



El Cerrito

## **BOARD OF DIRECTORS SPECIAL MEETING NOTICE AND AGENDA**

Hercules

**DATE & TIME:** Friday, Dec. 7, 2012, 10 a.m. or immediately after the regular meeting, whichever is earlier

Pinole

**LOCATION:** City of San Pablo, Council Chambers  
13831 San Pablo Avenue (at Church Lane)  
San Pablo, California (Accessible by AC Transit #72 and #72R)

Richmond

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**1. Call to Order and Self-Introductions – Chair Janet Abelson**

San Pablo

**2. Memorandum of Understanding (MOU) for PERS-Related Retirement and Medical Benefits.** The Agency has initiated the process of contracting with the California Public Employees Retirement System (PERS) separately from San Pablo. In order to maintain the same level of benefit with respect to Employer-Paid Member Contributions under the new contract, PERS requires an MOU, dated prior to January 1, 2013, confirming that such agreement exists between the employer and employees. Staff has prepared such MOU, which also memorializes other PERS-related benefits to which the Board has previously agreed. (*Christina Atienza – Attachments – Recommended Action: APPROVE MOU*)

Contra Costa County

**3. Adjourn.** Next regular meeting is Friday, January 25, 2013 at 8:00 a.m.

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AC Transit

- In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in the WCCTAC Board meeting, or if you need a copy of the agenda and/or agenda packet materials in an alternative format, please contact Valerie Jenkins at 510.215.3217 prior to the meeting.

BART

- If you have special transportation requirements and would like to attend the meeting, please call the phone number above at least 48 hours in advance to make arrangements.

- Handouts provided at the meeting are available upon request and may also be viewed at WCCTAC's offices.

WestCAT

- Please refrain from wearing scented products to the meeting, as there may be attendees susceptible to environmental illnesses. Please also put cellular phones on silent mode during the meeting.

- A meeting sign-in sheet will be circulated at the meeting. Sign-in is optional.



**TO:** WCCTAC Board

**DATE:** Dec. 5, 2012

**FR:** Christina Atienza, Executive Director *cma*

**RE: Memorandum of Understanding (MOU) for PERS-Related Retirement and Medical Benefits**

The Agency has initiated the process of contracting with the California Public Employees Retirement System (PERS) separately from San Pablo. In order to maintain the same level of benefit with respect to Employer-Paid Member Contributions under the new contract, PERS requires an MOU, dated prior to January 1, 2013, confirming that such agreement exists between the employer and employees. Staff has prepared such MOU, which also memorializes other PERS-related benefits to which the Board has previously agreed.

**Recommended Action: APPROVE MOU**

Background

**PERS Update.** PERS has completed their preliminary evaluation of WCCTAC's eligibility to enter into a contract with them. While we have not received any formal, written correspondence confirming their finding of eligibility, PERS staff have verbally assured us of this, and we are proceeding with the next steps in the process to enter into such contract. The following documents have been submitted to, and evaluated by, PERS:

- Documents of Formation
  - 1990 original JPA, incompletely executed
  - 1994 JPA amendment, incompletely executed
  - Declaration by WCCTAC Secretary attesting to 1990 and 1994 agreements – see Attachment A
  - 1995 JPA amendment
  - 1997 JPA amendment
  - 2003 JPA amendment
  - 1996 Service Agreement between WCCTAC and San Pablo
  - Declaration by WCCTAC Treasurer/San Pablo Finance Director attesting to inclusion of WCCTAC in San Pablo's PERS membership since Agency inception in 1990 – see Attachment B
- List of Covered Employees, including Social Security Numbers for verification
- Completed PERS New Agency Questionnaire
- 2010 Personnel Manual listing retirement benefits
- Employee appointment letters and Executive Director's employment contract agreeing to employment conditions as listed in Personnel Manual

It is our understanding from PERS staff that once the Agency is under contract, its existing retirement assets would simply be ported over to the new plan, without impacting the benefits that have already accrued to past and present employees.

**MOU.** The retirement and health benefits provided to employees have been the same since FY 2010-11. Up to FY 2010-11, these benefits mirrored those of the City of San Pablo. In FY 2011-12, San Pablo reduced their retirement and health benefits, passing on more of the City's costs onto its employees. Given San Pablo's role as benefits administrator for WCCTAC, the Agency at first adopted the same changes for ease of administration. Later on the benefits were rolled back to the FY 2010-11 levels because the changes had not been a result of any labor negotiations between the Agency and its employees – see Attachment C, which the Board approved in Jan. 2012. It is these same benefits that are being carried forward under the new PERS contract.

**Employer-Paid Member Contributions (EPMC).** The Agency currently pays for 7% of the employee's 8% normal member contribution towards the retirement plan. In order to maintain this benefit, PERS requires that an MOU dated prior to Jan. 1, 2013 be provided to them confirming such agreement between the Agency and its employees. If not provided before Jan. 1, 2013, the new pension reform rules would preclude such benefit from being provided. This benefit is included in the MOU, as are the listing of the additional PERS-related benefits – see Attachment D. Minor, non-substantive edits may be made to the MOU before execution.

**Term.** The term of the MOU is back-dated to July 1, 2011. This was done in order to more formally memorialize the Board's agreement to keep the FY 2010-11 benefit levels. The MOU term also extends through June 30, 2014. This timeframe is recommended in order to allow sufficient time for the Agency to enter into a new contract with PERS and recruit for a new Executive Director, who would represent the employees in labor negotiations, without having to develop another MOU.

**Change in Survivor Benefit.** Every effort was made to mirror San Pablo's benefits in FY 2010-11 to the new contract, however, one change was necessary due to the benefit no longer being provided by PERS. Rather than contracting for the Third Level Survivor Benefit, the new contract will be for the Fourth Level. The benefit and cost of the two are similar.

**PERS Side-Fund.** In FY 2004-5, San Pablo made a payment to PERS for the unfunded liability resulting from the upgrade from 2% at 55 to 2.5% at 55 plan. WCCTAC's portion of the unfunded liability paid by the City was \$207,663. There is an agreement to repay the amount due to the City annually over 14 years, and the loan bears an annual interest of 5.129%. As of June 30, 2012, the balance was \$77,376.45. The City may demand payment of the balance once WCCTAC enters into a separate agreement with PERS. There are sufficient funds in the fund balance to pay off the amount, if the Board desires.

**Next Steps.** Upon approval of the MOU, PERS can begin their actuarial valuation, which will provide the cost to the Agency under the new contract. If acceptable to the Agency, the next step is to adopt a Resolution of Intention to Contract with PERS, and after at least 20 days, adopt the Final Resolution to Contract with PERS. The Agency's Interim Executive Director will need to perform the remaining tasks necessary to implement the contract, including identifying new reporting requirements and responsibilities.

**DECLARATION OF WCCTAC SECRETARY/CUSTODIAN OF RECORDS**

I am the Secretary and the duly authorized custodian of records for the West Contra Costa Transportation Advisory Committee ("WCCTAC" or "Agency"), a Joint Powers Agency formed under California Law. As such, I have the authority to certify these records.

I have conducted a diligent search of the records of WCCTAC as they are maintained by the Agency in the ordinary course of Agency business.


The photocopied record submitted herewith is a true and correct copy of the original joint exercise of powers agreement that formed WCCTAC in 1990 as this record appears in WCCTAC's files maintained in the ordinary course of business at or near the time of the acts, conditions, or events recorded. To the best of my knowledge, the attached document is the authentic formation document of WCCTAC.

The photocopied record additionally submitted herewith is a true and correct copy of the first amendment to the joint exercise of powers agreement in 1994 as this record appears in WCCTAC's files maintained in the ordinary course of business at or near the time of the acts, conditions, or events recorded. To the best of my knowledge, the attached document is the authentic first amendment to the formation document of WCCTAC.

The records were prepared by me personally by photocopy in the WCCTAC offices at 13831 San Pablo Avenue, San Pablo, CA 94806.

I declare under penalty of perjury that the foregoing is true and correct, and that if called upon to do, I could and would testify competently thereto.

This declaration was executed on November 15, 2012 at San Pablo, California.



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Christina Atienza


**DECLARATION OF WCCTAC TREASURER/  
SAN PABLO CHIEF FINANCIAL OFFICER**

I am the Treasurer of West Contra Costa Transportation Advisory Committee ("WCCTAC" or "Agency"), a Joint Powers Agency formed under California Law, and Chief Financial Officer of the City of San Pablo ("San Pablo"), a municipality. As such, I have the authority to make this declaration.

I have effectively served as WCCTAC's Treasurer since the Agency's inception in 1990, and officially since 1994. I certify that since the Agency's inception, I have entered WCCTAC employees into CalPERS membership under the City of San Pablo, in accordance with my understanding of the Board of Directors' intent to provide the same retirement and medical benefits to WCCTAC employees as San Pablo employees.

I declare under penalty of perjury that the foregoing is true and correct, and that if called upon to do so, I could and would testify competently thereto.

This declaration was executed on November 21, 2012 at San Pablo, California.



Bradley Ward



TO: WCCTAC Board

DATE: Jan. 20, 2012

FR: Christina Atienza, Executive Director *cma*

RE: **Rollback of Employee Benefits to FY 2010-11 Levels**

Employee benefits are administered by San Pablo through a service agreement. In late June 2011, San Pablo adopted new employment MOUs that included changes to City employee benefits and work rules. For ease of administration, WCCTAC temporarily adopted the changes for its employees beginning July 1, 2011, with the intention that employee compensation in the future would be informed by a compensation study. The changes resulted in a net decrease in staff compensation, which took effect absent labor negotiations. The changes are also inconsistent with the adopted agency budget for FY 11-12, which included no changes to employee benefits. Further, the compensation study was originally anticipated to be completed by December 2011, but workload constraints have precluded staff from advancing the study.

#### Affected Benefits

The affected employee benefits are listed below. In the listing that follows, "Current" represents the level of benefit which was adopted by San Pablo and temporarily adopted by WCCTAC, and "Rollback" represents the level of benefit that WCCTAC provided in FY 2010-11 and which was also assumed under the adopted FY 2011-12 budget.

#### *Retirement*

- **Current.** Employees pay a portion of employee cost: 5.66% beginning July 1, 2011, 7.99% beginning July 1, 2012, and 10.33% beginning July 1, 2013.
- **Rollback.** Employees pay 3.3% of employee cost.

#### *Medical*

- **Current.** Agency pays up to 100% of Kaiser plan monthly premium in 2011 for employees enrolled in Kaiser. If Kaiser rates go up in future years, Kaiser-enrolled employee contributes \$50 per month in 2012, \$100 per month in 2013, and \$150 per month in 2014. Agency pays 80% of monthly premium for employees enrolled in non-Kaiser plans; employee pays the remaining 20%.
- **Rollback.** For all employees hired before January 28, 2009, Agency pays 100% of monthly premium of medical plan chosen by employee. For employees hired on or after January 28, 2009, Agency pays up to equivalent of Kaiser plan monthly premiums.

#### *Vision/Co-Pay Rebate Program*

- **Current.** Agency contributes \$450 per year to Flexible Benefits Plan.
- **Rollback.** Agency contributes \$425 per year to Flexible Benefits Plan.

## Rollback of Benefits to FY 2010-11 Levels

Jan. 20, 2012

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### *Paid Leave & Holidays*

- **Current.** Workweeks compressed to four days per week at 9.375 hours of work per day. Agency provides thirteen holidays per year with 7.5 hours per day of paid leave, with employee required to use vacation, floating holiday, or administrative leave time for balance of 1.875 hours per day or to take it as unpaid leave. Offices closed for the week between Christmas and New Year's Day with employees required to take unpaid leave on days that are not holidays.
- **Rollback.** Agency provides thirteen paid holiday days per year. Employees may take use vacation, floating holiday, or administrative leave time on non-holiday days between Christmas and New Year's Day or come in to work.

### Recommendation

San Pablo acts on behalf of the Agency as its benefits administrator. The Agency compensates San Pablo for these services, as it would a contractor. The adoption by the Agency of the benefits changes adopted by San Pablo effective as of July 1, 2011 was done only for ease of administration, and it was not the Board's intent at the time to reduce employee benefits, nor was it my recommendation to do so. In fact, the budget adopted by the Board for FY 11-12 contained no such provisions for reducing employee benefits, but did contain provisions for changes to compensation during the year as informed by a compensation study.

In the absence of any intent by the Board to reduce the benefits that the Agency provides to its employees, it is my recommendation that employee benefits be rolled back to FY 10-11 levels beginning retroactively to January 1, 2012, and that employees be reimbursed for net reductions in compensation as of July 1, 2011 that may have resulted in the interim adoption of San Pablo's benefits changes. Future changes to employee compensation would be discussed with the Board as part of the development of the FY 12-13 budget.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE WEST CONTRA COSTA TRANSPORTATION ADVISORY  
COMMITTEE AND ITS EMPLOYEES  
FOR PERS-RELATED RETIREMENT AND HEALTH BENEFITS**

**JULY 1, 2011 THROUGH JUNE 30, 2014**

This Memorandum of Understanding (MOU) is entered into pursuant to the provisions of Section 3500, et seq., of the Government Code of the State of California.

The parties desire to formally acknowledge their agreement to continue, during the term of this MOU, to provide the same retirement and health benefits as those provided by the City of San Pablo ("San Pablo") from July 1, 2010 through June 30, 2011 through its contract with the California Public Employees Retirement System (PERS), while West Contra Costa Transportation Advisory Committee (WCCTAC) employees were considered employees of San Pablo for purposes of receiving said benefits through PERS. This MOU has been prepared to articulate said benefits in preparation for WCCTAC entering into a separate contract with PERS, anticipated to occur in early 2013.

This MOU shall be presented to the WCCTAC Board of Directors at their meeting on December 7, 2012 as the joint recommendation of the undersigned parties for PERS-related retirement and health benefits for the period commencing July 1, 2011 through June 30, 2014.

**RETIREMENT**

WCCTAC shall provide the Full formula of 2.5% at 55 for Local Miscellaneous Members (Government Code Section 21354.4) and the following additional benefits as described in detail in PERS' Optional Benefits Listing publication:

- Section 20042, One-Year Final Compensation
- Section 20903, Two Years Additional Service Credit
- Section 20516, Employees Sharing Cost of Additional Benefits
- Section 21574, Fourth Level of 1959 Survivor Benefits (San Pablo contracts for Third Level, known at the time of this writing to be an optional benefit that is no longer available)

Other benefits accrue to WCCTAC employees as a result of membership in the Risk Pool for 2.5% at 55 Miscellaneous.

***Employer-Paid Member Contribution.*** WCCTAC shall pay 7% of the 8% normal member contribution for the 2.5% at 55 retirement plan as EPMC. The employee shall pay the remaining 1% of the member cost.

***Employees Sharing Cost of Additional Benefits (Section 20516).*** Employees shall pay 2.3% of the employer cost for participation in the 2.5% at 55 retirement plan. WCCTAC shall pay the remaining employer cost as determined by PERS.



## **HEALTH**

WCCTAC shall provide health insurance for employees through its participation in the PERS Health Benefits Program. For all employees hired before January 28, 2009, WCCTAC pays 100% of premiums of the PERS medical plan chosen by the employee at the appropriate level of coverage. For employees hired on or after January 28, 2009, WCCTAC pays up to a maximum amount equivalent to the Kaiser plan rate for the San Francisco Bay Area for the appropriate level of coverage.

### **EMPLOYEES:**

### **WEST CONTRA COSTA TRANSPORTATION ADVISORY COMMITTEE:**

\_\_\_\_\_  
Christina Atienza Date

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Janet Abelson, Chair Date

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Valerie Jenkins Date

\_\_\_\_\_  
Joanna Pallock Date

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Linda Young Date