

ADDED/AMENDED TERMS FOR FY 2013 MOU

[If not noted below, all Articles in Current MOU Will Remain Unchanged.]

ARTICLE 3 -- Term

Change as follows:

The term of this ~~modified Memorandum of Understanding~~ shall **commence at 12:01 a.m.** ~~begin~~ on July 1, ~~2009~~ 2012; provided, however, that the effective date of all changes affecting payroll shall **commence be the first full pay period that begins on or after July 14, 2012**~~11~~. This Memorandum shall expire and otherwise be fully terminated **at 11:59 p.m. on the end of June 30, 2013**~~1~~.

ADD NEW ARTICLE -- Discretionary Leave for FY 2013

Add New Article as follows:

- 1. All full time bargaining unit members will receive a one-time 16 hours of discretionary leave for use during Fiscal Year 2013 and the discretionary leave identified in this Section has no eligibility requirements except as set forth in this Section. Three-quarter time employees will receive 12 hours of discretionary leave for use during Fiscal Year 2013. Half time employees will receive 8 hours of discretionary leave for use during Fiscal Year 2013.**
- 2. Each employee will schedule his or her discretionary leave hours in the same manner as annual leave is presently scheduled pursuant to Article 18 of this MOU.**
- 3. All leave granted under this Article must be used by June 30, 2013 or it will be forfeited. The one-time 16 hours of discretionary leave under this Article will sunset on June 30, 2013.**
- 4. The sunset provision of Section 3 above does not amend, modify, or alter any discretionary leave that may be granted under Administrative Regulation 95.91 (Employee Recognition and Rewards Program).**

ARTICLE 4: Renegotiation, Sections 1 Through 4:

Date changes will be made in these Sections to track next year's negotiations process and impasse hearing date.

ARTICLE 4: Renegotiation, Section 5 -- "Me Too Clause"

Strike current language and replace as follows:

The City agrees that, if, during the term of this MOU, any other employee labor organization is given a general salary increase or any other economic enhancement to their overall compensation, or has any compensation reduction they have incurred or concession they have made restored to them, then the City will extend that same economic benefit to MEA-represented employees on the same terms and on the same effective date. The parties agree that this "Me-Too Clause" will remain in effect during Fiscal Year 2013 and will sunset on June 30, 2013.

ARTICLE 4: Renegotiation, Section 7 -- Reopener re DROP

Strike current language and replace as follows:

The City contends that the Deferred Retirement Option Plan (DROP) is an employment benefit subject to modification through the meet and confer process. Despite MEA's disagreement with this contention, the Parties agree that, during the term of this MOU, they will meet and confer over proposals to modify DROP to make DROP "cost free" to the City. The Parties acknowledge that the City's proposals will modify DROP to make DROP "cost free" as defined by the City and may include any and all aspects of DROP, including but not limited to, all of the DROP alternative plan design proposals set forth in a study by Buck Consultants presented by the City to MEA on March 14, 2012, or any variations of the alternative proposals which changes numbers or percentages reflected in the Buck study. However, by agreeing to meet and confer regarding proposals to modify DROP, MEA is not waiving its right to challenge any proposed modification to DROP on the basis that it may impair a constitutionally protected, individually vested pension benefit, or on any other ground. MEA further reserves its right to argue, despite any contrary assertion by the City, that the current unmodified DROP is, in fact, "cost free" within the meaning of reasonable actuarial principles and appropriate margins of error. Moreover, in agreeing to meet and confer regarding proposals to modify DROP, neither Party is

waiving its rights to make any legal arguments or pursue any legal action related to any proposed DROP modification.

In the event the City and MEA reach agreement on any modifications to DROP, these modifications will become effective on the date agreed upon. In the event the Parties fail to reach an agreement, any impasse hearing related to DROP will be conducted in accordance with Council Policy 300-06 on a date to be agreed upon by the Parties but in no event before January 1, 2013. However, any impasse hearing related to the Parties' meet and confer over DROP, including the aspects of DROP described above, will be separate from and not combined with any issues remaining for impasse in connection with the Parties' meet and confer process for a new MOU for Fiscal Year 2014.

ARTICLE 8: Employee Representation

Change as follows (remainder of Article unchanged):

- A. An employee is entitled, upon his or her request, to representation, not to exceed one City employee and one non-City employee during each of the following proceedings. In addition, one observer may also attend if authorized by the Manager's Office. Under no circumstances shall an employee suffer any retaliation or harassment for his/her requesting such representation.
 - 1. During any investigatory or fact-finding meeting where there is a reasonable expectation, by the supervisor or the employee, that discipline might result. Such representation is not available in cases requiring immediate removal or suspension as defined in Civil Service Rule XI.
 - 2. During the required discussion of any document, including ~~an "Unsatisfactory" or "Below Standard" Performance Evaluation,~~ **Supplemental Employee Performance Report, written counselings,** written warnings, **or** reprimands ~~or note of counseling~~ which are to be made part of the employee's permanent record and/or which may be used as a basis for subsequent discipline.

ARTICLE 10: Personnel Practices

Change as follows:

- A. Employee Personnel Files
 - 1. No Change

2. An employee shall be entitled to read any statement on his or her work performance or conduct if such statement is to be filed. The employee shall acknowledge reading such material by affixing his or her signature on the actual copy to be filed, with the understanding that said signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee ~~refuses~~ **chooses not** to sign, the supervisor will sign, noting the ~~refusal of the employee to sign~~ **employee's choice not to sign.**
3. No disciplinary documents will be placed in an employee's permanent personnel file unless the procedure in paragraph 2 is followed. Any documents placed in the employee's file in violation of this provision will be removed at the employee's request.
4. **An employee may attach a rebuttal or explanatory statement to any written counseling, written warning, written reprimand, Annual Employee Performance Report, Supplemental Employee Performance Report, or Skelly document in an employee's permanent personnel file within a reasonable time after the document has been placed in the file.**

B. – D. No Changes

E. Performance Reports

2. Rating Performance Reports: Raters should remember that Employee Performance Plans are developed for positions, not personalities; that they should rate job performance, compared to the expected performance standards.

Raters should assemble and review data gathered on an employee's performance throughout the rating period, such as production records, observations, draft documents, work product, commendations, citizens complaints, and similar tangible evidence.

The basis of evaluations should concentrate on facts and concrete instances of performance. Raters should focus on performance throughout the rating period, not merely on recent experience.

An employee shall only be rated by the immediate supervisor. If the first line supervisor is unavailable, the next higher level supervisor will be the rater. The rater should consult with the OCA supervisor(s) during the rating period for input.

~~The City agrees to a joint committee with MEA to discuss guidelines and training related to the incorporation of performance-based measurements into Employee Performance Reviews. MEA shall have three representatives on this committee.~~

3. Supervisor-Employee Conference: The supervisor should point out the employee's progress in performing job functions and meeting performance standards, achievements, areas in which improvement is necessary, why they are needed, how they can be accomplished with the supervisor's assistance, as well as any other performance information considered to be important. **Because written counselings, written warnings, and written reprimands must be removed from an employee's file after a designated time period, they shall not be noted in an Annual Employee Performance report, however, the behavior that led to the discipline may be mentioned in the report.**
4. Issuance of ~~Less than Satisfactory Reports:~~ **Supplemental Employee Performance Reports:** Supervisors should provide regular feedback to their employees during the rating period. In instances where improvement is needed, the supervisor should provide guidance and assistance on how to improve so as to allow the employee an opportunity to raise his or her performance level to ~~satisfactory~~ **meets standards.**

If it is determined that an employee will be issued a ~~less than satisfactory~~ **Supplemental Employee Performance** report, the employee shall be provided reasonable advance notice for the purpose of obtaining representation. However, this shall not be construed so as to require management to delay issuance of a ~~less than satisfactory~~ **Supplemental Employee Performance** report past an employee's probation period or transfer trial period end date.

~~An overall performance rating of Below Standard or Unsatisfactory~~ **Supplemental Employee Performance report** shall include written comments as to what remedial action was discussed, what corrective action (~~such as warnings or other discipline~~) may have been taken, and a follow-up review date within 90 days where appropriate.

In reviewing ~~less than satisfactory~~ **Supplemental Employee Performance** reports, the appointing authority should determine if reasonable efforts have been made to assist the employee ~~to become a satisfactory~~ **in meeting standards** employee.

5. No Changes

6. No Changes

F. Citizen Complaints and Route Slips

Employees will be notified of any citizen complaint or route slip in which they are identified by name or in which they can be identified by the City Management from the information received. **The City shall be obligated to provide the necessary information related to any citizen complaint/route slip to authenticate the complaint and forward such authentication to MEA within ten days from when the City received such complaint/route slip. The City may redact the citizen's name from the complaint.** If the complaint is resolved in the employee's favor, the complaint, together with all related documents, shall be removed immediately from the employee's personnel file(s), unless the employee requests in writing that the document be retained.

G. – H. No Changes

I. Fact Finding

Management shall give an employee sufficient notice of its desire to conduct a fact-finding session so as to allow the employee to obtain representation if he or she chooses.

A copy of the fact finding questions will be provided to the employee and the employee's representative at the beginning of the fact finding session.

Employees will normally receive written notification of the results of any fact finding interview within 30 calendar days of the interview. Employees not receiving such notification may request through the ~~City Manager's Office~~ **Human Resources Director**, the results of the fact finding. Such results shall be made available to the employee unless the ~~City Manager~~ **Human Resources Director** determines that extraordinary and extenuating circumstances require additional time in which case the employee will be given the reasons additional time is required and a projected date for conclusion of the fact finding process.

If the fact finding is not completed within 120 calendar days of the date the first interview with the subject took place, the employee may request through the Human Resources Director for the matter to be closed and no further action to be taken. Such approval will be granted unless the Human Resources Director determines additional time to complete the fact finding is warranted due to extraordinary and extenuating circumstances.

If it is determined that the results of the fact finding are that no further action is necessary, the notice of fact finding and the results of the fact finding shall not be placed in the employee's personnel file(s) such that no evidence of the existence of the fact finding will remain in the employee's file(s)

No fact-finding session will be tape-recorded without the express consent of all parties present in the session. If a tape is made pursuant to such consent, the party who makes the tape will provide a copy, within one working day, to any participant in the session who requests it.

J. – O. No Changes

~~P. — Clerical Career Path and Futures Committee~~

~~The City and MEA recognize the changes occurring in the clerical and support classes due to the new technologies that have been implemented or will be implemented within various departments. In order to avoid a crisis when the time of full implementation comes, the following committee is being proposed.~~

~~The City agrees to a joint committee with MEA to discuss how to expand current and future career paths for the clerical and the data processing occupational groups. In addition, the committee will study the projected future usage for these classes and develop a proactive plan which will analyze future demands, training and skills that will be needed and make recommendations on transition classification issues the departments or employees may have.~~

~~The composition of the committee will be determined jointly by management and MEA. The committee will be appointed no later than February 1, 1999.~~

ARTICLE 19: Bilingual Pay

Change as follows:

A. Any employee while filling a position which is designated as requiring knowledge and use of Spanish, Korean, American Sign Language, Arabic, Farsi, **Somali**, Chinese, Indochinese or Tagalog language in the performance of their duties, and who has passed the Personnel Department's fluency examination, if any, shall be paid seventy cents (\$.70) per hour in addition to their regular salary.

B. Dispatchers in the Police and Fire Departments who are regularly required to use Spanish, Korean, American Sign Language, Arabic, Farsi, Somali, Chinese, Indochinese or Tagalog language in the performance of their duties and have been certified as bilingual shall be eligible to receive an additional seventy cents (\$.70) per hour while filling positions authorized as requiring this skill by the department.

C. Incidental Bilingual Pay

City agrees to pay bilingual compensation in the amounts specified in paragraphs A and B for the entire pay period to any eligible employee (Certified by Personnel or identified by Citizens Assistance) who is requested or directed by a supervisor or manager to provide translator services in a non-English language other than a language eligible for ongoing bilingual compensation (Spanish, Korean, American Sign Language, Arabic, Farsi, Somali, Chinese, Tagalog, Indochinese languages).

A statement attached to the PCN from a supervisor will serve as certification for bilingual pay for the pay period.

ARTICLE 20: Workplace Safety

Change as follows:

~~B. — Management shall have the right to promulgate reasonable rules regarding transporting or carrying of weapons by City Employees on City property or job sites.~~

B. Weapons-Free Workplace: MEA-represented employees are prohibited from possessing or storing firearms, even if lawfully owned, on the job or in City-controlled parking locations. However, consistent with past practice, this prohibition is not applicable to the classifications of Senior City Attorney Investigator and City Attorney Investigator in the City Attorney’s Office. The City has stated its intent to adopt an Administrative Regulation on the subject of possession or storage of firearms and similar deadly weapons on the job or on City property and will meet and confer with MEA over impacts. In any event, tools required or used on the job are not covered by this prohibition.

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ARTICLE 21: Salaries

Change as follows:

1. General Salary

Effective July 1, 2009, there will be a general salary freeze and no general salary increase through June 30, 2012~~213~~. Employees will remain eligible for all other current forms of compensation, including but not limited to step advances on the salary schedule, career advancement opportunities, certification and registration pay.

~~SPSP 3% Mandatory Match Waiver, 3% Pay Deduction 52 Hour~~

Furlough or Pay Deduction

Effective with the **first complete** pay period beginning **after July 9, 2011 1, 2012**, each employee will ~~elect one of the following options~~ (see exceptions below for ~~employees hired after July 1, 2009, and for all Hourly employees~~):

- ~~(1) — waiving his or her right to receive the City's mandatory 3% match of contributions into the SPSP Plan; or,~~
- ~~(2) — take ing fifty-two (52) hours of unpaid furlough during fiscal year 2012 3, which will be deducted on a pro-rata basis from each of 25 paychecks over the course of the fiscal year on the same terms and conditions as apply to the City's FY09 Voluntary Furlough Program, except that no discretionary days off shall be made available. A pro-rata adjustment in the number of furlough hours shall be made for those employees who work half and three-quarter time, and for any employee is hired after the beginning of a fiscal year.~~

~~Exceptions: Post 7/1/09 Hires and Hourly Employees - 3% Pay Deduction~~
~~Since employees hired after July 1, 2009, are not eligible to participate in the SPSP plan, these employees may not elect option 1 above and must take fifty-two (52) hours of unpaid furlough.~~

~~Since Hourly employees may not take unpaid furlough (option 2), and since federal law mandates their participation in the SPSP-H plan (see Article 51), neither option is available to them and a 3% pay deduction from all SPSP-eligible compensation is mandatory for them.~~

~~Additional Provisions Applicable to Above Options~~

- ~~(a) — Failure to execute a waiver of the City’s mandatory 3% SPSP plan match by the designated date or within fifteen (15) work days after returning to active payroll or from approved leave will result in imposition of the unpaid furlough option.~~
- ~~(b) — Employees may not change their election during the term of this one-year MOU extension.~~
- ~~(c) — Each employee who waives the City’s mandatory SPSP match will have the option to continue or stop making his or her mandatory SPSP contribution (in its entirety) while the waiver of the City’s matching contribution is in effect. If the employee elects to discontinue making his or her mandatory 3% contribution, the employee must also waive the right to increase his/her voluntary SPSP contributions beyond the percentage the employee had selected during the payroll period ending March 18, 2011.~~
- (d) — Each employee will schedule his or her furlough hours in the same manner as ~~vacations~~ **annual leave** is presently scheduled pursuant to Article 18 of this MOU. The City agrees that each employee must be allowed the opportunity to take furlough hours off before the end of each fiscal year covered by this MOU. The parties intend that this furlough program will be conducted on terms that are fair and reasonable to each employee while permitting the City to carry on necessary work. In the event of any dispute over a department’s or division’s handling of employees’ requests to schedule their furlough days, the City’s Human Resources Director will have the authority to hear and direct the Department or Division to resolve the dispute in keeping with the letter and spirit of the parties’ agreement.

Special Salary Adjustments

In anticipation of the meet and confer process for a new agreement for ~~FY~~ **Fiscal Year 2013 2014**, MEA may bring special salary adjustment requests to the Civil Service Commission during the appropriate period in Fiscal Year ~~2012 2013~~.

ARTICLE 29 -- Time Off For Meetings

Add a new Section E as follows:

E. Effective July 1, 2012, 4 hours of release time, per quarter, is authorized for the MEA trustee representative for the purpose of attending San Diego Employees Retiree Medical Trust board meetings. No overtime is authorized. Additional release time may be granted subject to the approval of the Human Resources Director.

ARTICLE 37 – Appeals

Change as follows:

A. The employee may appeal the placement of any document, including a ~~an~~ “Unsatisfactory” or “Below Standard” **Supplemental** Performance Evaluation, which is to be made a part of the employee’s permanent record and which may be used as a basis for subsequent discipline, in his/her permanent record by submitting an appeal letter to the Department Head within ten (10) working days of the employee receiving any such document that is to be placed in his or her file. It is mutually agreed that satisfactory and above employee performance evaluations are not eligible to be appealed. Within ten (10) working days after receiving the appeal letter, which becomes an attachment to the document in question, the Department Head or his/her designee will schedule a hearing on the matter. The employee is entitled to representation at such hearing. After the hearing the Department Head or his/her designee will make a decision provided in written form within ten (10) working days as to whether the written document will be retained in, **modified**, or removed from the employee’s record.

It is mutually agreed that when an employee has concerns about evaluations that are satisfactory or above, the Department Head should designate someone other than the rater and the reviewer, to meet with the employee and MEA in an attempt to resolve any differences or dissatisfaction.

Reviews of satisfactory or above evaluations are discussion items which may result in changes being made to the evaluation, but are not to be considered an appeal of the evaluation.

B. Formal reprimands without further penalty more than two (2) years old, and those with additional penalty more than three (3) years old, will be destroyed, and will not be considered for purposes of promotion, transfer, special assignments and disciplinary actions, except as to disciplinary actions when such reprimands show patterns of specific similar misconduct. Reprimands may be retained in the employee’s personnel jacket **as set forth in this Article**. Upon request of the employee, such reprimands will be destroyed on this basis. However, in the event that an employee fails to make such a request, on discovery by Management any reprimand will be destroyed in accordance with this provision **and shall not be relied upon for subsequent disciplinary action.**

C. Letters of counseling and letters of warning, more than one (1) year old will be destroyed and will not be considered for purposes of promotion, transfer, special assignments and disciplinary actions, except as to disciplinary actions involving specific similar misconduct as that addressed in the letter of

counseling or letter of warning. Letters of counseling and letters of warning may be retained in the employee's personnel jacket **as set forth in this Article**. Upon request of the employee, such letters of counseling and letters of warning will be destroyed on this basis. However, in the event that an employee fails to make such a request, on discovery by Management any counseling or warning will be destroyed in accordance with this provision **and shall not be relied upon for subsequent disciplinary action.**

D. If any disciplinary action, including property rights disciplinary actions, is reduced to a lower level written discipline as a result of an appeal, the resulting lower level discipline will be effective the same date that the initial higher level discipline was first issued to the employee.

ARTICLE 38: Transportation Programs

Change as follows:

A. "C" Mileage

~~Effective July 1, 2011, the "C" Mileage reimbursement shall be consistent with the I.R.S. rate.~~ All employees requested or required by the City to report to work outside of their normal work schedule (i.e., call-back or standby) will be entitled to mileage when traveling in their personal vehicle to and from the work assignment. **"C" Mileage reimbursement will be paid in accordance with the current IRS Standard Mileage Rates for business reimbursement.**

ARTICLE 47 – Holidays

Add at the end of Section I:

When Christmas, New Year's Day, and/or July 4th fall on either a Saturday or Sunday, Police, Fire and Public Works Dispatchers only, shall receive holiday compensation, including premium overtime, for all hours worked on the actual holiday when the employee is scheduled to work on that day. In such instances, holiday compensation will not be paid on the day the holiday is observed.

The following are examples of holiday pay procedures:

- Employees who are scheduled to work on both the City observed holiday and the actual holiday will receive holiday pay on the actual holiday.

- Employees who are scheduled to work on the City observed holiday and have a scheduled day off on the actual holiday will receive holiday pay on the City observed holiday.
- Employees who have a scheduled day off on the City observed holiday and are scheduled to work on the actual holiday will receive holiday pay on the actual holiday.
- Employees who have a scheduled day off on both the City observed holiday and the actual holiday will receive holiday pay on the actual holiday.

Employees are only entitled to receive holiday compensation for one day, not both.

ARTICLE 53 -- Transportation Incentives

Add language as follows:

The City will provide 75% reimbursement up to \$100 to those employees who wish to purchase monthly passes for transportation on the public bus and/or trolley and commuter rail service, or who ride bicycles to work and utilize bicycle lockers. Such passes will be for the exclusive use of the employee/purchaser. The City will provide an equal amount to employees who utilize the bay ferry and to employees participating in a City approved vanpool program. Employees must utilize these subsidized transportation services to commute to and from work at least three days a week to be eligible for reimbursements. Employees in violation of these provisions shall have their Transportation Incentives discontinued. **Payments for passes are made payable to the City Treasurer no later than the 12th day of the current month for the next month's pass. Payment is loaded onto issued Compass Cards.**

Article 91: Bereavement Leave

Change as follows:

~~Effective July 1, 2005, paid~~ **Paid** Bereavement Leave of up to three days is available upon the death of an employee's spouse, father, mother, brother, sister, son, daughter ~~(including step-, foster, or adopted son or daughter)~~ **(son or daughter to include: step-, foster, or adopted)**, or state-registered domestic partner, with a limit of one eligible death per fiscal year. Proof of death (death

certificate, obituary, funeral program, etc.) must be provided in order to receive Bereavement Leave, which is in addition to Annual Leave, **and must be submitted within 30 calendar days of when the employee returns to work.**

ARTICLE 85 -- Office Space

Change as follows:

The City will have the right to adopt a revised ~~and MEA agree that Administrative Regulation A.R. 56.00, "Office Space Requests," shall be changed in pertinent part as follows:~~ **At the request of the Union, City will meet and confer over the identified impacts on the adoption of the A.R. Such A.R. will be consistent with the policy that**

~~2.6—Policy~~

~~It shall be the City Manager's policy that,~~ in determining work space allocation, the actual work being done **based on the job responsibilities of each position** and the space necessary to accomplish it, ~~sh~~**will** be the primary determinant of space allocation.

~~4. Guidelines~~

~~4.1 Office space requirements will take into consideration the following guidelines when planning and allocating space to departmental programs. However, the specific space needs based on the job responsibilities of each position shall be the primary determinant of the space allocation.~~

Because space allocation is critical to both efficiency and the quality of the work environment, departments will solicit employee input into this process.

ADD NEW ARTICLE: VOLUNTEERS

1. The City's Volunteer Program is governed by City Council Policy 300-01.
2. City Council Policy 300-1 defines authorized volunteers as individuals who perform services without pay and have completed and signed a volunteer participation agreement which has been accepted by a City department.
3. Volunteers are to be utilized only to supplement or augment the work performed by MEA represented employees without decreasing bargaining unit work or displacing existing MEA represented employees.
4. Departments participating in the City's Volunteer Program shall utilize volunteers to perform tasks related and limited solely to the volunteer programs.

SUBJECT INDEX - Change as Follows:

Strike “Last Chance Agreement” and associated page number.

APPENDIX A: Change as follows:

Add “Business Systems Aide” to the Technical Bargaining Unit

APPENDIX F – Change as Follows:

Add Wastewater Pretreatment Program Manager

City’s Proposed “Clean-Up” of MEA’s MOU

In reaching this Tentative Agreement, the parties have agreed that they will continue discussions regarding the City’s proposed non-substantive “clean-up” revisions to the MOU and that all such revisions which are agreed upon will be incorporated into the final version of a new MOU for fiscal year 2013.