

Side Letter of Agreement

City of San Diego And San Diego Police Officers Association April 29, 2014

Pursuant to the provisions of the Meyers-Milias-Brown Act ("MMBA"), this Side Letter of Agreement is entered into on April 21, 2014, between the City of San Diego ("City") and the San Diego Police Officers Association ("POA") ("Side Letter Agreement") as an amendment to the Memorandum of Understanding (MOU) effective FY14-FY18. The POA and the City are collectively referred to herein as the "parties." It is understood and agreed that the specific provisions contained in this Side Letter Agreement must supersede any previous agreements, whether oral and written, regarding the matters contained herein. Except as provided herein, all wages, hours and other terms and conditions of employment presently enjoyed by POA in the MOU must remain in full force and effect.

The City and POA have met and conferred in good faith concerning the terms and conditions of this Side Letter Agreement and its implementation and agree that the following language replaces Article 8 of this MOU in its entirety:

Article 8

Holidays

The terms and conditions related to Holiday Pay are set forth in three sections. Section I is the Standard Holiday Pay that was suspended effective FY14 due to implementation of the Holiday Pay Pilot Program. Section II is the Holiday Pay Pilot Program. Section III contains the Modified Holiday Pay Pilot Program that is in effect only for FY15. For FY 2016, either party, in its sole discretion, may terminate the Holiday Pay Pilot Program set forth in Part II, by notifying the other party in writing no later than April 28, 2015. Thereafter, either party may terminate the program by April 28th of the preceding Fiscal Year. If either party terminates the Holiday Pay Pilot Program set forth in Section II, the Standard Holiday Pay in Section I must govern.

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I. Standard Holiday Pay

A. Fixed Holidays.

1. Fixed Holidays will be:
 - a. January 1;
 - b. Third Monday in January, known as "Dr. Martin Luther King Jr.'s Birthday;"
 - c. Third Monday in February, known as "Presidents' Day;"
 - d. March 31, known as "Cesar Chavez Day;"
 - e. Last Monday in May, known as "Memorial Day;"
 - f. July 4;
 - g. First Monday in September known as "Labor Day;"
 - h. November 11, known as "Veteran's Day;"
 - i. Fourth Thursday in November, known as "Thanksgiving Day;"
 - j. December 25; and
 - k. Every day appointed by City Council for a public fast, thanksgiving or holiday.
2. If January 1, March 31, July 4, November 11, or December 25 falls upon a Sunday, the Monday following is the City-observed holiday. If any of the dates listed in this section fall on a Saturday, the preceding Friday is the City-observed holiday. An employee who is eligible for overtime compensation pursuant to the Fair Labor Standards Act (FLSA) will receive overtime compensation for all hours worked on the actual holiday when the employee performs required work on that day. In such instances, holiday overtime will not be paid on the day the holiday is observed by City.
3. The following is an *example* of the holiday pay procedures for POA represented employees if the actual holiday falls on a Sunday and City observed holiday falls on a Monday:
 - a. Officers who work both the City-observed holiday (July 5) and Sunday, July 4, will receive holiday overtime on July 4. Officers who are regularly scheduled to work on July 4 may elect to take this day as a "holiday" if approved by a supervisor.
 - b. Officers who have Monday, July 5 off and are regularly scheduled to work on July 4 will treat Sunday as the holiday and receive

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overtime for that day, or take the day as a "holiday" if approved by a supervisor.

- c. Officers who work on July 5, the City-observed holiday, and volunteer to work on July 4 (scheduled day off) for overtime, will receive holiday credit on July 5 and regular overtime pay on July 4.
- d. Officers who work on July 5 and are off on July 4, are eligible to receive a holiday credit if required to take the day off on July 5, or receive holiday overtime if the officer is required to work.
- e. If an officer is scheduled to work on both July 4 and July 5, the officer will only be entitled to receive holiday credit for one day, not both.

B. Floating Holiday.

1. In each fiscal year covered by the term of this MOU, each eligible employee available for a duty assignment on July 1 (as defined in Personnel Manual Index Code H-2) will accrue credit for ten (10) hours of holiday time. Each employee accruing such time will schedule his or her floating holiday to comply with the following conditions:
2. Employee must schedule the floating holiday prior to June 1;
3. The floating holiday must be a one-time absence and it must be used before the last day of the last full pay period in June; and
4. The floating holiday must be taken at a time convenient to the employee's appointing authority.

C. Working on a Fixed City Holiday.

Employees who are scheduled to, or work, a ten (10) or more hour shift (excluding overtime) on a fixed City holiday will be credited with two (2) additional hours of holiday time equal to the number of hours in their shift for use on another day, in addition to the eight (8) standard holiday hours pay plus overtime for all hours of the regular shift (e.g. ten (10) or twelve (12) hours of premium time depending upon their regular shift) for working the holiday.

II. Holiday Pay Pilot Program

The City and the POA agree to set aside the provisions in paragraphs A.2-3, B, and C, during Fiscal Year 2014 (July 1, 2013 through June 30,

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2014), to implement a pilot project related to holiday pay. The intent of the pilot project is to provide greater compensation through flexible benefits for POA-represented employees in lieu of holiday pay, without impacting public safety or increasing City personnel expenditures, including payment of overtime.

At its conclusion, the pilot project will be evaluated by City management. If this pilot project increases the City's personnel expenditures, including overtime, the City may terminate the pilot project at the City's sole discretion by notifying the POA in writing by April 28, 2014. The POA may also terminate the pilot project at its sole discretion by notifying the City in writing by April 28, 2014. If either party terminates the pilot project, holiday pay under the provisions of paragraph A, B, and C will be reinstated for Fiscal Year 2015 and all subsequent years during the term of this MOU. If neither party terminates the pilot program, it will continue for the remaining years of this MOU, and the provisions of paragraphs A.2-3, B, and C above will continue to be set aside.

Thereafter on an annual basis, either party, in its sole discretion, may terminate the pilot project by notifying the other party in writing by April 28. Written notification to terminate the pilot project for Fiscal Year 2016 must be received by the other party no later than April 28, 2015. Written notification to terminate the pilot project for Fiscal Year 2017 must be received by the other party no later than April 28, 2016. Written notification to terminate the pilot project for Fiscal Year 2018 must be received by the other party no later than April 28, 2017. If either party terminates the pilot project, holiday pay under the provisions of paragraph A, B, and C will be reinstated for all subsequent years during the term of this MOU.

During Fiscal Year 2014, the following provisions will apply:

1. Employees who work on one of the City's fixed holidays, as defined in Paragraph A above, and in San Diego Municipal Code section 21.0104, will be paid for the actual hours they work, but will not be paid any overtime compensation, notwithstanding Paragraph A.2 above, unless the employee is unscheduled and is required to be brought into work or back to work specifically for overtime assignments. In lieu of overtime compensation, employees who are scheduled to work and who work on one of the City's fixed holidays, will receive 0.8 hours of discretionary leave for every hour worked, up to 8.0 hours of discretionary leave per fixed holiday. The Sergeants and Officers permanently assigned to the Watch Commander's Office working a 12

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hour shift will receive 0.8 hours of discretionary leave for every hour worked, up to 9.6 hours of discretionary leave per fixed holiday. To receive the 8.0 hours (or 9.6 for those in the Watch Commander's Office) of Memorandum of Understanding, San Diego Police Officers Association 7 discretionary leave, the employee must work on the actual holiday – not the City fixed holiday. If an employee is not regularly scheduled to work but is required to work on a City fixed holiday on an overtime basis, the employee will not receive discretionary leave, but will be paid in accordance with the City's overtime and compensatory time policies.

2. Employees who work 8.0 hours or more on a City fixed holiday, excluding overtime, will not be credited with 2 additional hours of holiday time equal to the number of hours in their shift for use on another day, notwithstanding Paragraph C above.
3. Employees who are normally scheduled to work on a holiday and desire to take the day off may be given the day off based on seniority and within management's sole determination. In the event a scheduled employee is given the day off by management due to staffing levels being met, the employee may receive compensation for that day as a holiday occurring during the employee's normally scheduled work week but will not accrue any discretionary leave.
4. Each employee may carry over 8.0 hours of discretionary leave awarded for working a fixed holiday to Fiscal Year 2015, or, if this pilot program is continued, to the following fiscal year after the discretionary leave is earned, which must be used during that fiscal year or be forfeited. All additional discretionary leave (above 8.0 hours) earned by any employee under this pilot project must be used during Fiscal Year 2014, or, if this pilot program is continued, to the following fiscal year after the discretionary leave is earned, or be forfeited.
5. To ensure there is no increased overtime as a result of this pilot project, the scheduling of discretionary leave time off earned under this pilot project will be at City management's sole determination.
6. The practice of giving employees a holiday credit of 8.0 hours of compensation on a day off is eliminated. Employees not scheduled to work a City fixed holiday, who do not have it approved off through annual leave or other approved leave time will not receive any compensation. For the term of the pilot project, POA-represented

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employees are not eligible employees under Personnel Regulation H-2, II.B.4.

7. The 16.0 hours of discretionary leave set forth in Article 74 and the Floating Holiday in Article 8 are eliminated for Fiscal Year 2014. If, after completing its audit of the pilot program, the City determines that it will continue with the pilot project and is able to award Memorandum of Understanding, San Diego Police Officers Association 8 additional discretionary leave and/or the Floating Holiday without increasing overtime costs, then the City will reinstate all or part of the 16.0 hours of discretionary leave and/or the Floating Holiday for Fiscal Year 2015. The City's decision to reinstate either the discretionary leave, the floating holiday, or both is not subject to meet and confer, and the POA has no right to invoke impasse procedures related to the City's decision.
8. As part of the pilot program, each employee will receive an additional \$3,203 in their Fiscal Year 2014 Annual Flexible Benefit allotment. If either party terminates the pilot program, the Annual Flexible Benefit allotment will be reduced by an equal amount.

III. Modified Holiday Pay Pilot Program

A. Term.

The Modified Holiday Pay Program is in effect for Fiscal Year 2015 only. Effective July 1, 2015, the provisions in this Section III must be null and void.

B. Fixed Holidays.

1. Fixed Holidays will be:
 - a. January 1;
 - b. Third Monday in January, known as "Dr. Martin Luther King Jr.'s Birthday;"
 - c. Third Monday in February, known as "Presidents' Day;"
 - d. March 31, known as "Cesar Chavez Day;"
 - e. Last Monday in May, known as "Memorial Day;"

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- f. July 4;
 - g. First Monday in September known as "Labor Day;"
 - h. November 11, known as "Veteran's Day;"
 - i. Fourth Thursday in November, known as "Thanksgiving Day;"
 - j. December 25; and
 - k. Every day appointed by City Council for a public fast, thanksgiving or holiday.
2. If January 1, March 31, July 4, November 11, or December 25 falls upon a Sunday, the Monday following is the City-observed holiday. If any of the dates listed in this section fall on a Saturday, the preceding Friday is the City-observed holiday. An employee who is eligible for overtime compensation pursuant to the Fair Labor Standards Act (FLSA) will receive overtime compensation for all hours worked on the actual holiday when the employee performs required work on that day. In such instances, holiday overtime will not be paid on the day the holiday is observed by City.
3. An employee will receive straight time (Holiday Scheduled) pay if he or she is scheduled to work on a holiday, but does not work because (1) a supervisor approved the day off; or (2) he or she was required to take the day off.
4. The following is an *example* of the holiday pay procedures for POA-represented employees if the actual holiday falls on a Sunday and City-observed holiday falls on a Monday:
- a. Officers who work both the City-observed holiday (July 5) and Sunday, July 4, will receive holiday overtime on July 4. Officers who are regularly scheduled to work on July 4 may elect to take this day as a "holiday" if approved by a supervisor.
 - b. Officers who have Monday, July 5 off and are regularly scheduled to work on July 4 will treat Sunday as the holiday and receive overtime for that day, or take the day as a "holiday" if approved by a supervisor.

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- c. Officers who work on July 5, the City-observed holiday, and volunteer to work on July 4 (scheduled day off) for overtime, will receive holiday overtime on July 5 and regular overtime pay on July 4.
- d. Officers who work on July 5 and are off on July 4, are eligible to receive a holiday credit if required to take the day off on July 5, or receive holiday overtime if the officer is required to work.
- e. If an officer is scheduled to work on both July 4 and July 5, the officer will only be entitled to receive holiday overtime for one day, not both. The holiday will be observed on the actual day of the holiday.
- f. No holiday credit on a day off will be given.
- g. No Discretionary Leave will be credited for working on a holiday.

C. Floating Holiday.

- 1. In each fiscal year covered by the term of this MOU, each eligible employee available for a duty assignment on July 1 (as defined in Personnel Manual Index Code H-2) will accrue credit for ten (10) hours of holiday time. Each employee accruing such time will schedule his or her floating holiday to comply with the following conditions:
- 2. Employee must schedule the floating holiday prior to June 1;
- 3. The floating holiday must be a one-time absence and it must be used before the last day of the last full pay period in June; and

D. The floating holiday must be taken at a time convenient to the employee's appointing authority.

E. Working on a Fixed City Holiday.

- 1. Employees who work, a ten (10) or more hour shift (excluding overtime) on a fixed City holiday will receive holiday overtime to be taken as pay or comp time.

F. Flexible Benefit Allotment Fiscal Year 2015.

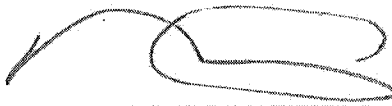
1. Each employee will receive an additional \$3,203 in their Fiscal Year 2015 Annual Flexible Benefit Plan (FBP) allotment.
 - a. The FBP annual allotment for Fiscal Year 2015 with the additional amounts for the Police Unit will be as follows:
 - i. Health Waiver (for employees who have other comprehensive health coverage) - $\$3,434 + \$3,203 + 968 = \$7605$
 - ii. Employee only - $\$5,771 + \$3,203 + 968 = \$9942$
 - iii. Employee and Children - $\$7748 + \$3203 + 968 = \$11,919$
 - iv. Employee and Spouse/Domestic Partner - $\$ 8,214 + \$3,203 + 968 = \$12,385$
 - v. Employee and Spouse/Domestic Partner & Children - $\$9,522 + \$3,203 + 968 = \$13,693.$
 - b. The FBP annual allotment for Fiscal Year 2015 with the additional amounts for the Police Management Unit will be as follows:
 - i. Health Waiver (for employees who have other comprehensive health coverage) - $\$6,434 + \$3,203 + 968 = \$10,605$
 - ii. Employee only - $\$8,771 + \$3,203 + 968 = \$12,942$
 - iii. Employee and Children - $\$10,748 + \$3,203 + 968 = \$14,919$
 - iv. Employee and Spouse/Domestic Partner - $\$11,214 + \$3,203 + 968 = \$15,385$
 - v. Employee and Spouse/Domestic Partner & Children - $\$12,522 + \$3,203 + 968 = \$16,693$


San Diego Police Officers
Association

City of San Diego

Date: 4/29/14

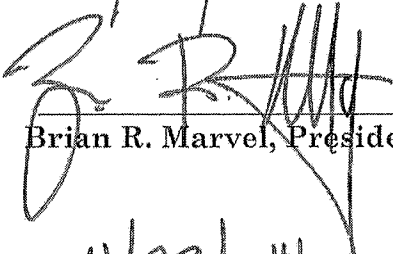
Date: April 29, 2014

By: 
Bradley M. Fields, Lead
Negotiator

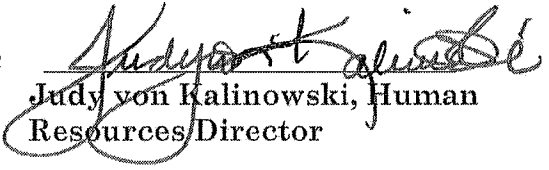
By: 
Timothy L. Davis, Lead
Negotiator

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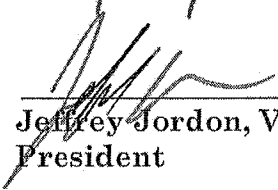
Date: 4/29/14

By: 
Brian R. Marvel, President

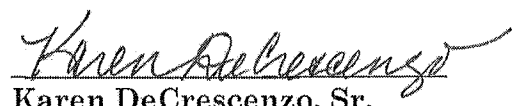
Date: 4/29/14

By: 
Judy von Kalinowski, Human
Resources Director

Date: 4/29/14

By: 
Jeffrey Jordon, Vice-
President

Date: 4/29/14

By: 
Karen DeCrescenzo, Sr.
Human Resources Officer

RESOLUTION NUMBER R- 308924

DATE OF FINAL PASSAGE MAY 15 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AND RATIFYING A SIDE LETTER AGREEMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE SAN DIEGO POLICE OFFICERS ASSOCIATION REGARDING TERMS AND CONDITIONS OF EMPLOYMENT FOR FISCAL YEARS 2014 THROUGH 2018.

WHEREAS, on October 1, 2013, by San Diego Resolution R-308476 (Oct. 15, 2013), the San Diego City Council (Council) approved a Memorandum of Understanding (MOU) between the City of San Diego (City) and the San Diego Police Officers Association (POA) regarding terms and conditions of employment for Fiscal Years 2014 through 2018; and

WHEREAS, in the MOU, the City and POA mutually agreed to create a Holiday Pay Pilot Program (Pilot Program) for Fiscal Year 2014 to increase flexible benefits by decreasing overtime costs from officers working on holidays; and

WHEREAS, the Pilot Program suspended holiday pay and discretionary leave for officers working on holidays in exchange for an increase in flexible benefits; and

WHEREAS, the MOU provides that either party (the City or POA) could rescind the Pilot Program by April 28, 2014; and

WHEREAS, in an effort to continue to address recruitment and retention issues for police officers, the City and the POA negotiated a modified version of the Holiday Pay Pilot Program (Modified Program) for Fiscal Year 2015; and

WHEREAS, this Modified Program restores premium pay and the floating holiday for all non-exempt POA members for all hours actually worked on holidays; and

WHEREAS, under the negotiated agreement, these employees will also retain the \$3203 in additional flexible benefits allotment provided in Fiscal Year 2014 (this amount is due to an increase in Fiscal Year 2015 by \$968 over and above the Fiscal Year 2014 amount); and

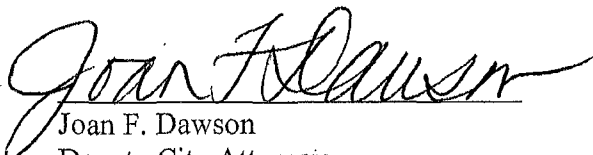
WHEREAS, this Council action is to approve a Side Letter Agreement to the MOU; memorializing the agreement between the City and POA and amending Article 8 of MOU;

WHEREAS, under the Meyers-Milias-Brown Act (MMBA), the state law related to collective bargaining between the City and its represented employees, and Council Policy 300-06, it is within the discretion of the Council to approve and ratify the negotiated agreement; and

WHEREAS, the Council desires to approve and ratify the Side Letter Agreement, which amends Article 8 of the MOU, because it is in the best interests of the City to improve compensation to officers to address recruitment and retention issues; NOW, THEREFORE,

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 and ratifies the Side Letter Agreement to the MOU between the City and the POA, which amends Article 8 of the MOU related to holiday pay and other terms and conditions of employment, as specified in the Side Letter Agreement, on file in the office of the City Clerk as Document No. PP-308924.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFD:ccm
5/1/2014
Or.Dept:HumanResources
Doc. No. 778900

I certify that this Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 12 2014.

ELIZABETH S. MALAND
City Clerk

By *Mary Berman*
Deputy City Clerk

Approved: 5/15/14
(date)

Kevin L. Faulconer
KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAY 12 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"/>
Ed Harris	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 15 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 Mary Zumaiga, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 308924