



## STAFF REPORT

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**DATE:** February 10, 2020

**TO:** Sacramento Regional Transit Board of Directors

**FROM:** Stephen Booth, AVP, Human Resources & Labor Relations

**SUBJ:** APPROVING THE TERMS AND IMPLEMENTING THE LAST, BEST AND FINAL OFFER IN LIEU OF A COLLECTIVE BARGAINING AGREEMENT FOR OPERATING ENGINEERS, LOCAL 3 (ADMINISTRATIVE EMPLOYEES ASSOCIATION) FOR THE TERM OF FEBRUARY 16, 2020 THROUGH SEPTEMBER 30, 2022

### RECOMMENDATION

Adopt the Attached Resolution.

### RESULT OF RECOMMENDED ACTION

If approved and implemented, the Last Best and Final Offer (LBFO), as depicted in Attachment 1, would create a framework for administering wages, hours and other terms and conditions of employment for the bargaining unit employees including implementation of items upon which the parties have reached tentative agreement, as depicted in Attachment 2, and in significant changes in terms and working conditions for employees in the Administrative Employees Association (AEA) bargaining unit for which agreement was not reached during bargaining as follows:

1. Changes in various pay provisions as follows:

A one-time payment of \$150 per month for each month, not to exceed four months, that an anniversary step was not provided for those employees with an anniversary date between July 1, 2019 and October 31, 2019.

A one-time payment of \$500 for any employee who, as of October 31, 2019, was at the top of the salary range and will not receive a salary increase effective February 16, 2020.

Reduce salary ranges for Assistant Planner and Planner to equivalent of Range 205 and 207, respectively, effective November 10, 2019.

Effective February 16, 2020, a 2.5% general salary increase not to exceed the top of range for all employees with satisfactory performance.

Effective October 1, 2020, a 2% adjustment (increase) of the pay ranges for all bargaining unit classifications

Effective October 1, 2020, a 3% general salary increase not to exceed the top of range for all employees with satisfactory performance.

Effective October 1, 2021, a 2.5% general salary increase not to exceed the top of range for all employees with satisfactory performance.

Modification of overtime eligibility to pay only for hours physically worked in excess of 40 hours during the work week.

2. Changes in medical benefits as follows:

Employer contribution of only the minimum monthly contribution for retiree health benefits (currently \$139) required by CalPERS for employees hired on or after November 1, 2019.

3. Changes in employee leave provisions as follows:

Sick leave accumulation cap at 576 hours with all accumulated hours above 480 at the calendar year end being forfeited and an equivalent value deposited into the employee's 401 (a) account.

4. Changes in non-economic working conditions including:

Arbitration of grievances, limited to allegations of specified contract provisions. All other grievances end at General Manager/CEO (or designee) level.

Application of all provisions of the Personnel Policy Manual (PPM) not specifically modified by negotiated tentative agreement.

FISCAL IMPACT

Budgeted: Yes  
 Budget Source: Operating Next FY: \$ Costing Values SacRT LBFO

Estimated Cost Increases:

Lump sum payment \$150 for Anniversary Date: July 2019 to October 2019 \$8,700  
 Lump sum payment \$500 as of October 31, 2019 \$2,000

Pay Increase Assumptions	0% Range	2% Range	0% Range	
Step	2.5%	3.0%	2.5%	
<u>Current</u>	<u>7.5 months</u>	<u>12 months</u>	<u>12 months</u>	
	2/16/2020	10/1/2021	10/1/2022	3 Years
	10/22/2019	9/30/2020	9/30/2021	9/30/2022
Annualized Salary	2,867,568	2,926,836	3,008,344	3,056,549
Salary Increased	37,042	81,509	48,205	166,756
FICA 7.65%	2,834	6,235	3,688	12,757
Pension 35.48%	13,143	28,919	17,103	59,165
<b>Total Pay Increase</b>	<b>53,019</b>	<b>116,663</b>	<b>68,995</b>	<b>238,677</b>
	7.5 months			

	<b>Total Cost Increase</b>	<b>249,377</b>
Estimated Cost Savings:	Annual	3 Year
FLSA Overtime	394	(1,379)
OPEB	11,104	(38,864)
<b>Grand Total</b>		<b>209,135</b>

## DISCUSSION

On March 29, 2019, SacRT gave notice of termination of its Personnel Rules and Procedure (PRP) which also served as the agreement with the Administrative Employees Association (AEA). Termination was effective June 30, 2019 in accordance with the termination provision that permitted either party to terminate upon 90 days' notice to the other party. Effective July 1, 2019 and pending contract negotiations with Operating Engineers, Local 3 (OE3), SacRT discontinued the 5% anniversary pay increases previously provided in the PRP.

On May 23, 2019, AEA employees elected OE3 as their bargaining representative. OE3 contacted SacRT and requested to begin negotiations for an initial Collective Bargaining Agreement (CBA).

On June 11, 2019, SacRT provided notice to OE3 regarding the adoption of the Personnel Policy Manual (PPM) with an effective date of July 1, 2019. Subsequently, OE3 filed a complaint regarding SacRT's decision to discontinue anniversary pay increases for employees previously covered by the PRP. SacRT's position was that it is not appropriate to make changes other than maintaining the pay rates in effect at that time for the affected employees since SacRT and OE3 were engaged in collective bargaining for a CBA.

On October 4, 2019, OE3 filed a Verified Petition for Writ of Mandate and an Alternative Writ and Complaint for Declaratory and Injunctive Relief in the Superior Court of the State of California alleging, in part, that SacRT was required to keep in effect certain terms and conditions of the prior CBS as part of its obligation to maintain the *status quo ante* while bargaining was ongoing, specifically, the 5% anniversary pay increases. SacRT's position is that the increases were a function of the terminated PRP and accordingly, the employer was not required to continue the wage increases.

The respective bargaining team members participated in 14 bargaining sessions and reached tentative agreements on numerous subjects. However, full agreement on all issues including several primary economic items could not be reached. OE3 repeatedly stated that if the employer did not agree to the Union's demand to continue the 5% anniversary increases, the Union would rely upon the court to decide. As a result, of this position of OE3, the SacRT negotiation team determined that further attempts to negotiate would be futile and declared impasse on November 4, 2019. The impasse declaration notwithstanding, in an effort to seek a path to agreement, SacRT suggested requesting that the State Mediation and Conciliation Services assign a Mediator to assist through advisory mediation of the dispute. SacRT and OE3 met with the Mediator present on December 12, 2019 and January 6, 2020. Despite the efforts of SacRT representatives, with the assistance of the Mediator, to seek resolution to the issues in

dispute, the Union has remained steadfast in its bargaining position on several critical issues including the demand for 5% annual pay increases. These uncompromising positions are not in line with the pattern the Board has adopted in negotiations with other unions over the past two to three years.

On January 8, 2020, the SacRT Negotiator asked the OE3 Business Representative to have the bargaining unit members conduct a ratification vote whether to accept the LBFO. The Union advised that the members rejected the LBFO.

A third mediation session was scheduled and conducted on February 4, 2020. Despite the discussion in Mediation of terms that were more favorable to employees than those in the LBFO, the union continued to be unreceptive **and reiterated their demand for 5% annual pay increases**. Mediation is a confidential process, similar to a settlement conference in litigation. In the absence of a resultant agreement, those terms and discussions do not become part of the formal negotiations record and cannot otherwise be cited or relied upon by either party.

In order to provide reasonable pay increases to affected employees and to provide a framework for administering wages, hours and working conditions for this bargaining unit, staff recommends unilateral implementation of the terms of the LBFO.

October 17, 2019

SacRT makes the following package proposal which constitutes the employer's **LAST, BEST and FINAL OFFER** for a comprehensive collective bargaining agreement for the Administrative Employees Association Bargaining Unit.

1. All previous Tentative Agreements
2. Salaries/Wages:
  - 2.5% increase not to exceed the top of range for all employees with satisfactory performance effective the first full pay period following ratification
  - 3% increase not to exceed the top of range for all employees with satisfactory performance effective 10/01/2020
  - 2.5% increase not to exceed the top of range for all employees with satisfactory performance effective 10/01/2021
  - In lieu of an anniversary increase, a one-time payment of \$150 per month for each month, not to exceed four months, that an anniversary step was not provided for those employees with an anniversary date between July 1, 2019 and October 31, 2019
  - A one-time payment of \$500 upon ratification for any employee who, as of October 31, 2019, is at the top of the salary range and will not receive a salary increase in year 1 of the contract
  - 2% increase in all salary ranges effective 10/01/2020
  - Reduce salary ranges for Assistant Planner and Planner to equivalent of Range 205 and 207, respectively, effective 11/01/2019
3. Overtime:
  - Management Proposal of 08/08/2019 with table changes made 08/28/2019
4. Layoff & Recall:
  - Management Proposal of 09/26/2019
5. Retiree Health:
  - Restore schedule provided previously in the Personnel Rules and Procedures for employees hired prior to 11 /01 /2019
  - CalPERS minimum contribution for employees hired on or after 11/01/2019
6. Grievance & Arbitration:
  - Arbitration for alleged violations of the CBA • All other grievances to Step 3 only
7. Personnel Policy Manual:
  - Waiver of further effects bargaining
8. Classification changes - Planner Series & Senior Community & Government Affairs Officer:
  - Closure on effects bargaining
  - Acceptance of proposed salary ranges (including

"red circle" rate for incumbent Assistant Planner)

9. Outstanding Union Proposals:
  - Withdrawal of Union Article 10 Recruitment & Selection
  - Withdrawal of Union Article 43 Expedited Arbitration
  
10. Litigation:
  - Withdrawal with prejudice of Sacramento Superior Court Case # 34-2019-80003241
  
11. Term:
  - Date of total Tentative Agreement through September 30, 2022
  - Subject to ratification by OE3 members and SacRT Board of Directors

Agreement – TA 9/17/2019

Article 1 Preamble – TA 7/23/2019

Article 2 Recognition – TA 09/05/2019

Article 4 Management's Rights – 7/23/2019 - TA 7/30/2019

Article 5 Union Security – TA 7/30/2019

Article 6 – No Strike/No Lockout – TA 08/28/2019

Article 7 Work Rules & Standards – TA 08/13/2019

Article 8 Labor-Management Meetings – TA 7/23/2019

Article 9 New & Existing Job Classifications – TA 09-11-2019

Article 11 Seniority – TA 09/05/2019

Article 12 Personnel Records - TA 7/30/2019

Article 13 Promotion & Transfer Outside of BU – TA 08/08/2019

Article 14 Accruals for Transferring Employees – TA 09/05/2019

Article 15 Workday/Workweek – TA 09/26/2019

Article 16 Holidays – TA 08/28/2019

Article 19 – Paychecks & Deductions – TA 09/11/2019

Article 21 Sick Leave – Cap, sellback, 88 hours - TA 08/28/2019

Article 23 Vacation – Update, Sellback, 88 hours - TA 08/28/2019

Article 24 Personal Leave of Absence – TA 08/20/2019

Article 28 Industrial Illness Injury - TA 08/28/2019

Article 29 Light Duty – TA 08/28/2019

Article 31 – Insurance Benefits – TA 09/05/2019

Article 33 – Retirement Plan – TA 9/17/2019

Article 34 Flexible Spending Accounts – TA 7/30/2019

Article 36 Employee Assistance Program – TA 7/23/2019

Article 37 Fitness for Duty Medical Examination – TA 08/28/2019

Article 39 Safety & Sanitation – TA 7/23/2019

Article 40 Union Business – TA 9/17/2019

Article 41 Disciplinary Action - TA 09/26/2019

Article 44 Printing New Contract Books – TA 08/08/2019

Article 45 Waiver of Bargaining – TA 09/26/2019

Article 46 Assignability – TA 09/11/2019

Article 47 Termination and Legality (Savings) – TA 08/28/2019



RESOLUTION NO. 20-02-0008

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

February 10, 2020

**APPROVING THE TERMS AND IMPLEMENTING THE LAST, BEST AND FINAL OFFER IN LIEU OF A COLLECTIVE BARGAINING AGREEMENT FOR OPERATING ENGINEERS, LOCAL 3 (ADMINISTRATIVE EMPLOYEES ASSOCIATION) FOR THE TERM OF FEBRUARY 16, 2020 THROUGH SEPTEMBER 30, 2022**

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the terms of the Last Best and Final Offer establishing compensation for employees in the Administrative Employees Association bargaining unit represented by Operating Engineers Local Union No. 3, for the period of February 16, 2020 through September 30, 2022, are hereby approved.

THAT, the General Manager/CEO is hereby authorized to implement said terms and to provide compensation, benefits, retirement provisions and other terms and conditions of employment.

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STEVE HANSEN, Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary