absent herself/himself from work for any reason, other than personal illness, without making prior arrangements with his/her supervisor. Unless prior arrangements are made, an employee who, for any reason, fails to report for work must make a sincere effort to immediately notify his/her supervisor or office personnel of his/her reason for being absent.

If the absence, whether for personal illness or otherwise, is to continue beyond the first day, the employee must notify by personal phone call the supervisor or office personnel on a daily basis unless otherwise arranged with his/her supervisor. In proper cases, exceptions will be made.

Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and will be grounds for disciplinary action up to and including dismissal by the Department Head. In the absence of such disciplinary action, any employee who absents herself/himself for three (3) days or more without authorized leave shall be deemed to have resigned. Such absence may be covered, however, by the Department Head by a following grant of leave with or without pay when extenuating circumstances are found to have existed.

✓ 14.12 Catastrophic Leave

The City's catastrophic leave committee will establish a definition of catastrophic or life-threatening illness. This committee will evaluate each individual case when it is submitted to qualify to receive financial assistance. The only limitation is that the employee must be the one facing the illness. The committee has the right to ask the applicant to submit further documentation from the treating physician to determine the applicant's eligibility for catastrophic leave hours.

Operating Engineers, Local 3
May 2, 2016

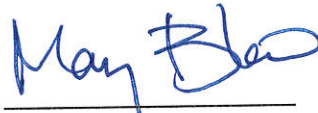
14.7 Bereavement Leave

Employees shall be granted bereavement leave of up to 24 hours upon the death of a close relative. Close relative is defined as mother, father, sister, brother, wife, husband, domestic partner, child, step-child, grandparent, grandchildren, mother-in-law, father-in-law, step-father, step-mother, step-brother, and step-sister. Additional bereavement of up to 16 hours will be granted for travel out of state or over 200 miles.

Date: 5/2/16


For the City

Date:

5/2/16

For the Union

Vacation hours and compensatory time off (CTO) hours are the only leave of absence credits which may be donated in any pay period. A leave of absence transfer drive will be held whenever necessary to provide for a minimum catastrophic leave bank balance of 40 hours. Upon retirement or resignation, an employee can contribute up to 10 hours of sick leave provided that the employee has a minimum of 320 hours of sick leave, which has previously become vested.

All benefited employees ~~who have passed initial probation with the City~~ who have passed initial probation with the City will be eligible to receive assistance. An employee does not have to be a contributor to be eligible. An employee or their representative must complete a prescribed application form together with supporting medical documentation to the Personnel Officer when applying for funds.

A recipient must have used all of their available leave hours before he/she is eligible. The maximum amount is two months (LTD becomes available at this time).

14.13 Family Medical Leave Act/California Family Rights Act

The City of Cupertino shall comply with the leave provisions of the Family Medical Leave Act and the California Family Rights Act for employees who qualify for leave under these laws.

Operating Engineers, Local No. 3

Counter-Proposal

July 13, 2016

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Revised on 7/27

14.4 Sick Leave

All full time employees hired before October 17, 2012, other than those holding temporary status, shall earn eight (8) hours per month sick leave time without limit on accumulation. All employees hired on or after October 17, 2012 shall earn eight (8) hours per month sick leave time, but may accrue no more than 240 hours of sick leave time.

Those regular employees working less than full time (at least 20 hours per week) shall earn a prorated amount of sick leave based on their regular hours worked in relation to 40 hours. Employees absent without pay for any reason for more than forty (40) hours during a calendar month shall not earn sick leave benefits for that month. Sick leave may be utilized due to the employee's personal illness, pregnancy disability or sickness or injury to the immediate family as defined below.

With proper notice and supervisory approval, except in a case of bon-a-fide injury or illness and/or unforeseen emergency, sick leave shall be taken in periods of no less than one-half (1/2) hour increments.

The employee's immediate family consists of any of the following: Children, step-children, spouse/domestic partner, parents, mother-in-law, father-in-law, siblings, grandchildren and grandparents who because of illness cannot care for themselves, and for medical emergencies. Employees shall, whenever possible, make appointments for medical, dental and similar purposes during non-work hours. If this is not possible, sick leave may be used for these purposes.

An employee hired on or after October 17, 2012 may borrow up to 80 (40) hours of sick leave, subject to Department Head approval for sick time related to an industrial disability. The employee will be required to repay this advance either in sick or vacation leave hours or dollars, at the employee's option, upon returning to work as defined in the sick leave advance policy. If an employee separates employment prior to repayment of the full balance due, the amount due will be deducted from their final pay.

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