



INFORMATIONAL REPORT

DATE ISSUED: August 18, 2008

REPORT NO: HCR 08-96

SUBJECT: San Diego Housing Commission and Service Employees International Union (SEIU), Local 221 Side Agreement

NO ACTION IS REQUIRED ON THE PART OF THE HOUSING COMMISSION

SUMMARY

In September 2007, the Housing Commission's application to opt out of the Conventional Public Housing Program was approved. One part of this transition to a more private sector model of property management included elimination of the existing Resident Manager II position.

BACKGROUND

The Housing Commission and Housing Authority approved the request of the Housing Commission to opt-out of the public housing program on November 17, 2006 and December 5, 2006, respectively. The elimination of the Resident Manager II position and implementation of the Property Manager position is in line with a private-sector business model. The Property Manager position requires a greater scope of complexity and accountability, supervision of staff, marketing, budgeting/finance and tenant retention skills and experience. In accordance with the Fair Labor Standards Act (FLSA), the Property Manager position description met the criteria for Administrative Exemption status and is, therefore, not covered under the collective bargaining agreement.

There were four (4) Meet and Confer sessions over the course of a month between the Housing Commission and the Service Employees International Union (SEIU), Local 221 to discuss the new model and staff impact. SEIU was presented with options from the Housing Commission on the proposed transition and agreed to the transition resulting in the elimination of Resident Manager II positions. The successful meetings with SEIU resulted in a side agreement signed July 14, 2008 by the Housing Commission and SEIU (Attachment 1).

The transition included a formal layoff of all nine (9) Resident Manager II's effective July 18, 2008 and subsequent re-hiring of each affected employee into the new Property Manager position effective July 21, 2008 with no adverse impact to their benefits. Each affected employee hired in the Property Manager position serves a one year probationary period. Prior to the transition, the affected employees were provided with position specific development opportunities and will continue to receive training in the areas of property management and staff supervision. As negotiated with SEIU, and in recognition of the expanded responsibilities, each of the nine (9) employees received a 5% salary increase; these funds are included in the FY09 Budget as approved by the Housing Commission and Housing Authority.

San Diego Housing Commission and Service Employees International Union (SEIU), Local 221
Side Agreement
August 18, 2008
Page 2

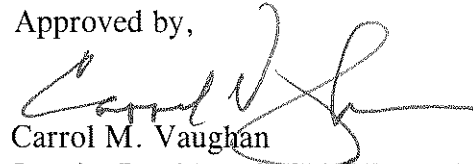
of the nine (9) employees received a 5% salary increase; these funds are included in the FY09 Budget as approved by the Housing Commission and Housing Authority.

Respectfully submitted,



Tina Holmes
Human Resources Officer

Approved by,



Carrol M. Vaughan
Interim President & Chief Executive Officer

Attachment:

1. Agreement to Modify Memorandum of Understanding, dated 7/14/08

ATTACHMENT

AGREEMENT TO MODIFY MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN DIEGO HOUSING COMMISSION AND SOCIAL SERVICES UNION, LOCAL 221, S.E.I.U., AFL-CIO

This agreement ("Agreement") is entered by and between the San Diego Housing Commission ("Housing Commission") and Service Employees International Union, Local 221, S.E.I.U. CTW, CLC ("Union") this 14 day of July, 2008 for purposes of jointly and consensually modifying the current Memorandum of Understanding governing the labor relations between the Housing Commission and the Union pertaining to a defined bargaining unit for the period of July 1, 2007 through July 1, 2010. The Agreement is made with specific reference to the Recitals enumerated in Article I below; each of which are incorporated into this Agreement by reference.

ARTICLE I RECITALS

1.1 WHEREAS, pursuant to the Meyers-Milias-Brown Act [Government Code §3500 et seq.], the Housing Commission and Union negotiated in good faith a memorandum of understanding to govern the labor relations between them pertaining to a defined bargaining unit ("Bargaining Unit") for the period of July 1, 2007 through July 1, 2010 ("the MOU").

1.2 WHEREAS, due to the withdrawal of the Housing Commission from the federal public housing program, the Housing Commission has a legitimate and immediate business need to eliminate the classification of resident manager ("Resident Manager"), which is a defined classification in the Bargaining Unit, and create a new classification entitled property manager ("Property Manager").

1.3 WHEREAS, the Housing Commission and Union recognize the legitimacy and immediacy of the need for the Housing Commission to eliminate the classification of Resident Manager and separately create the classification of Property Manager.

1.4 WHEREAS, prior to implementing either the elimination of the Resident Manager classification or the creation of the Property Manager classification, the Housing Commission and Union engaged in a series of four (4) separate meet and confer sessions over the course of a month for purposes of discussing and bargaining the elimination of the Resident Manager classification and creation of the Property Manager classification by the Housing Commission.

1.5 WHEREAS, the Housing Commission and Union recognize and agree that the Property Manager classification shall constitute an exempt classification under the Fair Labor Standards Act [28 U.S.C. §201 et seq.], as well as the California analog to such statutes and implementing federal and state regulations.

1.6 WHEREAS, the Housing Commission and Union recognize and agree that the nature of the job duties and managerial responsibilities of the Property Manager classification will render it incompatible with the Bargaining Unit, so that all employees hired into the Property Manager classification shall be outside the scope of the Bargaining Unit and MOU.

1.7 WHEREAS, as a result of the culmination of the meet and confer process, the Housing Commission and Union have mutually agreed to the modification of the MOU in each of the respects contained within this Agreement, as well as the one time waiver of select personnel policies of the San Diego Housing Commission deemed appropriate to effectuate the purpose of this Agreement in an efficient manner.

1.8 WHEREFOR, the Parties consent to the terms of this Agreement as specified herein.

ARTICLE II TERMS OF AGREEMENT

2.1 Elimination of Resident Manager Classification. Commencing on July 18, 2008, the Housing Commission shall terminate by lay off process all existing personnel in the Resident Manager classification in furtherance of the complete elimination of such classification. The following individuals are currently Resident Managers, who will be laid off and rehired in accordance with the terms of this Agreement: Lisa Gentle-Jackson, Arlette Rique, Edna Jabagat, Dulce Ochoa, Ana Gomez, Schenelle Johnson, Deborah Dickson, Mary Middleton, and Lucia Gutierrez (collectively "the Personnel").

2.1.1 Waiver of Layoff Notice Period. In an effort to facilitate the orderly elimination of the Resident Manager classification, as well as facilitate the rehiring of the Personnel, the Housing Commission and Union agree that all provisions of the Personnel Policies and/or MOU requiring minimum notice periods or otherwise extending procedural due process rights to the Personnel in connection with the layoff effectuated hereby are waived and without any affect on the performance of this Agreement.

2.1.2 Payment of Accrued Leave. Upon termination by layoff process of each employee in the Resident Manager classification, the Housing Commission shall pay each such employee all accrued leave accumulated by such employee to the point of severance of employment by layoff.

2.1.3 Insurance and Pension Benefits. In an effort to facilitate the efficient administration of this Agreement, the Housing Commission and Union agree that the Housing Commission will not terminate any insurance benefits or pension benefits that any Resident Manager employee has in effect on July 18, 2008. These insurance benefits and pension benefits shall be "rolled over" into the rehiring of the relevant employees as Property Managers on July 21, 2008, as specified in Section 2.2 et seq. hereof.

2.1.4 Retention of Housing. Each Resident Manager employee severed from employment by layoff process under this Agreement shall continue to reside in the apartment unit the employee occupied on July 18, 2008 until further notice by the Housing Commission.

2.2 Creation of Property Manager Classification. Commencing on July 21, 2008, the Housing Commission shall rehire as an employee in the Property Manager classification each of the individuals identified in Section 2.1 hereof as collectively comprising the Personnel.

2.2.1 Compensation. The starting salary of each employee laid off as a Resident Manager and rehired as a Property Manager shall be calculated as five percent (5%) more than the aggregate of the base salary of such employee plus any bilingual pay, if any. The calculation of the new salary for each employee shall not consider overtime, on-call time, accrued leave, or other additional compensation either paid to or due the employee, while such employee either served in the Resident Manager classification or would receive by virtue of the termination of their service in the Resident Manager classification.

2.2.2 Exempt Status. Each individual hired in Property Manager classification shall be considered exempt under the Fair Labor Standards Act [28 U.S.C. §201 et seq.], as well as the California analog to such statutes and implementing federal and state regulations.

2.2.3 Housing. As an incident of employment, the Housing Commission shall at least initially supply free of charge to each individual hired as a Property Manager a housing unit in a location designated by the Housing Commission for purposes of performing the job duties necessitated by the Property Manager classification. Each employee shall execute a written agreement in a form suitable to the Housing Commission specifying, *inter alia*, that the use of the housing unit supplied by the Housing Commission is coterminous with the employment of the Property Manager, and no Property Manager shall acquire tenancy or other similar rights by virtue of residing in the housing unit supplied by the Housing Commission.

2.2.4 Probationary Period. Each individual hired as a Property Manager in accordance with this Agreement shall serve a one year probationary period in the Property Manager classification.

2.3 Exemption from Bargaining Unit. Due to the nature of the job duties and managerial responsibilities of the Property Manager classification being incompatible with the Bargaining Unit, all employees hired into the Property Manager classification shall be outside the scope of the Bargaining Unit and MOU.

ARTICLE III GENERAL PROVISIONS

3.1 Representation of Authority to Act. The Union warrants that it has conferred with each of the existing employees in the Resident Manager classification concerning the

implementation and effect of this Agreement, and it has obtained the authority from the Resident Manager employees to execute this Agreement.

3.2 Further Cooperation. The Housing Commission and Union acknowledge that the Housing Commission and/or its agents may need to undertake a variety of administrative acts in order to effectively transition each of the employees subject to this Agreement from the Resident Manager classification to the Property Manager classification. The Union agrees cooperate with the Housing Commission in taking any additionally actions that may reasonably be required to facilitate the efficient performance of the acts contemplated by this Agreement.

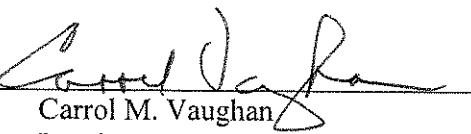
3.3 No Construction Against Drafter. The Housing Commission and Union acknowledge that this Agreement, in its final form, is the result of their combined efforts in the meet and confer process, so that should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either the Housing Commission or Union, but rather by construing the terms of this Agreement fairly and reasonably in accordance with their generally accepted meaning and the purposes for which this Agreement is made.

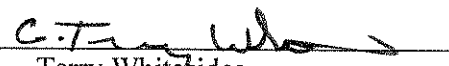
3.4 Severability of Terms. In the event any term, covenant, condition, provision or agreement herein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement herein contained.


3.5 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

This Agreement has been executed at in the State of California, as of the date set forth in the beginning hereof.

SAN DIEGO HOUSING COMMISSION:

By: 
Carrol M. Vaughan
Interim President &
Chief Executive Officer


By: 
Terry Whitesides
Director of Human Resources

By: 
Tina Holmes
Assistant Director of Human Resources

**SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 221, S.E.I.U., CTW, CLC:**


By: 
Dequasia Gardner

By: 
Deborah Whitfield

By: 
Ana Gomez

APPROVED AS TO FORM:

Christensen Schwerdtfeger
& Spath, LLP

By: 
Sean D. Schwerdtfeger
General Counsel for the San Diego
Housing Commission