

**SIDE LETTER AGREEMENT BETWEEN THE CITY OF SAN DIEGO
AND SAN DIEGO MUNICIPAL EMPLOYEES ASSOCIATION
RELATED TO THE CASH-OUT OF DONATED CATASTROPHIC LEAVE HOURS**

Pursuant to the provisions of the Meyers-Milias-Brown Act (MMBA) and Council Policy 300-06, this Side Letter Agreement (Agreement) is entered into between the City of San Diego (City) and the San Diego Municipal Employees Association (MEA) related to the cash-out of donated Catastrophic Leave hours. The City and MEA are collectively referred to as the "Parties."

The Catastrophic Leave Sharing Plan Program per MEA MOU, Article 73, section A, provides City employees the ability to assist other City employees who face extended leaves without pay due to a catastrophic occurrence in their lives. Under this program, a "catastrophic occurrence" is defined as any event that would qualify the employee for a leave under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Americans with Disabilities Act (ADA), other local, state, or federally protected leave, and other extraordinary circumstances as determined by the Human Resources (HR) Director or designee.

When the City automated the revised Pay-In-Lieu process, the Catastrophic Leave cash-out was not included in the automated Pay-in-Lieu of Annual Leave process per MEA MOU, Article 88. The City evaluated the Catastrophic Leave Sharing Plan further and determined that the recipient can cash-out donated Catastrophic Leave hours throughout the calendar year without utilizing the Pay-In-Lieu process. Therefore, the City seeks to create an automated process for cashing-out Catastrophic Leave hours in the City's SAP system, which is separate from the Pay-In-Lieu process.

The Parties agree as follows:

1. The Parties have satisfied all obligations under the MMBA, Council Policy 300-06, and other applicable law and regulations to meet and confer in good faith on the subject of this Agreement.
2. Once an eligible employee has satisfied all of the requirements for establishing a Catastrophic Leave Bank in City's SAP System, consistent with MEA's MOU, Article 73, the employee may cash-out Catastrophic Leave hours at any time throughout the calendar year with the following limitations:
 - a. A recipient's total annual leave balance including donated leave cannot exceed 2,080 hours.
 - b. The donated Catastrophic Leave hours eligible for cash-out will only come from the Catastrophic Leave – Annual Leave (CatLv-AL) bucket, to ensure proper taxability of the donated hours, as the recipient of the donated leave is not taxed.
 - c. Donated Catastrophic Leave hours can only be cashed-out on a going forward basis.
3. While the City is in the process of automating the cash-out of Catastrophic Leave hours in the City's SAP System, if an eligible employee facing a catastrophic occurrence has an established Catastrophic Leave Bank and has a sufficient amount of leave available, the employee may make up to two requests during the calendar year for a payout from their Catastrophic Leave Bank by emailing the Human Resources Department (HumanResources@sandiego.gov) the specific amount of hours to be cashed-out and on what paycheck they would like to receive the payment. When selecting the paycheck

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date, employees must account for appropriate processing time. For example, requests must be received by pay day Friday to be included in the following biweekly paycheck.

- a. Once the City has automated the ability to cash-out Catastrophic Leave hours in the City's SAP System, the City will send out a Citywide internal communication, and the email process identified in section 3 of this Agreement will no longer be utilized for processing these requests.
4. MEA MOU, Article 73 (Leave-Sharing Plans), Section A (Catastrophic Leave), will be amended and implemented as follows:

A. Catastrophic Leave Plan Program Description

1. Purpose and Scope

Establish a City of San Diego-administered Catastrophic Leave Bank permitting City employees to assist other City employees who face extended leaves without pay due to a catastrophic occurrence in their lives. For the purpose of this plan, a "catastrophic occurrence" is defined as any event that would qualify the employee for a leave under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Americans with Disabilities Act (ADA), other local, state, or federally protected leave, and other extraordinary circumstances as determined by the Human Resources Director or designee. Although this Program establishes a mechanism for leave transfers, participation is entirely voluntary.

Employees who are entitled to annual leave are eligible to request a Catastrophic Leave Bank from their date of hire. Catastrophic Leave determinations are non-grievable.

Catastrophic leave coverage shall be extended to events affecting registered domestic partners provided that a City of San Diego Affidavit of Domestic Partnership has been submitted.

2. Procedures

- a. The Employee initiates a request for a Catastrophic Leave Bank to be established in accordance with this policy.
 - i. The employee must have exhausted or expect to exhaust their accrued leave, from both the employee's annual leave and Catastrophic Leave – Annual Leave (CatLv-AL) buckets (to be verified by the department Payroll Specialist), as a result of a qualifying event in order to establish a Catastrophic Leave Bank.
 - 1) A recipient's total annual leave balance including donated leave cannot exceed 2,080 hours.
 - ii. The employee must receive approval for an unpaid leave of absence from their Department Head.

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- b. Requests to establish a Catastrophic Leave Bank to receive donations will be processed by the Human Resources Department.
 - i. An eligible employee must submit a completed “Request to Establish Catastrophic Leave Bank” form to the Human Resources Department, accompanied by:
 - 1) A signed statement by the employee which includes a brief description of the nature and need for the leave and an estimated time the employee will be out of the workplace, or other appropriate documentation supporting the request. Clarifying documentation may be requested by the Human Resources Department. Any employee who misrepresents information on the signed statement provided to the Human Resources Department may be subject to discipline, up to and including termination.
 - 2) Evidence of the Department Head’s approval of the leave of absence.
 - 3) Employees must also identify, on the Request to Establish Catastrophic Leave Bank Form, the names of individuals or groups that may be informed, upon request, if the Catastrophic Leave Bank has been approved. Employees who include a mailing address on the Request will be notified when the Catastrophic Leave Bank is approved by the Human Resources Department.
- c. Donations of annual leave may be made to an employee eligible for Catastrophic Leave as defined in the Purpose and Scope of this document. The donor’s annual leave donation will be deducted from the donor department in the amount donated.
 - i. Donations of leave are strictly voluntary; the City will maintain the identity of Catastrophic Leave Bank donors in absolute confidence.
 - ii. Employees may only donate accrued annual leave.
 - iii. Donations must be made in whole-hour increments.
 - iv. Donation authorization requests that do not contain all requested information will not be processed.
 - v. Donors must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.
 - vi. Once donated to the Catastrophic Leave Bank, donated leave cannot be returned to the donor.

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- vii. Employees who wish to donate leave must submit an electronic request through the Leave Administration section of the City's SAP System. Employees without access to the City's Active Directory may complete a "Confidential Authorization for Catastrophic Leave Donation" form and submit it to the Human Resources Department.
- d. Upon receipt of donation authorizations forms, the City's SAP System will:
 - i. Verify that the donating employee has the minimum required leave balance of 160 hours.
 - ii. Convert the donated dollars as computed above to hours at the recipient's hourly rate. The donor will be taxed for the leave when it is donated to the recipient.
 - iii. Ensure that all deductions (e.g. health premiums, parking, credit union, union dues, etc.) that have previously been authorized by the recipient are made unless the recipient has notified their Payroll Specialist in writing to cancel deductions.
 - iv. Subtract the donated time from the donor's designated leave category; and
 - v. Add the donated hours to the recipient's Catastrophic Leave – Annual Leave (CatLv-AL) bucket.
- e. **An employee who receives donated Catastrophic Leave hours under this Catastrophic Leave Plan may either take the donated Catastrophic Leave as compensated time off, or may request to receive a cash payment via SAP of the Donated Catastrophic Leave, but may not re-donate that time to a Catastrophic Leave Bank, Medical Leave Bank, or Child Care Annual Leave Exchange bucket for use by another employee.**
- f. Donated Catastrophic Leave is treated as annual leave accrued by the recipient of the donation, but the recipient will not be taxed on the donated annual leave. ~~Payments~~
- g. **When donated Catastrophic Leave hours are taken as cash payment, the employee may take up to the amount of Catastrophic Leave hours available in their established Catastrophic Leave Bank at the time the employee processes their request for cash payment in the City's SAP System. Catastrophic Leave hours are cashed-out on a prospective basis only.**
- h. **When donated Catastrophic Leave hours are taken as annual leave for purposes of taking compensated time off, instead of through a cash payment, the employee may take up to 80 hours per pay period**

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will be made to the recipient until the donated leave has been exhausted.

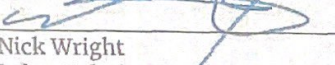
- i. Donated Leave does not alter the employment rights of the City or the recipient, nor does it extend or alter limitations otherwise applicable to leaves of absence or annual leave, except as noted in this Plan.
 - ii. Employees using donated annual leave hours will continue to accrue annual leave in accordance with Personnel Manual Index Code I-2, Annual Leave.
 - iii. Donated Leave can only be used on a going forward basis.
 - iv. ~~An employee who receives Donated Catastrophic Leave under this Catastrophic Leave Plan may either take the Donated Catastrophic Leave as compensated time off, or may receive pay in lieu of the Donated Catastrophic Leave, consistent with Personnel Manual Index Code I-2, subparagraph E, but may not re-donate that time to a Catastrophic Leave Bank or Medical Leave Bank for use by another employee.~~
3. Notification of the creation of a Catastrophic Leave Bank to potential donors is the responsibility of the employee, not the department. An employee may use City e-mail for a one-time notification to other City employees regarding the creation of their Catastrophic Leave Bank. Such e-mail should not contain confidential information (e.g. details of their medical condition). All policies and procedures regarding ethical conduct, and the use of email, apply to such notices sent by employees. Employees are encouraged to only send e-mails to employees they know and refrain from sending "e-mail blasts" (officewide or citywide e-mails) that may be viewed as a nuisance to a reasonable person. Employees may also work with their recognized employee organizations to disseminate their request for leave donation. If requested by the employee in the Request for Establishing Catastrophic Leave Bank form, the City will publicize on the Leave Administration section of the City's SAP System, the employee requestor's name, and the dates the Catastrophic Leave Bank opens and closes.
 5. Unless expressly covered in this Agreement, all wages, hours, and other terms and conditions of employment presently enjoyed by MEA-represented employees, whether stated in an MOU, Personnel Regulation, Administrative Regulation or in any other enforceable document, remain in full force and effect.
 6. This Agreement is intended to be read in conjunction with the MOU, and where in conflict on the specific issue covered by this Agreement, this Agreement will control.
 7. This Agreement will remain in effect unless it is modified through further negotiations in accordance with the MMBA and Council Policy 300-06.

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8. The Parties agree to incorporate the terms set forth in this Agreement into any successor MOU negotiated by the City and MEA which is approved by the City Council,


This Agreement is executed by the following authorized representatives of each party:

For MEA

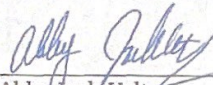
By: 
Nick Wright
Labor Relations Manager

Date: 4/26/2021

For the City of San Diego

By: 
Timothy Davis
Lead Negotiator

Date: April 27, 2021

By: 
Abby Jarl-Veltz
Assistant Human Resources Director


Date: April 27, 2021

By: 
Jonnabelle Domingo
Senior Human Resources Officer

Date: April 27, 2021

Approved as to form this 27th day of April, 2021

MARA W. ELLIOTT, City Attorney

By: 
Miguel Merrell
Deputy City Attorney