

**ADDENDUM  
TO  
MEMORANDUM OF UNDERSTANDING**

**FOR TERM OF**

**JULY 1, 2011 – JUNE 30, 2012**

**BY AND BETWEEN THE CITY OF SAN DIEGO  
AND THE DEPUTY CITY ATTORNEYS ASSOCIATION OF SAN DIEGO**

**JULY 1, 2011**

The City of San Diego and the Deputy City Attorneys Association (collectively “Parties”) entered into that certain “Memorandum of Understanding between the City of San Diego and Deputy City Attorneys Association of San Diego for the period July 1, 2009 to June 30, 2011” (“MOU”). The Parties recently negotiated and approved a First Addendum to that MOU for Fiscal Year 2012, which First Amendment is memorialized herein and incorporates the MOU in full by this reference. Except as otherwise set forth in this First Amendment, all terms and conditions of the MOU will remain in full force and effect from July 1, 2011 through and including June 30, 2012.

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**ARTICLE 3**  
**Term**

Date Change Only.

The term of this Memorandum of Understanding shall commence at 12:01 a.m. on **July 1, 2011**; however, the effective date for the initial payroll changes shall be **July 9, 2011**. This MOU shall expire and otherwise be fully terminated at 12:00 midnight on **June 30, 2012**.

**ARTICLE 4**  
**Renegotiation**

Section 1 – Date Change Only.

Section 1. DCAA shall serve upon the City its full and entire written proposals for a successor agreement by **February 3, 2012**, with the exception of salary or other economic proposals, which shall be presented no later than **February 13, 2012**. Upon receipt of such written proposals, meet and confer shall begin no later than **March 2, 2012**.

Section 2 – Date Change Only.

Section 2. The City shall serve upon DCAA its full and entire written proposals for a successor agreement by **February 24, 2012**, with the exception of salaries or other economic proposals. Meet and confer shall begin no later than **March 2, 2012**, at which time the City will present its full economic proposal. Notwithstanding the above, if federal or state governments take action that has a direct effect upon the areas which fall within meet and confer, the City and DCAA may submit proposals concerning these areas at later dates.

Section 3 – Date Change Only.

Section 3. If neither party has proposed a change to a particular Article in this MOU by **March 2 2012**, that Article shall remain in full force and effect from the date it would have been terminated.

Section 4 – Date Change Only.

Section 4. Unless otherwise agreed to, the parties agree that final offers by both parties will be made no later than **April 6, 2012**. If an impasse hearing with City Council is necessary, it will be scheduled for on or about **April 13, 2012**. DCAA agrees to provide to the Management Team a written statement of its positions regarding any issues at impasse on **April 6, 2012**.

There are no changes to Sections 5 or 6.

**ARTICLE 5**  
**Salary**

Section 1 – Date Change Only.

1. General Salary

- A. No general salary increase for FY**2012**. Employees in the DROP program will have a pay reduction of 3.2% of base salary, to correspond to the 3.2% employee contribution to CERS by non-DROP employees.

There are no changes to Section 1B

Section 2 – Date Change Only.

2. Mandatory Furlough

- A. Effective with the pay period beginning on **July 9, 2011**, each full-time employee will be required to take thirty-two (32) hours of unpaid furlough during **FY2012** 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.

There are no changes Sections 2B, 2C, or 2D.

**ARTICLE 7**  
**Retirement Benefits**

Add New Subsection 3.B.4(e).

- (e) **The parties agree that the one-year extension of this MOU through June 30, 2012 does not affect the rights and duties of the parties regarding the ongoing Retiree Medical Benefit negotiations pursuant to subsection 3. B. of Article 7, including but not limited to the City’s right, as set forth in subsection 3.B. 4. (d), to impose its last, best and final offer changing the Retiree Medical Benefit effective on July 1, 2011, for those active employees covered by this agreement who retire or leave DROP on or after that date. Nor does this one-year MOU term alter or diminish DCAA’s right to challenge such imposition in accordance with subsection 3. B. 4. entitled: “Reservation of Rights, Failure to Reach Agreement and Return to the Status Quo Ante”.**

There are no changes to Sections 4 and 5.

Add New Section 6.

- 6. The parties recognize that the effective date applicable to the above-listed benefit**

**changes is currently in litigation and on appeal and will eventually be established by a final order of the court.**

**ARTICLE 13**  
**Review of Performance and Discretionary Merit Increases**

Date Change only.

Effective July 1, 2009, a new structured salary schedule will be implemented. (See Appendix A, "DCAA Salary Schedule," which is attached and incorporated into this MOU). Management has the affirmative duty to provide the employees with written performance evaluations; however, failure to provide the required written performance evaluation shall not be the basis for the denial of step advancement for employees in DCA I, II, and/or III grade as outlined below. Nothing contained herein shall affect the City Attorney's authority to hire a Deputy City Attorney at any salary.

Deputy I and II

Management of the City Attorney's Office will review the performance of employees in the Deputy I and II grade every six months, in approximately June and December. Effective July 1, 2009, employees in the Deputy City Attorney I and II grade who have served at least six months at their current step will receive a step increase at the time of these reviews, unless there is a written prior finding in the form of a performance review that the DCA has rendered less than satisfactory performance. All step increases will be effective on **the first day of the last pay period of the fiscal year that includes July 1 and the first day of the first pay period of the calendar year that includes January 1 of each year.**

Deputy III

Management of the City Attorney's Office will review the performance of employees in the Deputy III grade once a year, in approximately June. Effective July 1, 2010, employees in the Deputy City Attorney III grade who have served at least one year at their current step will receive a step increase at the time of these reviews, unless there is a written prior finding in the form of a performance review that the DCA has rendered less than satisfactory performance. All step increases will be effective on **the first day of the last pay period of the fiscal year that includes July 1 of each year.**

Deputy IV, V and Senior Deputy

Management of the City Attorney's Office will review the performance of employees in the Deputy IV, V and Senior Deputy grades once a year, in approximately the month of that employee's anniversary date of hire by the City Attorney's office. These employees will be eligible to receive an increase at the time of these reviews, provided that such increase shall be in the sole and absolute discretion of the City Attorney, shall be based on merit, and shall be within the budgetary constraints of the City Attorney.

### Progression Between Grades

Placement in, and progression between grades shall be in the sole and absolute discretion of the City Attorney.

### DCAA Performance Evaluation Process

During the term of this Agreement, the parties will continue to meet and confer and use their best efforts to agree upon performance evaluations for the employees and the performance evaluation process. As such, during the term of this agreement, the City Attorney's Office will conduct performance evaluations consistent with the procedures developed above.

## **ARTICLE 15** **Terminations, Suspensions and Lay-Offs**

Rename Article and replace in its entirety with the following:

### **A. Covered Deputy City Attorney Terminations or Suspensions For Cause**

**A "covered deputy city attorney" ("Covered DCA") is a deputy city attorney who has served continuously as a deputy city attorney with the Office of the San Diego City Attorney ("Office") for two years or more.**

**For any Covered DCA who is being terminated or suspended by the City Attorney for cause, the following procedural steps will apply:**

- a) Prior to issuing written advance notice of termination or suspension, an informal meeting will be held between the Covered DCA and the initial decision-maker regarding the proposed discipline. This meeting will provide an opportunity for an open discussion between both parties about the proposed discipline. The advance notice of the proposed discipline, as outlined below, can be given at any time either during or after that meeting. The Covered DCA may be accompanied by a DCAA representative at this informal meeting.**
- b) Fifteen business days prior to the effective date of a termination or suspension for cause, the City Attorney will provide written notice to the Covered DCA, setting forth the grounds for the termination or suspension and the effective date of the action. This "advance notice" will include the specific disciplinary action proposed and disclosure of the evidence supporting the termination or suspension for cause. The advance notice will also notify the Covered DCA subject to the termination or suspension of his or her rights at an Appeal Hearing to present witnesses and confront adverse witnesses and to be**

represented. The Covered DCA may be represented by counsel, at the expense of the Covered DCA.

- c) **At the discretion of the City Attorney, the Covered DCA subject to termination or suspension for cause may be asked to remain out of the office on paid administrative leave pending final resolution of the discipline, including determination after appeal. If not placed on paid administrative leave, the Covered DCA will remain in the workplace and may be subject to a change in assigned work or unit.**
- d) **Within five business days of receipt of the advance notice, the Covered DCA may request an Appeal Hearing, by submitting a written request to the City Attorney.**
- e) **If the Covered DCA requests an Appeal Hearing, it will be held within five business days of request for appeal, unless an extension of time is mutually agreed upon in writing. The Appeal Hearing will be conducted by an unbiased hearing officer, who is either an Assistant City Attorney or, at the sole discretion of the City Attorney, a designee from outside the Office. If the Appeal Hearing Officer is to be an Assistant City Attorney, the Covered DCA may choose from a list of at least two ACA's who have not participated in the disciplinary process. The Assistant City Attorney that serves as the supervisor of the Covered DCA, or his or her designee, will present evidence supporting the termination or suspension. The Covered DCA will be provided with an opportunity to confront adverse witnesses and to present witnesses on behalf of the Covered DCA. The City Attorney shall contemporaneously make and maintain a record of the Appeal Hearing, which may be an audio recording.**
- f) **Following any Appeal Hearing, the Appeal Hearing Officer will provide the Covered DCA with an Appeal Decision, setting forth a determination of whether there is sufficient evidence to uphold the charges, the evidence relied upon, and the reasons for the determination made. The Appeal Hearing Officer shall uphold, reverse, or change the proposed discipline.**
- g) **The Appeal Decision will be provided to the Covered DCA within five business days following the Appeal Hearing. The Appeal Decision will include a notice of final effective date of discipline, if applicable.**
- h) **If the discipline is upheld, the Covered DCA receives the three weeks' pay in lieu of notice from the date of the Advance Notice minus the amount of pay already received, or to be received for the period from the date of Advance Notice.**
- i) **Regardless of whether the Covered DCA decides to appeal the termination or suspension, the Covered DCA will receive the equivalent of three weeks' notice**

or three weeks pay in lieu of notice from the date of the Advance Notice, in conjunction with Article 26 of the MOU.

- j) Nothing included herein precludes the City Attorney from being involved in making the original disciplinary decision.

**B. Non-Covered Deputy City Attorney Terminations, Other than Layoffs**

Any deputy city attorney, who is not a Covered DCA within the meaning of Paragraph A above, who has been terminated for any reason, other than a layoff due to lack of work, lack of funds, or reorganization, may, within five business days of his or her termination, request a meeting with the City Attorney or his or her designee, in order to discuss the termination decision. The meeting will occur within ten business days of receipt of such request.

**C. Layoffs**

In the event the City Attorney decides a layoff of deputy city attorneys is necessary, due to lack of work, lack of funds, or reorganization, the City Attorney will comply with the Meyers-Milias-Brown Act (MMBA).

The parties will begin negotiations regarding a layoff procedure, as set forth in San Diego Charter sections 30 and 40, no later than December 1, 2011.

**Article 31  
Terminal Leave**

Add New Article.

**Terminal Leave is eliminated effective July 1, 2011.**



This Agreement is executed on this \_\_\_\_\_ day of September, 2011 by the following authorized representatives of each party.

**Deputy City Attorneys Association of San Diego**

\_\_\_\_\_  
George Schaefer, DCAA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Daniel Rawlins, DCAA

\_\_\_\_\_  
Date

**City of San Diego**

\_\_\_\_\_  
Scott Chadwick, Human Resources Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tim Davis, Lead Negotiator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Karen DeCrescenzo, Labor Relations Officer

\_\_\_\_\_  
Date