

EBMUD/Local 21 Side Letter Negotiations

1.18.2023 Union Counter to District Proposal 1

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**SIDE LETTER OF AGREEMENT
BETWEEN EAST BAY MUNICIPAL UTILITY DISTRICT AND IFPTE LOCAL 21**

WHEREAS, on February 22, 2022, the East Bay Municipal Utility District (District) Board of Directors approved the ratified Memorandum of Understanding (MOU) between the District and the International Federation of Professional and Technical Engineers Local 21 (Local 21); and

WHEREAS, said MOU states at Article V, Section I.5:

Deferred Compensation Matching. Effective January 1, 2023, employees hired on or after January 1, 2013, and who are not eligible for reciprocity with another California public retirement system, or who are otherwise “new employees” or “new members” as defined under the California Public Employee Pension Reform Act (“PEPRA”), and who are participating in the District’s 401(K) plan shall be eligible for a matching contribution up to \$1000 annually to their 401(K) deferred compensation account; and

WHEREAS, the District has a question as to the permissibility of the above language under PEPRA, specifically with regard to an employer matching contribution for PEPRA Employees earning less than the pensionable compensation limit pursuant to Gov. Code 7522.10(c); and

WHEREAS, the Union disagrees that MOU Article V, Section I.5 conflicts with PEPRA and maintains that MOU Article V, Section I.5 would not create an impermissible benefit: and

WHEREAS on December 9, 2022, the parties met and the District explained and offered to provide a Participation Bonus, rather than an employer matching contribution, in order to confer the benefit intended under Article V, Section I.5.

NOW THEREFORE, the parties agree as follows:

1. Effective January 1, 2023. Employees hired on or after January 1, 2013 and who are not eligible for reciprocity with another California public retirement system, or who are otherwise “new employees” or “new members,” as defined under the California Public Employee Pension Reform Act (“PEPRA”) and participating in the Districts Deferred Compensation Plans (401(K), 457, or 401(a) plan) shall be eligible for a Participation Incentive of \$1000 annually. Eligible employees can elect to defer 100% of the Incentive to their 401k account by completing a deferral elections form specific to the Incentive each year ahead of the Incentive payment. If a deferral election is not submitted the

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Incentive will be paid to the employee as a non-pensionable taxable cash bonus subject to all applicable withholding.

2. This side letter shall supersede the language provided under Article I.5 of the MOU in regard to all PEPRA members and shall remain in effect unless the parties agree in successor negotiations to end or modify the benefit after the term of the 2021-2025 MOU.
3. The Participation Incentive shall be paid on the last paycheck in March, each year of participation. The “look-back” period to determine annual participation shall be February 22, 2022 through February 17, 2023, and the twelve months prior to the month payment is made thereafter. Participation means having made at least one contribution to a deferred compensation plan during the look-back period. Employees shall be notified of this benefit during open enrollment each year.
4. PEPRA members who contribute during the lookback period but separate by retirement, by reason of disability or by death shall receive the full benefit.
5. If any enhanced deferred compensation benefit is offered to any other bargaining units the same shall also be offered to Local 21.

*Gov. Code 7522.10(c)

For IFPTE Local 21:

For EBMUD:

Angela Long

Angela Long
Union Representative

Cindy R. Charan

Cindy R. Charan
Director of Human Resources

Marc S. Carradine

Marc S. Carradine
Union President

Date: 1/23/2023 1/25/2023

Date: 1/23/2023