

**SIDE LETTER AGREEMENT BETWEEN THE
CITY OF SAN DIEGO AND
DEPUTY CITY ATTORNEYS ASSOCIATION OF SAN DIEGO (DCAA)
REDUCTION IN FORCE POLICY**

Pursuant to the provisions of the Meyers-Milias-Brown Act, this Side Letter of Agreement is entered into on February 5, 2014, between the City of San Diego (City) and the Deputy City Attorneys Association of San Diego (DCAA) as an amendment to the memorandum of understanding (MOU) covering the term July 1, 2013 to June 30, 2018. It is understood and agreed that the specific provisions contained in this Side Letter Agreement shall supersede any previous agreements, whether oral or written, regarding the matters contained herein. Except as provided herein, all wages, hours and other terms and conditions of employment presently enjoyed by the affected employees, and in the MOU, shall remain in full force and effect.

The City and the DCAA have met and conferred in good faith concerning the terms and conditions of this Side Letter Agreement and its implementation and now therefore agree as follows:

**Article 15
Terminations, Suspensions and Layoffs**

Section A and B existing MOU Language.

New Section C below:

C. Layoffs

- 1. Notice to DCAA Regarding Management Decision to Layoff Deputy City Attorneys**
 - a. Prior to any management decision to Layoff any member of DCAA due to lack of work, lack of funds, or reorganization, the City Attorney will provide written notice to the DCAA and an opportunity to meet and consult. Within five business days of the date of the written notice,**

the DCAA must notify the City Attorney in writing of the DCAA's desire to engage in meet and consult. The opportunity to meet and consult is solely for the purpose of soliciting input from the DCAA. The opportunity to meet and consult does not abrogate the City Attorney's management right to make such Layoff decisions. Further, this opportunity to meet and consult does not create any right of the DCAA to invoke impasse procedures regarding any Layoff decision. In addition to the foregoing meet and consult process, the City Attorney will meet and confer over the impacts of any Layoff decision as required under the Meyer-Milias- Brown Act.

- b. The City and DCAA agree to reopen Article 15, Section C on lay off procedures, after City and DCAA comply with Article 36 with respect to job descriptions. Said re-opener shall take place within the following 4 months from the date of this agreement. Upon completion of Article 36, the parties agree to said reopener with the understanding that changes, if any, shall be done only by mutual agreement among the City, the City Attorney and DCAA.

2. Layoff Procedure

In the event a Layoff decision is made, the City Attorney will retain discretion to lay off attorneys based on the following considerations:

- a. Legal services to be provided and practice areas;
- b. Staffing levels;
- c. Seniority
- d. Attorney skill set and/or required specialized skills.

3. Layoff Notice

- a. Once a Layoff determination has been made, the City Attorney will provide simultaneous written notice to DCAA and to the affected DCAA member(s) of the names of any DCAA member who will be laid off and the effective date of

the Layoff.

- b. A Notice of Layoff will be served, either personally or by certified mail with return receipt requested, on a DCAA member at least fifteen (15) calendar days prior to the effective date of the Layoff.

4. Reemployment List

Any Member who is laid off shall have his/her name placed on a Reemployment List." Said Member(s) shall be on the Reemployment List for up to one (1) year from the date of Layoff, except that any such Member, who having two (2) times refused an offer of reemployment, shall have his/her name removed from the Reemployment List following the second refusal.


Any Member on the Reemployment List shall be assured the right to be rehired to the position they held at the time of layoff prior to final selection and appointment to said vacant position. If there is more than one member laid off in the same position, the member will be rehired into the same position based on seniority. "Position held at the time of layoff" means the specific area of law and job duties that impacted member was performing at the time of layoff.

A Member who has been laid off under the provisions of this Article and is subsequently reemployed in a permanent position within a one (1) year period from the date of his/her Layoff shall receive the following considerations and benefits:

- a. Member will be considered a rehire by the City, and entitled to all benefits of a rehired City employee, including his/her prior seniority, pay and benefits as determined by SDCERS and/or subject to applicable Personnel Regulations.
- b. A new probationary period shall not be required of a reemployed Member.
- c. A Member who accepts an offer of reemployment shall have his/her name removed from the Reemployment List.

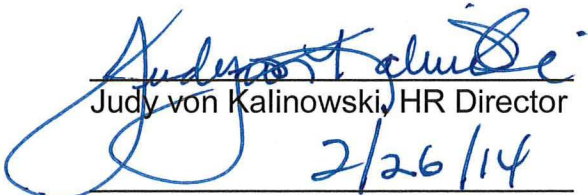
This agreement is executed this ____ day of February, 2014 by the following authorized representatives.

FOR THE CITY



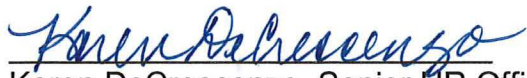
Timothy Davis, Lead Negotiator
2/20/14

Date




Judy von Kalinowski, HR Director
2/26/14

Date




Karen DeCrescenzo, Senior HR Officer
2/26/14

Date



Paul Cooper, Assistant City Attorney
3/4/14

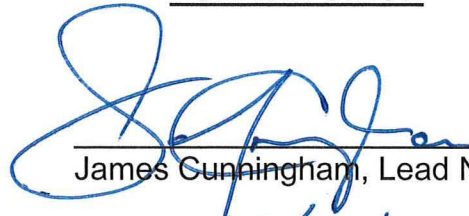
Date



Tanya Tomlinson, Deputy Director
3-4-14

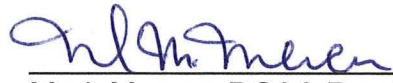
Date

FOR THE UNION




James Cunningham, Lead Negotiator
3/05/14

Date




Mark Mercer, DCAA President
2/28/14

Date




Michael Hudson, DCAA Vice-President
2-28-14

Date



Brant Will, DCAA
2/29/14

Date



Kathleen McManus
2/28/14

Date

RESOLUTION NUMBER R- 308790

DATE OF FINAL PASSAGE MAR 20 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A TENTATIVE AGREEMENT AND A SIDE LETTER AGREEMENT, AMENDING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SAN DIEGO AND THE DEPUTY CITY ATTORNEYS ASSOCIATION REGARDING TERMS AND CONDITIONS OF EMPLOYMENT FOR FISCAL YEARS 2014 THROUGH 2018.

WHEREAS, on October 1, 2013, the San Diego City Council (Council) approved a five-year Memorandum of Understanding (MOU) between the City of San Diego (City) and the Deputy City Attorneys Association (DCAA), regarding wages, hours, and other terms and conditions of employment for employees represented by the DCAA for Fiscal Years 2014 through 2018; and

WHEREAS, the MOU, at Article 15, paragraph C.2, states that the City and the DCAA will continue to negotiate a layoff procedure in accordance with San Diego Charter sections 30 and 40; and

WHEREAS, pursuant to the Meyers-Milias-Brown Act (MMBA) and Council Policy 300-06, from February 8, 2011 through February 5, 2014, the City's management team and the DCAA met and conferred in good faith regarding a layoff procedure; and

WHEREAS, on February 5, 2014, the City's management team and the DCAA reached a tentative agreement on the layoff procedure and fully executed the tentative agreement on February 18, 2014; and

WHEREAS, DCAA members have ratified the tentative agreement; and

WHEREAS, in accordance with the MMBA, and specifically California Government Code section 3505.1, and Council Policy 300-06, the City's management team and the DCAA

are now presenting the tentative agreement, which describes the negotiated layoff procedure, to the Council for final determination; and

WHEREAS, the City's management team and the DCAA contemplate that the layoff procedure will be memorialized by amendment to Article 15, paragraph C of the MOU, as described in the proposed Side Letter Agreement, now before the Council for final determination; and

WHEREAS, the Side Letter Agreement is intended to be read in conjunction with the MOU, as expressly stated in the Side Letter Agreement; and

WHEREAS, the Side Letter Agreement is amending the five-year MOU, and therefore, under San Diego Charter section 11.2, the Side Letter Agreement requires a determination by the City Council that it is in the best interests of the City to enter into a multiple-year agreement and a two-thirds vote of the City Council approving the agreement; and

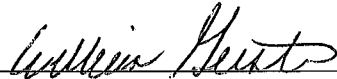
WHEREAS, the City Council now determines it is in the best interests of the City to enter into a multiple-year agreement with the DCAA on a layoff procedure for a term that is consistent with the current five-year MOU to ensure stability in the work force represented by the DCAA and to resolve a negotiable matter under the MMBA; and

BE IT RESOLVED that, pursuant to the authority of the MMBA and Council Policy 300-06, the Council of the City of San Diego approves the tentative agreement between the City and the DCAA regarding a layoff policy, on file in the office of the City Clerk as Document No. RR-303790-1; and

BE IT FURTHER RESOLVED that, pursuant to the authority of the MMBA and Council Policy 300-06, the Council of the City of San Diego approves the Side Letter Agreement between the City and the DCAA, on file in the office of the City Clerk as Document No.

02-303790-2, which amends the MOU for Fiscal Years 2014 through 2018, by amending Article 15, paragraph C of the MOU.

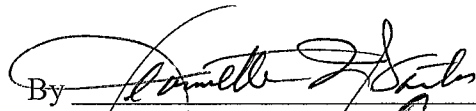
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
William J. Gersten
Deputy City Attorney

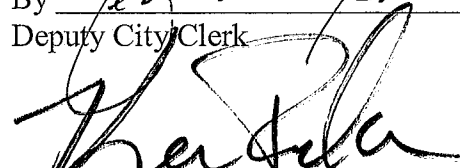
WJG:hm
02/18/2014
02/28/2014 COR.COPY
Or.Dept:Human Resources
Doc. No. 736811

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 04 2014.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 3/20/2014
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAR 04 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 2 (Vacant)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 20 2014.

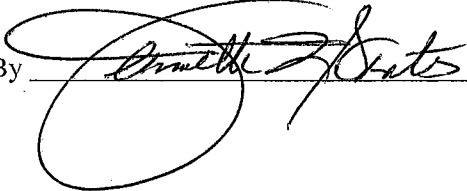
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 308790