CITY OF ALBUQUERQUE

Office of the Mayor/ Chief Administrative Officer

September 12, 2014

Casey Padilla, President
AFSCME Local 624 (Blue Collar)
1202 Pennsylvania NE
Albuquerque, NM 87110
CERTIFIED MAIL and EMAIL

RE: **Implementation of the City's Last Best Offer**

Dear Mr. Padilla:

Let me begin by expressing my acknowledgement and thanks for the commitment and hard work of all of the members of the Blue Collar bargaining unit and the services they provide to the City of Albuquerque.

With approximately 533 dues paying members and 565 non-union members within the Blue Collar bargaining unit, the City's implementation of its Last Best Offer will provide a 3% salary increase to over 1,000 employees for FY 2015 ($1,536,793 annualized cost to the City).

As you know, the City has followed its Labor Management Relations Ordinance (LMRO) through the course of good faith negotiations. The City and Local 624 (Blue Collar) have reached an impasse. We have been unsuccessful at negotiating a labor agreement despite the assistance from a federal mediator. The City Council appropriated 3% salary increase approved by the Mayor, awaits Blue Collar employees. This letter serves as official notice to you as President of AFSCME Local 624 (Blue Collar) that the City will impose its Last Best Offer made to the Local 624 (Blue Collar) on July 31, 2014. A copy of the City's Last Best Offer is enclosed.

PO Box 1293

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New Mexico 87103

www.cabq.gov

A major obstacle to a contract agreement is the issue of "Union Time". The City Administration's position is that union activities i.e. representing employees in various grievances, discipline, administrative actions should be paid for by the members of the union, a private organization, and not taxpayers. Moreover, the Labor Management Relations Ordinance itself prohibits as a matter of law, the City from paying the union to negotiate its own contact (see: LMRO 3-2-13 Negotiating Procedure (7).

The City has offered a compromise proposal; to create a pool of donated leave time used by union leadership to conduct unions business, requiring each member to donate ***3 hours of vacation leave annually*** to the pool. As you know, regular City employees accrue between 100 to 160 hours of vacation per year depending on their years of service. This compromise was accepted by over 66% of other unionized City employees including Fire, Police, and AFCME M-Series.

Your last offer made at Impasse mediation, required a three-year contract through FY 2017 along with an additional 3% salary increase each year. As has been discussed with you in the past, the Administration **cannot** and **will not** repeat the past mistake of making financial promises when the uncertainty of future City revenue and budget needs are unclear. This practice is unfair to the expectations of our employees, ties the hands of future policy makers and appropriators, has led to costly and uncertain litigation, and is an irresponsible fiscal commitment.

Unfortunately, other demands contained in your proposal are also non-starters. Your proposal requires the City to accept an "Evergreen" clause that would extend each contract upon their expiration until a new contract with your union is reached. This nullifies the important NM Court

of Appeals ruling recently litigated in the City's favor and creates a scenario where future negotiations are entirely one sided only to your benefit. Secondly, in the event of any impasse, the City would agree in advance of any contract negotiation to binding arbitration contrary to what is required in the LMRO. To accept these two provisions that heavily endure to the benefit of the union, undue established law, and compromises the very underpinnings of management's ability to meaningfully negotiate and bargain with labor are simply unacceptable.

Respectfully, it strikes me as odd; that the City is the one trying to give your members a much needed raise, yet you will only allow it to be voted upon and accepted in exchange for the following:

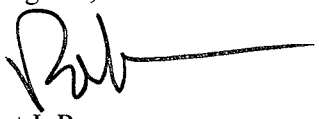
1) Agree to provide your local union presidents/staff/stewards free time to conduct union activities at taxpayer expense.
2) Agree to a 3 percent raise for the next three years-through 2017.
3) Agree that when contracts expire they really do not because all terms and conditions continue, until you agree to a new contract (Evergreen) even though the Court of Appeals ruled otherwise.
4) Agree to give up the City's Impasse procedures that are contained in the Labor Management Relations Ordinance and validated by the appeal courts.

After careful consideration, the City can no longer allow these unreasonable conditions to hold a pay raise for a large number of City employees "hostage". As a result, the City's Last Best Offer will be implemented effective the pay period of September 6, 2014 through September 19, 2014, or as specified in the Last Best Offer. The provisions of the City's Last Best Offer shall remain in effect for the term of the agreement for twelve (12) months from the date of implementation.

In summary, a 3% ***salary increase will be imposed***, Union representation is provided for pursuant to law and based on a "Union Time Pool" requiring each member to contribute 3 hours per year, the PERA contribution increases mandated by the State legislature is included, and contract provisions are clarified.

If you have any questions please contact John Martinez, Chief Negotiator for the City of Albuquerque (phone number 228-1360). Thank you for your attention to these matters.

Best regards,



Robert J. Perry
Chief Administrative Officer

CC: Richard J. Berry, Mayor
John Martinez
Department Directors
Rocky Gutierrez, AFSCME Council 18

The City of Albuquerque Proposal
Negotiations with AFSCME – Blue Collar
Local 624 – Presented July 31, 2014 – Time 12:48 P.M
Last Best Offer

This proposal replaces any and all previous offers/proposals made by the City. The AFSCME Local 624-Blue Collar CBA expired on June 30, 2010. The City proposes the approval of the language that existed in the City/624 Blue Collar CBA that expired on June 30, 2010, with the following changes:

Article 1. General Labor/Management Provision

Section 1.3.3 Union Members will donate three (3) hours of their accrued vacation hours each year on or about January 1st to a pool of time identified as Union Business Leave. This pool of time will be utilized by Union Officers and Union Representatives to conduct any and all official Union business and employee representation duties conducted during the Officer's or Representative's normal work time. Such time shall be requested and documented in writing with the immediate supervisor and the Human Resources Director or designee.

Section 1.3.4 Twenty (20) Hour /Week paid leave for Union President – Delete this Language

Article 2. Pay Provisions

2.1 Pay.

2.1.1 The City proposes a three percent (3%) increase to the current rates of pay for bargaining unit employees for the term of this agreement.

2.1.2 No other pay increase will be granted to bargaining unit employee for the term of this agreement.

2.3.7.2 This language is included twice. DELETE the duplicate language on the second 2.3.7.2.

Article 3. Insurance Coverage & Benefits

3.1 Premium Costs

3.1.1 The City offers group hospitalization plans for employees. Participation in the plans is voluntary. The City will pay 80% of the premium of the plan selected by the employee and the employee will pay 20% of the premium. The plans will continue to be in effect until modified or amended by the City.

3.1.2 The City offers group dental insurance. Participation is voluntary. The City will pay 80% of the premium and the employee will pay 20% of the premium. The plans will continue to in effect until modified or amended by the City.

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3.2 Insurance Programs

3.2.2 Union Provided Life Insurance Deductions – DELETE this Language

Article 4. Retirement Plan

4.1 NM -PERA

4.1.2 The City will continue to pay 9.86% of the employee's PERA statutory contribution.

Article 20. Promotional Procedures and Policies

20.1.4 It is the City's intention to select the best qualified individual to fill a vacancy. Therefore, the City will consider both in-house and outside applicants in the search for the best qualified individual to fill a vacant City position.

Article 24. Disciplinary Actions

24.1.3.1 Disciplinary action will be initiate when actions or lack of action on the part of the employee have been documented and reviewed and management believes disciplinary action is necessary.

24.1.3.3 It is acknowledged by the parties that investigations into employee misconduct will in many cases be conducted without the knowledge of the employee being investigated.

Article 25. GRIEVANCE and APPEAL PROCEDURES

25.1 Grievance Procedure (This replaces the current grievance procedure)

25.1.1 A grievance is defined as a complaint that alleges violations of this agreement or disciplinary actions initiated by management that is lacking "just cause". This grievance procedure provides a means for reconciling employee/union grievances and is the only grievance procedure available to the union and bargaining unit employees.
25.1.2 No individual participating in this grievance procedure shall suffer any retaliation, discrimination, restraint, coercion or reprisal as a result of filing or participating in this grievance procedure.
25.1.3 The filing of a grievance or the intent to file does not relieve any bargaining unit employee of assigned duties and responsibilities.
25.1.4 Employees who elect not be represented by the Union may appeal a disciplinary action by appealing the action to the Personnel Board as provided for in the Merit System Ordinance. Employees who elect to be represented by the Union may appeal contract violation and disciplinary action through this grievance procedure.

25.1.5 All grievances shall be filed with the Human Resources Department. The grievances may be filed via email. The written grievance shall include:

The language in the Agreement that is alleged to have been violated;
The date the violation occurred, if known;
The bargaining unit employee(s) involved;
A clear and concise statement of the alleged violation;
The specific relief requested "to be made whole" is not an appropriate relief request; and
The signature of the grievant and the Union President or designee and must be dated.

Time Limits

In determining the time limits, for this purpose, the date of the commission or omission of the act that generated the grievance shall not be counted.
Days shall mean days that the Human Resources Offices are open for business. If the last day of the time limit for filing a grievance at any step falls on a date that the Human Resources Department City is not open for business during regular work hours, the deadline will be the next business day.
Time limits may be extended by written mutual agreement of the parties.
If the time limits are not met the grievance shall be null and void.

25.1.6 Grievance Steps for Employees Electing to have Union Representation.

Step One. A written grievance must be submitted to the Human Resources Director and time stamped at the Human Resources Department, or sent via e-mail, within ten (10) days of the alleged violation. The applicable Department Director or designee and the grievant and the grievant' s representative shall have ten (10) days to resolve the grievance at this level.

Step 2. If the issue is not resolved for whatever reason within ten (10) days of the submittal at Step 1, the grievant/ the union may advance the grievance to the Chief Administrative Officer of the City. The grievance must be submitted to the Human Resources Director and time stamped in the Human Resources Department, within twenty (20) days of the submittal at Step 1. The Chief Administrative Officer of the City or designee and the grievant and the grievant's representative shall have ten (10) days to resolve the grievance at this level.

If the issue is not resolved for whatever reason within ten (10) days of the submittal to the Chief Administrative Officer, the grievant/ the union may advance the grievance by filing a *Notice of Intent to Appeal to Arbitration*, delivered and time stamped at the Human Resources Department addressed to the Human Resources Director or e-mailed to the Human Resources Director within 20 days of the filing of Step 2. The panel of arbitrators shall be requested within 30 days of the filing of the Notice of Intent to Appeal to Arbitration.

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Selection of an Arbitrator

An arbitrator shall be selected from an unrestricted list of seven (7) arbitrators requested from the Federal Mediation and Conciliation Service (FMCS). The selection of the arbitrator will be accomplished by the parties striking names until only one name remains. The remaining person shall be the arbitrator. The grieving party shall strike the first name. The selection of the arbitrator shall take place at the Human Resources Office within ten (10) days of receipt of the FMCS list. ✓

Arbitration Procedures

1. Issues of arbitrability shall be decided by the Arbitrator.
2. The Arbitrator shall have the authority to accept, modify, or reverse the action that generated the grievance.
3. In the event of reinstatement, a reduction, or recession of a suspension or demotion, the Arbitrator's award shall be limited to back-pay and benefits for lost time, less any compensation received by the employee during the suspension, demotion or termination.
4. The burden of proof shall be determined by the Arbitrator.
5. The standard of review for appeal shall be governed by the New Mexico Uniform Arbitration Act.
6. The Arbitrator shall have the authority to interpret and determine compliance with the provisions of the collective bargaining agreement (CBA). The Arbitrator may not add to, detract from, or alter in any way the language of the Collective Bargaining Agreement or the Labor-Management Relations Ordinance, but may give interpretation or application to such terms and apply appropriate relief.
7. The Arbitrator will make his/her decision based on the evidence presented at the hearing and briefs presented by the parties if briefs are submitted.
8. The Arbitrator's decision is final and binding on the parties.
9. The parties will share equally in the total cost of the arbitration procedure.

General Provisions

1. The arbitrator shall have the authority to conduct the arbitration proceeding in accordance with the applicable FMCS policies and procedures.
2. The Chief Administrative Officer, Director of Human Resources, Department Director and the grievant/the Union President or designee have authority to settle grievances/ labor-management disputes.
3. The parties may agree to settlement of an issue at any time during the process.
4. All settlements between the parties shall be reduced to writing and shall be signed and dated by the parties.

5. The Union is the exclusive representative of the employees in this bargaining unit. No one else may represent employees in this process without the express written approval of the grievant, the Union President or designee.
6. Grievances filed by the Union, not on behalf of an employee, are the express property of the Union and cannot be withdrawn by bargaining unit members.
7. An individual employee may not invoke the arbitration procedure of this Agreement.
8. This is the only grievance procedure available to bargaining Unit employees

Article 35. Layoff/Reduction in Force & Recall

35.1.3 No bumping will occur in layoffs except as provided in sub-section 35.1.10.

35.1.10 In the event of layoffs or displacements that occur the employee with the least continuous City seniority in the affected classification city-wide will be laid off. If the employee in the position that was deleted is not the most junior employee in that classification city-wide the employee whose position was deleted will be placed in the position vacated by the most junior employee who was the most junior employee in the affected classification City wide that was actually laid off.

Article 40. General Administrative Provisions

40.2 MOU

40.2.1 MOUs are valid only for the term of the agreement that is in place at the time the MOU is signed.

40.5 Term of Agreement

40.5.1 This agreement is in effect on the first full pay period following settlement, ratification, and signature by the parties and shall remain in full force and effect for 12 (twelve) months from the date of signature.

Throughout the whole agreement "Employee Relations" will be replaced with "Human Resources".