

October 8, 2013

To: Nora Hochman and Bill Freitas, Chief Negotiators for SEIU Local 521 San Benito Chapter

Fr: Dania Torres Wong on Behalf of the County of San Benito Negotiation Team

Re: Initiation of the Impasse Procedures and SEIU Request for a Last, Best and Final Offer

Background:

This is a revised declaration of impasse to the October 4, 2013 document sent by the County based on Nora Hochman's email of October 7, 2013, as well as the County's last, best and final offer.

As you are aware, the parties met on September 30, 2013 and by the end of the day there was no additional movement by either party on the major economic issues even after an off the record conversation was requested by the Union. Notwithstanding, the County suggested going ahead with the scheduled meeting on October 2, 2013 to have one last session to see if both parties could spend some time to determine whether or not there were any creative ideas by moving around some of the economic concessions the County was seeking and reviewing the costing of the major economic components. After caucusing, SEIU agreed to go ahead with the meeting on October 2, 2013. At that meeting, after almost three and a half hours of off the record discussion, the parties failed to reach any agreement. Back on the record, SEIU asked if the County had any other proposal that showed movement on the County's major economic issues. I said "no." I then asked if the Union had any more movement on the major economic issues and the Union's negotiators said "no." I said that since neither party had any more movement then the parties were at impasse and offered to go to mediation if the Union would stick to the AB646 timeline for requesting fact-finding. No one during that meeting objected to my statement that the parties were at impasse and both parties said there was no more movement.

The Union said it was not interested in mediation since the County had nothing more to offer and asked that the County provide it with its last, best and final offer. I said that I wanted some time to draft the last, best and final offer and would do so in a couple of weeks. The Union's Chief Negotiator said that the Union would file an unfair labor practice charge against the County if the County did not provide the Union with a last, best and final offer immediately. As demanded by the Union, I said I would provide the last, best and final proposal by Friday consistent with the County's ERO. On Friday, October 4, 2013 I forwarded to you the County's last, best and final offer as requested.

On Monday, October 7, 2013, the Union sent an email stating that the Union objected to the characterization in the County's declaration of impasse document that impasse was mutually agreed to by both parties. I called the Chief Negotiator to discuss the events on October 2, 2013 where both the Union and the County said that the proposals on the table were the final

proposals and at no time during that meeting did the Union raise any objection that the parties were at impasse. Notwithstanding, I told Ms. Hochman that under the County's Employer Relations Resolution, the declaration of impasse does not require that it be mutually declared and I could see the Union's objection but that it did not change the process (see ERO Article IV language below that was included in the original letter). Further, the County's declaration of impasse that was sent to the Union was from the County only. It was not sent by the County and SEIU jointly triggering the impasse process.

Impasse Process:

In accordance with the County's impasse procedure, this constitutes the County's last, best and final offer as well as the written declaration for an impasse meeting based on the impasse in negotiations between the County and SEIU Local 521. The County declared impasse on October 2, 2013 when both the County and the Union stated at the table it had no further movement on the remaining economic issues on the table and the Union requested the County provide its last, best and final offer.

Although the County's impasse procedures do not require mediation as part of the impasse process unless mutually agreed to, the County offered to participate in a mediation process provided that the statutory requirement that the Union must request non-binding fact-finding within thirty days of the declaration of impasse was not waived. SEIU declined to participate in a mediation process. SEIU has instead requested that the County immediately provide its last, best and final offer by the agreed upon date of October 4, 2013.

In reviewing the County's impasse process, I need to draw to your attention Article IV of the County's Employer Relations Resolution that states:

"If the meet and confer process has reached impasse as defined in this resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall be scheduled promptly by the Employee Relations Officer. The purpose of such an impasse meeting shall be:

- a. To identify and specify in writing the issue or issues that remain in dispute;
- b. To review the position of the parties in a final effort to resolve such disputed issues; and
- c. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein."

Here, the County declared impasse at the bargaining table on October 2, 2013 as there was no additional movement by the parties on the outstanding economic issues. Additionally, SEIU requested that the County provide its last, best and final offer. Normally the County, in compliance with its Employer Relations Resolution, would need to comply with the

requirements of Article IV above. Therefore, this document constitutes the written filing of a request for an impasse meeting and a statement of its position on all disputed issues. The County's Employee Relations Officer is prepared to promptly schedule a meeting with the parties. However, given the Union's request that the County provide its last, best and final offer to the Union by October 4, 2013 as opposed to completing the impasse meeting process, SEIU has waived this step of the County's impasse process. In my letter to you of October 4, 2013, I stated that "If that is not the case, please notify me by close of business on October 7, 2013." Since the County did not hear from the Union by October 7, SEIU has waived this requirement. However, in the interest of reaching agreement, the County would still be available to schedule an impasse meeting in the next week if you wish. Per the Union's demand, the County's proposal submitted at the table on September 30, 2013 represents the County's last, best and final offer which is attached here as Exhibit 1. SEIU confirmed that its proposal submitted on September 30, 2013 is the Union's last offer to the County.

Additionally, the following chart is the list of issues remaining in dispute as required by the Employer Relations Resolution consistent with Article IV of the impasse process. The chart includes the County's last, best and final position on each of the outstanding issues. Exhibit 1 contains the full language proposal of the County's last, best and final offer which was distributed on September 30, 2013.

Issue	County Position	Union Position	Issue in Dispute
Term	1.5 years and reopener to negotiate with the Union if the new payroll system affects wages and hours.	3 years and rejects any reopener due to implementation of payroll system as they believe the County would have the ability to require negotiation through impasse process.	Given that the County is not able to confer economic increases due to current financial shortfalls, the County would like to reopen sooner than three years to determine if that is still the case going forward.
Salary	No salary increases for term of the 15 month contract.	Retention Bonus of \$1,500.00.	Due to the County's current budget shortfall it is not in a position to confer pay increases which would only increase pressure on a budget that already has an ongoing 3 million dollar structural deficit.

Issue	County Position	Union Position	Issue in Dispute
Pension	Employee pays full employee share of retirement in year one = 7.0% effectively October 1, 2013 and an additional salary reduction in the amount that represents the budget savings needed on an annual basis from the 7% if agreement is reached after October 1, 2013.	Employee pays 4% of employee share of retirement for the duration of the three year contract.	County has a 3 million dollar structural deficit. All other Miscellaneous employees have been paying 4% of the employees share for the last two years. SEIU refused to do so. It is necessary for employees in this unit to pay their employee share of pension.
Active Medical Contribution	County contribution for term of the contract will be up to a maximum of \$474.61 ee only \$949.22 ee plus one \$1213.83 family	Status quo	There is virtually no or little cost sharing by employees. County cannot continue to pay almost 100% of medical costs. The program, without change, is fiscally unsustainable.
Retiree Medical	County contribution for term of the contract will be up to a maximum of \$474.61 retiree only \$949.22 retiree plus one \$1213.83 retiree plus family ; Propose elimination of PERS retiree	Status quo	County's Unfunded Liability is approximately 49 million dollars for retiree medical. The program, without change, is fiscally unsustainable.
Step Range	Elimination of G Step for new hires and promotion as of 10.2014.	Rejects	County has a three million dollar ongoing structural deficit and this proposal results in holding down salary costs.
Overtime	Clarifying Language on Overtime to address SEIU charge that language is unclear.	Rejects proposal as it subject of litigation	County is clarifying language that SEIU charged was unclear.
All Other Tentative Agreements including Sick Leave Cash Out Change	All TA's signed as of October 2, 2013 including the County's proposal to reduce sick leave cash out.	All TA's signed as of October 2, 2013 including the County's proposal to reduce sick leave cash out.	No issue.

Conclusion

Notwithstanding that the declaration of impasse can be initiated by either party, I am providing the Union this revised declaration of impasse and last, best and final offer to address the Union's concern that only the County declared impasse. To avoid confusion on the date of the County's declaration of impasse, please disregard the written document that was sent on October 4, 2013 and replace it with this document with the effective date of impasse declaration as of today.

As you are aware, impasse may be broken if there is a real and substantial change in the parties bargaining position. The County is available to discuss any additional proposals by SEIU that substantially breaks the impasse.

<p>Article 8.1</p>	<p><u>GENERAL SALARY INCREASES</u> There will be no salary increases conferred during the term of this agreement.</p>	<p>9/11 County revises proposal. Reject SEIU 12% increase. 9/18 SEIU continues to reject and holds to their proposal</p>
<p>Article 8.9</p>	<p><u>G-STEP ELIMINATION OF G STEP FOR NEW HIRES</u> 8.9 Effective October 4, 2009, employees who have been at F Step for thirty-six (36) months or longer will move to the G Step in the then-adopted salary range for their class. Thereafter, employees who complete thirty-six (36) months at F step will move to G step effective the first full pay period following their anniversary date.</p> <p><u>For employees hired or promoted on or after October 1, 2014, steps G is eliminated. Those employees will only be eligible to move from Steps A through F. Employees hired on or before September 30 2014 who do not promote to higher classification after that date will continue to retain or move through steps F & G.</u></p>	<p>9/30 Modified proposal</p>
<p>Article 9</p>	<p>9.1 <u>MEDICAL INSURANCE:</u></p> <p>9.1.1 Medical Insurance Plan Options</p> <p>The County currently offers to eligible employees CalPERS Plans and the Blue Cross HMO (California Care) H4 Health Plan.</p> <p>9.1.2 <u>Eligibility</u></p> <p><u>Employees occupying permanent part-time positions, who work a minimum of twenty (20), but less than forty (40) hours per week, and their dependents shall be entitled to participate in the County-sponsored health plans. Permanent part-time employees hired on or before January 1, 2002 shall continue to receive the same County contribution to their health insurance premiums as full-time employees. However, permanent part-time employees hired after January 1, 2002 shall pay a proportionate share of the gross monthly premium rounding to the nearest one-quarter time: i.e., either fifty percent (50%) or seventy-five percent (75%) of the gross monthly premium. In either case cited above, the County contribution</u></p>	<p>Hold to SB 9/6 modified proposal. 9/18 and 9/25 SEIU rejects</p>

shall be based on the full-time equivalent designation of the position on the Schedule of Authorized Positions adopted by the Board of Supervisors, not on the specific number of hours worked.

9.1.3 PEMHCA Minimum

The County will provide the PEMHCA minimum monthly contribution of \$119 to employees to cover the premium. This amount may change during the term of this agreement, only if the PEMHCA minimum changes during the term of this agreement.

9.1.3 Additional County Contribution

Pursuant to Section 125 of the Internal Revenue Code, the County will place an additional contribution for employees after providing the PEMHCA minimum, on a pre-tax basis into the Section 125 Cafeteria Plan for use toward the payment of medical premiums. To receive this contribution, all County employees must maintain health care coverage through a County health care plan. Therefore, the following monthly amounts will be placed in employees' cafeteria plan, depending on the level of coverage:

\$355.61	Employee Only
\$830.22	Employee Plus One
\$1094.83	Family

This County's contribution is frozen at this rate and any changes in contribution in the future are subject to an affirmative vote of the Board.

Based on the contribution of the PEHMCA minimum and the additional County contribution towards a cafeteria plan to be used as premiums, the total County contribution is as follows:

\$474.61	Employee Only
\$949.22	Employee Plus One
\$1,213.83	Family

In recognition of the new premiums announced by PERS that take effect on January 1, 2008, the County shall increase its maximum monthly contribution toward the premium of each eligible employee enrolled in a County-sponsored health plan to the following levels beginning with the December 2007 payroll:

—Maximum Monthly

	<p>County Contribution</p> <p>ALL HEALTH PLANS Effect</p> <p>* Employee Only</p> <p>* Employee and One Dependent</p> <p>* Employee and Family</p>	
	<p>Monthly</p> <p>Gross</p> <p>PERS CHOICE* Premium</p>	
	<p>* Employee Only \$482.48</p> <p>* Employee and One Dependent \$964.96</p> <p>* Employee and Family \$1254.45</p>	
	<p>* PERS Choice is the lowest cost PERS sponsored health plan as of January 1, 2008. Premiums for other plans vary; however, the maximum County contribution amount is fixed. Employees are responsible for paying the difference in premiums between the County contribution amount and the gross monthly premium for the plan they have selected. Employees should contact the Human Resources Department for information regarding available health plans, including details of coverage, enrollment forms, and premium costs.</p>	
	<p>The employee shall be required to pay the balance due as a deduction from the employee's paycheck.</p>	
	<p>The County will continue to pay 100% of the gross monthly premium for the lowest cost health plan offered by PERS for the term of this Agreement.</p>	
	<p>Each time PERS effects any premium increases during the contract period after January 1, 2008, the County will increase its contribution to employee health plan premiums as follows:</p> <ul style="list-style-type: none"> • First, the County will contribute an additional amount equal to the increase in the gross monthly premium for employee-only coverage for the lowest cost PERS plan available and apply this amount to all three tiers of coverage for all health plans. • Second, the County and the employee will share equally any remaining increase in premiums. 	
	<p>EXAMPLE OF COST SHARING FORMULA</p>	

FOR HEALTH PREMIUM INCREASES

~~To illustrate how this cost sharing formula will work an example is as follows: over the contract term, let us assume, first, that PERS Choice continues to be the lowest cost PERS sponsored health plan.~~

~~Next, we add to the 2006 County contribution amounts, the increase in the cost of the employee-only premium and one-half of the difference remaining. For employee-only coverage, the entire cost.~~

DELETE CHART OF OLD PREMIUMS

9.1.3 PREMIUM CONVERSION

The County Agrees to continue to provide employees with an option to pay their insurance premium contributions on a pre-tax basis, as provided in the Internal Revenue Code.

9.1.4 CASH INCENTIVE (for Employees Declining Medical Coverage) EMPLOYEE OPT-OUT OF MEDICAL COVERAGE

Employees who have alternate medical insurance, except where the employee receives dual coverage through San Benito County, will have the option of selecting no medical coverage (through the County). The County will provide employees opting for no medical coverage with the option of receiving payment of a portion of what would otherwise be the County contribution. An eligible employee selecting this "cash in lieu of" option shall receive a taxable payment of \$150 monthly (pro-rated into biweekly installments of \$69.23).

To be eligible for the cash incentive, the employee must work a full-time schedule in an authorized full-time position and change from any level of health plan coverage to no coverage, or if a new employee, choose no coverage.

Whenever the employee changes to, or opts for, no coverage, the employee shall provide proof of current alternate coverage and sign a waiver stating that he or she does have alternative coverage and that he or she understands that he or she will no longer receive coverage through a County-sponsored health plan.

If the employee later decides to re-enter a County-sponsored health plan, he or she must meet such requirements and conditions for approval as may be required by the health plan provider or enroll during the annual open enrollment period for PERS provided health plans.

Procedures for exercising this option and for re-entering the County-

sponsored health plans shall be established by the County.

**9.2 DENTAL INSURANCE:
NO CHANGES**

9.3 RETIREE HEALTH INSURANCE

9.3.1 Employees hired on or before September 30, 2013

PEMHCA Minimum

The County will provide the PEMHCA minimum monthly contribution of \$119 to retirees to cover the premium. This amount may change during the term of this agreement, only if the PEMHCA minimum changes during the term of this agreement.

Additional County Contribution

The County will place an additional contribution for retirees into an HRA for use toward the payment of medical premiums. Therefore, the following monthly amounts will be placed in retirees' HRA, depending on the level of coverage:

<u>\$355.61</u>	<u>Retiree Only</u>
<u>\$830.22</u>	<u>Retiree Plus One</u>
<u>\$1094.83</u>	<u>Family</u>

This benefit is not vested and subject to negotiation following the expiration of this agreement. This County's contribution is frozen at this rate and any changes in contribution in the future are subject to an affirmative vote of the Board.

Based on the contribution of the PEHMCA minimum and the additional County contribution towards a cafeteria plan to be used as premiums, the total County contribution at this time is as follows:

<u>\$474.61</u>	<u>Retiree Only</u>
<u>\$949.22</u>	<u>Retiree Plus One</u>
<u>\$1,213.83</u>	<u>Family</u>

9.3.2 Elimination of the Tier Two CalPERS program

The Tier Two program based on a CalPERS schedule for employees hired on or after January 1, 2010 is hereby eliminated. Those employees hired on or after January 10, 2010 and on or before September 30, 2013 will receive the PEMHCA minimum and additional County contribution as described above

9.3.3 Access to Account Balance

Upon retirement, retirees hired on or before September 30, 2013

	<p><u>may access the balance of their HRA account to reimburse the retiree for premium or permitted medical expenses for the spouse and any other dependent covered under the retiree medical plan subject to the limitations and maximums as required by law.</u></p> <p>9.3.4 Survivors of Eligible Retirees and Account Balances</p> <p><u>The County's contribution to the retirees ends upon the death of the retiree. Spouses and eligible dependent children or dependent adults that are disabled may continue to access any remaining account balances after the death of the retiree subject to the limitations and maximums as required by law.</u></p> <p>9.3.5 Employees Hired on or after October 1, 2013</p> <p><u>The Country will contribute to retirees hired on or after September 1, 2013 the \$119 PEMHCA minimum monthly contribution towards health insurance upon retirement. This amount may change during the term of this agreement, only if the PEMHCA minimum changes during the term of this agreement. The County's contribution to the retiree ends upon the death of the retiree.</u></p>	
<p>Article 10.2.3</p>	<p><u>OVERTIME:</u> <u>When necessary, departments have the right to require adjustments to an employee's schedule to ensure that no overtime is accrued during that work period.</u> Individuals required to adjust their schedule within a work period shall, to the extent operationally possible, be given a choice of the day and time during which their schedules shall be adjusted. Such choice shall be subject to Departmental approval, but shall not be unreasonably denied. If necessary, departments may schedule the hours adjustment.</p>	<p>Hold to County proposal of SB 8/1. 9/18 SEIU continues to reject</p>
<p>Article 10.4</p>	<p><u>MINIMUM CALL-BACK COMPENSATION:</u></p> <p><u>Call-back refers only to those instances when an employee is ordered back to work without prior notice after completing a shift and leaving the premises or in those instances with prior notice is given but work begins at least three (3) hours after the completion of the regular work schedule. Responses to phone calls or performing work at home shall not be considered call-back duty. Travel time to and from work shall not be considered time worked.</u></p> <p>Employees called into work for hours not contiguous to their regular work schedule shall receive a minimum of two (2) hours compensation for each call in <u>or for all time actually worked at time and one half (1-1/2) times his/her hourly rate of pay, if eligible for overtime pursuant to this section, whichever is greater.</u></p>	<p>Hold to County proposal. Proposal does not read to allow for first three hours to be free as raised by Union.</p> <p><i>County dropped</i> <i>9/30/2013</i></p>

<p>Article 14.1</p>	<p><u>SICK LEAVE</u> <u>For employees hired on or after October 1, 2014, sick leave is forfeited upon resignation or termination, except that if the employee is retiring under the PERS, the employee can cash out 25% of their sick leave. Employees hired before October 1, 2014 still have the option to cash-out 50% of sick leave at retirement, in accordance with the County Personnel Policies and Procedures. All other Ssick leave shall be as provided for in the County Personnel Policies and Procedures and shall remain unchanged for the term of this agreement.</u></p>	<p>9/30 Modified County Proposal</p>								
<p>Article 29</p>	<p><u>RETIREMENT</u> <u>For Employees hired prior to January 1, 2013, or were members of CalPERS or a retirement system that has reciprocity with CalPERS, (The County shall continue to provide the 2% at 55 PERS retirement program for Miscellaneous Employees. As soon as administratively possible, these miscellaneous employees will contribute 7% towards the 7% employee CalPERS contribution, or incur an equivalent salary reduction.</u></p> <p><u>For employees hired on or after January 1, 2013, and prior to that date were not members of CalPERS or a retirement system that has reciprocity with CalPERS, the County shall provide the retirement program in conformance with the requirements of California Public Employees' Pension Reform Act of 2013 ("PEPRA"), Gov. Code § 7522 et seq., as may be amended. As of FY 2013/2014, Miscellaneous Employees will receive the 2% at 62 retirement benefit. As soon as administratively possible, these miscellaneous employees will contribute 7% towards the 7% employee CalPERS contribution, or incur an equivalent salary reduction.</u></p> <p><u>To ensure that the County realizes the annualized savings related to 7% employee pick up of employee share the following will occur if no agreement is reached by September 30, 2013:</u></p> <table border="1" data-bbox="397 1396 1149 1785"> <tr> <td>If Agreement reached between October 1, 2013 and November 30, 2013</td> <td>-0.5% wage decrease</td> </tr> <tr> <td>If Agreement reached between December 1 and January 31, 2014</td> <td>-1.0% wage decrease</td> </tr> <tr> <td>If Agreement reached between February 1, 2014 and April 30, 2014</td> <td>-1.5% wage decrease</td> </tr> <tr> <td>If Agreement reached between May 1, 2014 and June 30, 2014</td> <td>-2.0% wage decrease</td> </tr> </table>	If Agreement reached between October 1, 2013 and November 30, 2013	-0.5% wage decrease	If Agreement reached between December 1 and January 31, 2014	-1.0% wage decrease	If Agreement reached between February 1, 2014 and April 30, 2014	-1.5% wage decrease	If Agreement reached between May 1, 2014 and June 30, 2014	-2.0% wage decrease	<p>County Proposal Modified. Rejected with no counter by SEIU on 9/18</p>
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If Agreement reached between May 1, 2014 and June 30, 2014	-2.0% wage decrease									

<p>Article 39</p>	<p>TERM</p> <p>This Memorandum of Understanding represents the entire Agreement between the County and San Benito-County Employees Association/SEIU Local #521 on subjects contained herein and shall become in full force and effect, unless otherwise noted, on October 1, 2013 October 1, 2007, and shall continue in full force and effect until midnight April 30, 2015 September 30, 2010, and will thereafter continue in effect until the parties reach agreement on a successor Agreement or the Board of Supervisors takes action to modify the benefits provided hereunder. The Union shall present the County with Either party shall present its requests for negotiations on the items within the scope of representation no later than July 1, 2014 July 1, 2010, unless extended by mutual agreement. The County and Union shall begin the meet and confer process no later than July 15, 2014 unless extended by mutual agreement July 15, 2010.</p> <p>REOPENER</p> <p><u>The parties agree to reopen this MOU solely for the purposes to meet and confer over the impacts related to the implementation of the County's new payroll system. Discussions may include, but are not limited to the following: direct deposits, W2 processing, and time entry process.</u></p>	<p>9/30 Modified Proposal</p> <p>Update: See Attached Agenda Item transmittal. No RFP for vendors has been issued yet.</p>
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