



REPORT TO THE HOUSING AUTHORITY OF THE CITY OF SAN DIEGO

DATE ISSUED: May 14, 2019

REPORT NO: HAR19-028

ATTENTION: Chair and Members of the Housing Authority of the City of San Diego
For the Agenda of June 11, 2019

SUBJECT: Tentative Agreement for a Memorandum of Understanding with Service Employees
International Union, Local 221

COUNCIL DISTRICT: Citywide

REQUESTED ACTION

That the Housing Authority of the City of San Diego approve the Tentative Agreement for a Memorandum of Understanding between the San Diego Housing Commission and Service Employees International Union, Local 221 for represented employees for Fiscal Years 2020 - 2022 and related actions..

STAFF RECOMMENDATION

That the Housing Authority of the City of San Diego (Housing Authority) take the following actions:

- 1) Approve the proposed Tentative Agreement for a three-year Memorandum of Understanding (MOU) between the San Diego Housing Commission (Housing Commission) and Service Employees International Union (SEIU), Local 221 (collectively "Parties"), which was ratified by SEIU, Local 221 on May 20, 2019;
- 2) Authorize the Housing Commission's President & Chief Executive Officer (President & CEO), or designee, to implement the changes being proposed for represented employees and implement them for the non-represented employees of the Housing Commission as well, as has been the past practice of the Housing Commission;
- 3) Authorize the Housing Commission's President & CEO, or designee, to substitute the funding sources with other available funding sources so long as the total program/project budget amount after substitution does not exceed the approved total budget, should the operational need arise or should such actions be to the benefit of the Housing Commission and its mission; and
- 4) Authorize the Housing Commission's President & CEO, or designee, to execute all documents and instruments that are necessary and/or appropriate to implement these approvals, in a form approved by General Counsel, and to take such actions as are necessary and/or appropriate to implement these approvals.

May 14, 2019

Tentative Agreement for a Memorandum of Understanding with Service Employees International Union, Local 221

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SUMMARY

The current three-year MOU between SEIU and the Housing Commission will expire on June 30, 2019.

On March 8, 2019, and March 11, 2019, the Housing Commission Board of Commissioners (Board) and the Housing Authority, respectively, designated and identified individuals as the Housing Commission's representatives on the Management Team for negotiations with the Housing Commission's recognized labor organization. They further authorized these representatives to attend closed session meetings for the purpose of providing information to the Housing Authority related to bargaining, so that the Housing Commission's labor representatives may participate in meet and confer sessions on behalf of the Housing Commission, taking Housing Authority-approved bargaining positions.

The Housing Commission met in closed session with its Board on March 8, 2019, and received direction, subject to Housing Authority approval, on parameters for proceeding with negotiations with the SEIU.

The Housing Authority met in closed session with the Housing Commission's negotiators on March 12, 2019. At that time, the Housing Commission was given direction for the ensuing negotiations with SEIU.

Thereafter, the Housing Commission negotiators met with the SEIU bargaining team on March 18, 2019, and again on April 16, 2019. . City of San Diego Independent Budget Analyst Andrea Tevlin was present at these negotiating sessions. The parties signed a Tentative Agreement on April 30, 2019.

On May 3, 2019, the Housing Commission Board voted 6-0 to recommend that the Housing Authority approve the Tentative Agreement for a three-year MOU between the parties.

Details of the proposed Tentative Agreement for the MOU are summarized below.

The Tentative Agreement contains the following essential changes to the MOU that is expiring on June 30, 2019:

1. A three-year MOU, through June 30, 2022;
2. Cost of Living Adjustments (COLA) of 3.5 percent in each of the three years (Article 50); and
3. Increased Health Care Flex Benefits (Article 25) of 8 percent in each year of the three years.

The agreement also provides for revisions to Article 5- Union and Employee Security, Article 7- Distribution of Union Material, Article 21- Bilingual Pay, and Article 22- Uniforms.

The MOU is now subject to the approval of the Housing Authority and will not be effective unless and until so approved and is not binding upon the Housing Authority until approved, in its sole and unfettered discretion.

NON-REPRESENTED EMPLOYEES

In accordance with historic Housing Commission practice, the compensation, including salary and benefits for non-represented employees, will be increased in the same percentages and amounts as that being proposed for the represented employees.

May 14, 2019

Tentative Agreement for a Memorandum of Understanding with Service Employees International Union, Local 221

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FISCAL CONSIDERATIONS

The proposed funding sources and uses to be approved by this action were presented to the Housing Commission Board on May 3, 2019. The FY 2020 budget substantially includes the funding for this proposed MOU. All employees will receive increased health insurance benefits and a cost of living adjustment (COLA) effective July 1, 2019, provided the MOU is approved by the Housing Authority.

Approving this action will further grant the President & CEO, or designee, the authority to substitute funding sources with other available funding sources to cover the FY 2020 approved budget and the approved MOU.

The cost for implementing the increased health insurance flex credits and COLA per year, in each year of the proposed MOU is as follows:

	cost of 3.5 COLA & 8% increase in Flex		
	FY2020	FY2021	FY2022
COLA	\$ 905,408	\$ 937,150	\$ 971,539
Flex	320,681	320,681	320,681
Other taxes and benefits *	30,748	61,387	95,060
Fully Burdened Salary	\$ 1,256,837	\$ 1,319,218	\$ 1,387,280

* Medicare, workers compensation, pension, etc.

REOPENER FOR SALARY AND INSURANCE IN EACH YEAR

The successor MOU will also include a limited reopener for Salary and Insurance in each year of the successor MOU. This reopener will allow each side to react to changes in the financial climate. The Housing Commission is one of only 39 public housing agencies, out of 3,400 nationwide, to receive a "Moving to Work" (MTW) designation from the U.S. Department of Housing and Urban Development (HUD), which provides the Housing Commission flexibility to create innovative, cost-effective approaches to provide housing assistance to low-income families. In addition, this MTW designation allows the Housing Commission to utilize the MTW funds for uses proposed within the Annual MTW Plan submitted to HUD. In December 2015, the U.S. Congress extended the contracts of MTW agencies, including the Housing Commission, through 2028. For that reason, the Housing Commission believes that there will be adequate funding for the negotiated changes to the MOU. However, to the extent the situation changes, the Housing Commission can elect to exercise the reopener to renegotiate with SEIU over the change in circumstances. SEIU has the same right under reopener provision.

ENVIRONMENTAL REVIEW

This activity is not a project as defined by the California Environmental Quality Act (CEQA) Section 21065 and State CEQA Guidelines Section 15378(b)(4), as it is a government fiscal and administrative activity which does not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment. This activity is exempt from the National Environmental Policy Act pursuant to Part 58.34(a)(2) and (3) of Title 24 of the Code of Federal Regulations.

Respectfully submitted,

Approved by,

May 14, 2019

Tentative Agreement for a Memorandum of Understanding with Service Employees International Union, Local 221

Page 4

Michael McKenna

Michael McKenna
Vice President
Human Resources Department

Jeff Davis

Jeff Davis
Executive Vice President & Chief of Staff
San Diego Housing Commission

Attachments:

- 1) Tentative Agreement
- 2) Draft Memorandum of Understanding

Hard copies are available for review during business hours at the security information desk in the main lobby and at the fifth floor reception desk of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials in the "Governance & Legislative Affairs" section of the San Diego Housing Commission website at www.sdhc.org

San Diego Housing Commission

SDHC Counterproposal #2

Date: 04/29/2019

ARTICLE 5. UNION AND EMPLOYEE SECURITY

1. General Provisions

To comply with AB 119, the Commission agrees to provide to the Union:

- (a) 10 days' advance notice of any new employee orientation, or those employees promoted, demoted, or transferred into a represented classification for the first time;
- (b) the name, job title, department, work location, work, home, personal cellular telephone number, personal email address on file with the Commission, and home address of any new employee within 30 days of hire or by the first pay period of the month following hire;
- (c) the information in (b) every 120 days for all represented employees.
- (d) an electronic list of expected participant(s) at least forth-eight (48) hours in advance of the on-boarding meeting

A newly hired employee is defined as "any employee, whether permanent, temporary, full time, part time, or seasonal, hired by a public employer, to which this chapter applies and who is still employed as of the date of the new employee orientation."

In addition, the Commission and the Union shall offer each new represented employee an opportunity to attend a one half (1/2) hour orientation optional break-out meeting with up to two (2) Union designated officers who will provide a copy of the current Memorandum of Understanding and other relevant material and information. Such orientation optional break-out meetings will be held on the last Monday of each calendar month or as otherwise agreed by mutual consent, will be on-site, and without loss of compensation for the employee.

The Union shall have sole responsibility to track and approve employee requests regarding membership and submit to the Employer.

Upon the receipt of a written authorization from the union regarding deduction of Union dues or lawfully permitted deductions, including COPE (Committee on Political Education Fund), the Commission shall withhold such dues, fee, or deductions from the salary of the represented employee and remit the withholdings to the Union. The Commission will withhold up to two additional lawfully permitted insurance deductions. Deductions other than insurance will be approved by the Commission. Deductions for Union dues or other lawfully permitted deductions shall be implemented at the start of the pay period following receipt of the employee's deduction request.

2. Initial Meeting with Union Designee(s)

Newly hired employees shall be granted release time without loss in compensation to meet with the Union designee(s) during the employee's regular working hours and on-site. The release time will be coordinated so as to not negatively impact the employer's new hire training for the employee.

3. Annual Training

Annually, the Union shall have the right to hold in person a one (1) hour optional training to familiarize represented employees with the terms of this Agreement and discuss other labor relations issues during regular working hours and on-site. The Commission agrees to release employees without loss in compensation to attend the training.

4. Release Time

The Union shall give the Commission 48 work hours' notice of release time under this Article. The Commission shall not unreasonably deny Union designee(s) release time, including reasonable time for travel and set up, without loss in compensation to conduct any sessions, meetings, and trainings covered by this agreement.

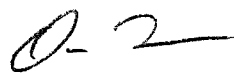
5. Neutrality

The Commission representatives shall be absent from the room during any sessions, meetings, or trainings, conducted by the Union, with Newly Hired Employees.

6. Facility and Resource Access

The Union shall have the right to access and use the Commission's facilities and audiovisual equipment to conduct sessions and separate breakout meetings with newly hired employees, provided the requested facilities and such audiovisual equipment are available and do not negatively impact Commission activities.

Tentative Agreement:



For SEIU 221

Date:

4/30/19



For SDHC

Date:

4-30-19

San Diego Housing Commission

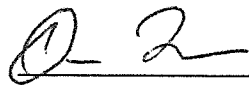
SEIU Proposal #

Date:


ARTICLE 7. DISTRIBUTION OF UNION MATERIAL

Employee representatives of the Union will normally distribute Union flyers, pamphlets, etc., during non-working hours, including before and after assigned shifts. ~~before or after working hours. Neontime distribution may be authorized by the President and Chief Executive Officer or designee, when considered appropriate,~~ provided said distribution is done in a manner that does not interrupt normal Commission business. Non-working hours will include lunch and break time.

Tentative Agreement:

 Date 4/30/19

For SEIU 221

 Date 4-30-19

For SDHC

San Diego Housing Commission

SEIU Proposal #

Date:

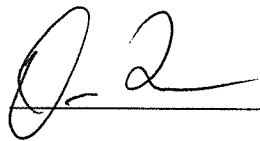
ARTICLE 21. BILINGUAL PAY

The Commission shall designate positions and assign employees to perform bilingual duties in positions which require such skills. In order to ensure an adequate level of bilingual proficiency, the Commission may require an evaluation of bilingual skills.

For employees required to utilize primarily oral, non-technical bilingual skills, the employee shall be paid a differential of ~~\$0.41 per hour/\$71.07 per month~~ *\$0.62 per hour/\$107.46 per month*. For employees required to utilize technical translating skills, the employee shall be paid a differential of ~~\$0.51 per hour/\$88.40 per month~~ *\$0.77 per hour/\$133.47 per month*. Technical translations may include oral or written interpretation and translation of technical programmatic information such as local program regulations, policies, procedures, forms, and documents, but does not include written and oral translation of routine information provided in basic letters, general flyers, or bulletins.

Employee may submit request for review by Human Resources Manager if supervisor has denied earlier request.

Tentative Agreement:



Date

4/16/19

For SEIU 221



Date

4-16-19

For SDHC

ARTICLE 22. UNIFORMS

The Commission shall provide and maintain uniforms and safety equipment required by the Commission. Employees shall wear uniforms and safety shoes as provided by the Commission. Employees shall use safety equipment provided by the Commission and shall notify the Commission when such equipment is not made available and in adequate supply.

~~Employees in designated positions, as determined by the Housing Commission, shall also wear safety shoes. The Commission shall reimburse these employees the amount of \$200 each year for boots or safety shoes.~~

Designated positions include maintenance technicians, site cleaners and housing inspectors ^{and} other additional positions as determined by the Housing Commission.

P-2 4/30/19

4-30-19

San Diego Housing Commission

SEIU Proposal #

Date:

ARTICLE 25. INSURANCE

The Commission shall provide eligible employees with a cafeteria-style benefits program in accordance with Section 125 of the Internal Revenue Service Code. The Commission reserves the right to make changes to any and all aspects of the insurance covered by this article during the course of this Memorandum of Understanding; however, prior to implementing any such change, the Commission shall meet and confer with the Union on all such changes.

The Commission provides employer-paid "core benefits" which include:

Basic Term Life & AD/D Insurance - Equal to the employee's annual salary with a minimum of \$15,000.

Long Term Disability Plan - Long Term Disability benefits after 60 days of continuous disability of 65% of an employee's basic monthly pay, and when combined with other income, 70% of pay to a maximum of \$8,500 per month.

Flex Credits - The Commission will contribute Flex Credits ~~effective on July 1 (beginning with the first pay day in July)~~ to increase the flex credits of 8% per year, as reflected in the amounts listed below. All changes will be effective on July 1 ((beginning with the first pay day in July)).

For employee only care benefit

- \$11,429 effective July 1, 2019
- \$12,343 effective July 1, 2020
- \$13,330 effective July 1, 2021

For employee plus one (1) health care benefit

- \$12,401 effective July 1, 2019
- \$13,393 effective July 1, 2020
- \$14,464 effective July 1, 2021

For employee plus family health care benefit

- \$14,345 effective July 1, 2019
- \$15,492 effective July 1, 2020
- \$16,732 effective July 1, 2021

~~\$10,582 for employee health care benefit effective July 1, 2016~~

~~\$11,482 for employee plus one (1) health care benefit effective July 1, 2016~~

~~\$13,282 for employee plus family health care benefit effective July 1, 2016~~

Amounts are per eligible full-time employee, prorated for part-time employees, for allocation by employee for employee and eligible dependent(s) benefit options including:

A. Medical Insurance:

1. Major medical insurance providers

OR

2. No medical coverage if employee provides written verification of other coverage.

B. Dental Insurance

C. Voluntary Life and Accidental Death and Dismemberment Insurance for Employee/Spouse/Dependents.


D. Set-aside for flexible spending accounts:

1. Health expense account
2. Dependent care account

If the employee does not allocate the entire contribution, the remaining balance may be received in taxable cash. If the cost of coverage elected exceeds the Flex Credits, the employee may contribute the balance from their paycheck.

Note: Coverage for "dependent" refers to a family member, significant other or same sex partner as defined and when provided by the Plan.

Tentative Agreement:

 Date 4/16/19

For SEIU 221

 Date 4-16-19

For SDHC

San Diego Housing Commission

SEIU Proposal #


Date:

ARTICLE 50. SALARY SCHEDULE

The following wage increases shall be provided as follows:

Effective:	July 1, 2019	3.5%
	July 1, 2020	3.5%
	July 1, 2021	3.5%

Tentative Agreement:

 Date 4/16/19

For SEIU 221

 Date 4-16-19

For SDHC

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MEMORANDUM OF UNDERSTANDING

Between

SAN DIEGO HOUSING COMMISSION

and

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

July 1, 2019 to June 30, 2022

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ATTACHMENT A Positions Represented by the Union

ARTICLE 1. PREAMBLE

The San Diego Housing Commission (hereinafter "Commission") and the Service Employees International Union Local 221 (hereinafter "Union") mutually acknowledge that it is the mission of the Commission to provide, in a cost effective manner, housing services to families of low and moderate income. These services include safe, decent and sanitary housing and related aids to improve the economic and social well-being of our clientele.

ARTICLE 2. RECOGNITION

The Commission recognizes the Union as the exclusive employee organization for employees in the classifications listed in attachment A of this Memorandum of Understanding. Both parties recognize that Government Code 3500, hereinafter referred to as the Meyers-Milias-Brown Act, is applicable to this Memorandum of Understanding.

ARTICLE 3. RENEGOTIATION

This Agreement shall automatically renew itself from year-to-year unless either party serves notice on the other, in writing, at least one hundred twenty (120) days prior to June 30, ~~2022~~ of its desire to terminate or modify this Agreement. Meet and confer shall begin no later than March 4, ~~2022~~.

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Notwithstanding the above, if federal or state governments take action that has direct affect upon the areas which fall within meet and confer, the Commission or the Union may submit proposals concerning these areas at later dates.

If neither party has proposed a change to a particular Article in this contract by May 2, ~~2022~~, the Article shall remain in full force and effect for one year from the date it would have been terminated.

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ARTICLE 4. NON-DISCRIMINATION

The Commission and the Union mutually recognize and agree fully to protect the rights of all employees in the bargaining unit to join and participate in the activities of the Union, or not to join and participate in such activities, and all other rights guaranteed by law.

No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.

The provisions of this Memorandum of Understanding shall be applied equally to all employees covered hereby without discrimination because of race, color, sex, ancestry, age, disability as defined by applicable law, medical condition, national origin, political or religious opinions or affiliations, marital status or sexual orientation or gender identity.

ARTICLE 5. UNION AND EMPLOYEE SECURITY

1. General Provisions

To comply with AB 119, the Commission agrees to provide to the Union:

(a) 10 days' advance notice of any new employee orientation, or those employees promoted, demoted, or transferred into a represented classification for the first time;
(b) the name, job title, department, work location, work, home, personal cellular telephone number, personal email address on file with the Commission, and home address of any new employee within 30 days of hire or by the first pay period of the month following hire;
(c) the information in (b) every 120 days for all represented employees.
(d) an electronic list of expected participant(s) at least forth-eight (48) hours in advance of the on-boarding meeting

A newly hired employee is defined as "any employee, whether permanent, temporary, full time, part time, or seasonal, hired by a public employer, to which this chapter applies and who is still employed as of the date of the new employee orientation."

In addition, the Commission and the Union shall offer each new represented employee an opportunity to attend a one half (1/2) hour orientation optional break-out meeting with up to two (2) Union designated officers who will provide a copy of the current Memorandum of Understanding and other relevant material and information. Such orientation optional break-out meetings will be held on the last Monday of each calendar month or as otherwise agreed by mutual consent, will be on-site, and without loss of compensation for the employee.

The Union shall have sole responsibility to track and approve employee requests regarding membership and submit to the Employer.

Upon the receipt of a written authorization from the union regarding deduction of Union dues or lawfully permitted deductions, including COPE (Committee on Political Education Fund), the Commission shall withhold such dues, fee, or deductions from the salary of the represented employee and remit the withholdings to the Union. The Commission will withhold up to two additional lawfully permitted insurance deductions. Deductions other than insurance will be approved by the Commission. Deductions for Union dues or other lawfully permitted deductions shall be implemented at the start of the pay period following receipt of the employee's deduction request.

2. Initial Meeting with Union Designee(s)

Newly hired employees shall be granted release time without loss in compensation to meet with the Union designee(s) during the employee's regular working hours and on-site. The release time will be coordinated so as to not negatively impact the employer's new hire

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¶
The Commission and the Union shall offer each new represented employee an opportunity, within thirty (30) days of employment, to attend an one half (1/2) hour orientation meeting in accordance with the new member orientation schedule, with two¶

(2) Union designated officers who will provide a copy of the current Memorandum of Understanding and other relevant material and information. Such meetings will be held on the last Monday of each calendar month or as otherwise agreed by mutual consent.¶

¶
Upon the receipt of a written authorization from an employee for deduction of Union dues or an equivalent agency fee and other lawfully permitted deductions, the Commission shall withhold such dues, fee, or deductions from the salary of the represented employee and remit the withholdings to the Union. The Commission will withhold up to two additional lawfully permitted insurance deductions. Deductions other than insurance will be approved by the Commission. Deductions for Union dues or agency fee or other lawfully permitted insurance deductions shall be implemented at the start of the pay period following receipt of the employee's deduction request.¶

¶
The employee may request to withdraw authorization to deduct Union dues or agency fees from the Union only during the thirty (30) day period prior to the anniversary of the employee's initial authorization. The Union shall track and approve employee requests and submit to the Employer. Upon receipt of the approved authorization from the Union, the Commission will stop deductions effective at the start of the pay period following receipt of the employee's written request from the Union.¶

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training for the employee.

3. Annual Training

Annually, the Union shall have the right to hold in person a one (1) hour optional training to familiarize represented employees with the terms of this Agreement and discuss other labor relations issues during regular working hours and on-site. The Commission agrees to release employees without loss in compensation to attend the training.

4. Release Time

The Union shall give the Commission 48 works hours' notice of release time under this Article. The Commission shall not unreasonably deny Union designee(s) release time, including reasonable time for travel and set up, without loss in compensation to conduct any sessions, meetings, and trainings covered by this agreement.

5. Neutrality

The Commission representatives shall be absent from the room during any sessions, meetings, or trainings, conducted by the Union, with Newly Hired Employees.

6. Facility and Resource Access

The Union shall have the right to access and use the Commission's facilities and audiovisual equipment to conduct sessions and separate breakout meetings with newly hired employees, provided the requested facilities and such audiovisual equipment are available and do not negatively impact Commission activities.

ARTICLE 6. BULLETIN BOARDS

The Commission will furnish bulletin board space at accessible locations for the exclusive use of the Union. The bulletin boards shall be used for posting: Union election materials, official business reports of the Union, Union news bulletins and meeting notices, Union membership benefits, programs and promotional information. The Chapter President and designee shall be responsible for the maintenance of items posted on Union bulletin boards.

ARTICLE 7. DISTRIBUTION OF UNION MATERIAL

Employee representatives of the Union will normally distribute Union flyers, pamphlets, etc., ~~during non-working hours, including before and after assigned shifts,~~ provided said distribution is done in a manner that does not interrupt normal Commission business. ~~Non-working hours will include lunch and break time.~~

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ARTICLE 8. USE OF FACILITIES

Commission conference rooms and meeting rooms are available upon written application and approval for use by off-duty employees and the Union. Application for such use shall be made to the President and Chief Executive Officer or designee. The President and Chief Executive Officer or designee will confirm availability of the requested space within two (2) business days of notifications to the Commission. Approval will not be unreasonably denied.

ARTICLE 9. UNION ACCESS

Upon receipt of 24-hour written advance notice to the President and Chief Executive Officer or designee, duly authorized representatives of the Union shall be permitted to visit represented employee's work stations at and for specified periods of time as determined reasonable by the President and Chief Executive Officer or designee, for the purpose of observing conditions under which the employees are working, provided that such visits shall not unnecessarily cause the interruption of work.

ARTICLE 10. STEWARDS

- A. The Union shall reserve the right to designate the number and method of selection of stewards. The Union shall notify the Commission, in writing, of the names of the stewards, President and worksite organizer.

If any additions, deletions, or committee changes are made, the Commission shall be advised, in writing, within ten (10) business days of the changes. This notification is to include all names, titles, and committee assignments.

- B. All mail communications with the Union will be made to the attention of the Service Employees International Union Local 221 President to the following address: 4004 Kearny Mesa Road, San Diego, CA 92111. All email communications will be made to the SEIU Local 221 worksite organizer assigned to the Commission and the San Diego Housing Commission Chapter President.

ARTICLE 11. EMPLOYEE'S APPEARANCE FOR UNION

The Commission shall grant time off without loss of compensation or other benefits to one employee representative of the Union when attending meetings of the Commission, when the agenda for such meetings contains an item which affects the Union.

Release time shall be granted for up to four (4) employee representatives to attend meet and confer sessions between the Union and the Commission. For attendance at other meetings between the Commission and the Union, up to three (3) employees shall be granted release time. Employees who participate in a series of meet and confer sessions shall be provided an equitable workload adjustment and parking for any authorized employee when meeting occurs on Commission property. Employee representatives that attend meet and confer sessions will be given 30 minutes prior to and 30 minutes after any meet and confer session to meet with Union representatives. If any meet and confer session is held offsite, employee representatives attending the offsite meeting will be given no less than 30 minute travel time to and 30 minute travel time from location of offsite meeting.

ARTICLE 12. TYPES OF EMPLOYMENT

A regular employee is an employee appointed to a position encompassing duties which are continuing in nature and which is a regularly planned, established and budgeted position within the Commission.

A regular employee shall be considered full-time if the employee is regularly scheduled for a forty (40) hour workweek. A regular employee shall be considered part-time if the employee is scheduled for less than forty (40) hours per workweek, but at least twenty (20) hours per workweek. Employees shall be paid in accordance with the Fair Labor Standards Act.

A temporary employee is an employee assigned to perform duties which are generally considered as supplemental to normal workloads for a specific temporary period or duration or to perform work requiring special skills for which training cannot be provided in a timely manner; or an employee assigned to a vacancy in a regular position which is expected to last less than six (6) months; or for the purpose of providing entry level on the job training to public housing residents and Section 8 participants to enhance their economic development. There shall be a meet and confer convened at such time the Union is of the belief that an excessive amount of temporary employees exist.

The Commission shall provide on a quarterly basis a current list of temporary employees hired through the Commission, their hire status and anticipated end date.

The Commission shall provide on a quarterly basis a current list of temporary staffing agencies providing services to the Commission, titles of temporary employees, and number of temporary employees assigned to work at the Commission's offices.

Any vacant regular position filled by a temporary employee for twelve (12) months shall be considered for filling by a regular employee.

Should an "extra help" assignment be filled continuously by a temporary employee for one (1) year, consideration will be given to establishing the assignment as a regular position to be filled through the regular hiring process.

A temporary employee may not accrue seniority or other special benefits other than those required by law, except as specified in Article 29. Annual Leave.

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ARTICLE 13. TEMPORARY ASSIGNMENT TO HIGHER CLASSIFICATION

When a regular employee is assigned full-time to perform the duties of a higher paid classification that employee in the higher classification shall be paid at the higher rate of this classification, which shall not be less than a 5% increase, from the date of such assignment. All terms and conditions of the higher classification shall apply.

At the end of a temporary assignment to a higher classification, the employee shall revert to the regular class and salary range. Should the performance review date of the employee's regular assignment occur while on a temporary assignment, the employee shall receive the performance incentive, as determined by Article 19, as scheduled and the percentage will be based on the employees regular salary range. If the employee is in the temporary higher classification for six (6) months or longer, the performance incentive will be based on the temporary increase rate.

ARTICLE 14. INTRODUCTORY PERIOD

The introductory period shall be regarded as part of the selection process and shall be utilized for closely observing the work of new employees, for securing their effective adjustment to their positions and for rejecting any introductory employee whose performance does not meet acceptable standards of work.

- A. Each new regular employee shall serve a introductory period of one (1) year commencing with the first day of their employment, to attain regular status. For reinstated employees who previously attained regular status with the Commission, the one (1) year introductory period may be waived or reduced.
- B. Each regular employee promoted, demoted to a new class, or re-employed from layoff shall serve six (6) months introductory period in the new class. A longer introductory period will be required if necessary to complete the original introductory period of six (6) months. The six (6) months new class introductory period may be waived or reduced by the President and Chief Executive Officer or designee.
- C. In the event a temporary employee is selected from a temporary assignment to a regular position in the same or equivalent classification, the introductory period may be reduced or waived, as determined by the President and Chief Executive Officer or designee.

A written evaluation during new hire and new class introductory shall be given at the end of the first six (6) months which shall clearly indicate where the employee's performance is acceptable, where improvement is needed, and where it is unacceptable.

A final written evaluation is to be given at least five (5) days prior to the end of the introductory period. If the overall rating is solid performer, the employee will be made regular upon approval of the President and Chief Executive Officer or designee. If the overall rating is less than solid performer, or if the employee has been absent from work for the equivalent of thirty (30) work day period or more, the introductory period may be extended once for a specified period, equal to the time absent from the job, or in the case of a less than solid performer performance, not to exceed ninety (90) work days; or upon review and approval of the President and Chief Executive Officer or designee, the new hire introductory employee shall be terminated. If the new hire introductory period is extended, a final evaluation shall be performed at the end of the extension to determine if performance has become solid performer. The employee shall then be made regular or terminated.

Extension of the introductory period due to unacceptable performance rating does not change the employee's annual performance review date, as defined in Article 15. Unpaid absence of more than 30 work days during the introductory period extends the

employee's annual performance review date as provided under Article 33. Leave Without Pay.

A regular employee who has been promoted and is performing at an unacceptable level during new class introductory period shall revert back to the classification, range and step from which he/she came.

New introductory employees shall have all rights under the Memorandum of Understanding including full and complete access to the grievance procedure except for instances of termination.

Newly promoted or regular employees shall have all rights under the Memorandum of Understanding including full and complete access to the grievance procedure, except in the case of an unacceptable performance rating in the new job classification during the introductory period.

ARTICLE 15. PERFORMANCE REVIEWS

Performance review procedures and forms shall be standardized for all employees. Rating standards may vary based on performance expectations established for each position.

Performance reviews shall be performed for each employee in accordance with Introductory Period provisions herein. A performance review shall be performed in each fiscal year, the first one being on or after June 30, 2012. Interim performance reviews may be performed at the discretion of the supervisor or at the request of the employee to assist the employee in determining his/her strengths and weaknesses, and to point out areas where improvements can be made, or have been made. Interim reviews shall not substitute for communication and instruction between the supervisor and employee. Performance issues shall be discussed with employees to provide instruction and opportunities for correction prior to interim or annual performance reviews.

Employees will participate in the self appraisal and multi rater process in the Pay for Performance System in a process as approved by the President and Chief Executive Officer or the Commission. Performance reviews shall be discussed, in person, with employees and the document signed and dated by the supervisor at that time. The employee shall have five (5) workdays in which to consider the document before signing and returning it. No comment shall be added to the evaluation after the employee's signature. A copy of the performance review shall be given to the employee prior to placement in the Personnel File.

If the performance review is not completed within 60 days of the due date, the employee will receive the incentive payment associated with the solid performer rating.

Performance reviews and conferences shall be conducted in a confidential manner.

Performance reviews are not subject to the grievance procedures. Except during introductory period, an employee may exercise the following procedures in response to a performance review.

A. FOR ANY PERFORMANCE REVIEW:

1. If an employee does not respond within five (5) workdays of discussion or refuses to sign the document, the performance review will be forwarded for processing. Employee comments submitted after the five (5) workdays will be forwarded through the appropriate signature approvals for filing in the employee's Personnel File and attached to the appropriate performance review.
2. If an employee disagrees with the supervisor's review he/she may submit a written statement in response to the review within five (5) workdays of receipt and discussion as documented by supervisor's

signature and date, which shall become a part of the official document.

3. If any elements of the performance review are rated less than solid performer or if the rating is lower than that received in the previous rating period, the employee may, within five (5) workdays of the receipt and discussion of the review, request a meeting to discuss the review with the supervisor and next higher supervisor. A Union Steward, Union Representative, or other employee may accompany the employee to this meeting. The next higher supervisor shall notify the employee within five (5) workdays, or reasonable mutually agreed to time frame, of his/her determination of the review.

If the employee is dissatisfied with the determination, the employee may request a final meeting to discuss the performance review with the department Vice President or if previously reviewed by the Vice President, the next higher level. The employee may be accompanied by a Union Steward, Union Representative, or another employee at this meeting. Notification to the employee will be within ten (10) workdays of the determination.

The Commission will monitor the performance review system to attain a consistent and reliable process.

The distribution of ratings will be provided annually per fiscal year for review and discussion at a scheduled Union/Management committee meeting. Individual performance reviews will not be provided but inequities, if they occur, shall be discussed.

ARTICLE 16. PERSONNEL RECORDS

The Commission shall maintain a personnel file for each employee. Employees shall have a right to review their personnel file, authorize review by their representative and shall be allowed copies of materials contained therein.

Supervisors or prospective supervisors of the employee may review personnel files, as required.

The employee shall have the right to review, in advance, any adverse document(s) to be filed in the individual personnel file. The employee shall acknowledge review of said document(s) on the copy or attachment thereto or if the employee declines to sign, the supervisor will record such declination in lieu of signature.

Any adverse document will not be considered conclusive if the content of such document is under appeal by the employee.

The personnel files of employees shall be considered confidential. The President and Chief Executive Officer or designee shall only release information from personnel files when lawfully ordered to do so, or to creditors or other persons upon proper identification of the inquirer and if authorized by the employee.

ARTICLE 17. SENIORITY AND LAYOFFS

Effective beginning July 1, 2000, seniority for layoff purposes is defined as the total length of continuous regular employment and authorized absence within the employee's current classification and any equal or higher level classification at the Commission. The President and Chief Executive Officer may authorize layoff of employees within the Commission, a division, department, or work unit as follows:

When one or more employees performing in the same classification are to be laid off for lack of work, reorganization, or purposes of economy, the order of layoff shall be as follows:

- A. All temporary employees within affected classification(s).
- B. All regular employees serving in a temporary assignment in the affected classification shall return to their regular position/classification.
- C. All introductory period employees within affected classification(s) who have not completed new hire probation.
- D. Regular employees with least seniority within the affected classification(s) shall be laid off first. Time spent in an equal or higher classification shall be included for the purpose of overall time in the affected classification. In the event of a tie, the President and Chief Executive Officer shall have final discretion that shall consider the employee's length of total continuous regular service with the Commission, documented performance within the preceding five-year period, specialized skills and training, and the operational and program needs of the Commission.
- E. Exceptions to layoff may be made in instances of volunteers for layoff. Exceptions to layoff may also be made by the President and Chief Executive Officer in extraordinary circumstances when it is determined that loss of a specific position will result in a reduction in program funding or will seriously impact service delivery to residents or special program(s) and to the mission of the Commission. Exceptions will be made to position and/or program with advance notification to the Union and impacted employees prior to such action taking effect.
- F. An employee affected in "D" above shall be allowed to transfer to lateral classifications or demote to lower classifications if: (1) the employee held the lateral or lower classification and has seniority over the incumbent as defined in "D" above, or (2) a position is vacant in a classification for which the employee is qualified. Employees

transferring to lateral classifications shall have their salaries treated in accordance with transfer provisions herein. Employees accepting demotion shall have their salaries adjusted in accordance with demotion provisions herein. Requests for voluntary demotion or transfer must be made in writing to the Human Resources Section within five (5) workdays after receipt of layoff notice.

- G. Employees bumped by the foregoing shall be treated as notified of layoff and the same rights will apply.

Employees subject to layoff shall be given at least ten (10) workdays written notice prior to the effective date of layoff.

The names of regular employees laid off shall be entered upon re-employment list in the inverse order that they were laid off. The person ranking highest on the re-employment list for a particular classification shall be offered the appointment when a vacancy exists in that classification. Employees on any re-employment may accept a vacancy in a lower classification for which they are qualified and retain the right to fill the first vacancy which occurs in the classification from which they were laid off.

Recall

New hire introductory period shall not be required for laid off employees who previously attained regular status upon re-employment from the list to their laid off class. Employees recalled from layoff shall have prior accrued seniority restored.

Employees shall lose their seniority for the following reasons: (a) discharge, (b) resignation, (c) failure to return to work when recalled from layoff as set forth in the recall procedure, (d) failure to return to work after expiration of a formal leave of absence, (e) retirement, and (f) layoff for a continuous period of one year.

ARTICLE 18. HOURS OF WORK

Full-time employees shall work a Compressed Work Schedule (CWS) 9/80 to consist of a nine (9) hour work day on Monday through Thursday, and a eight (8) hour work day on Friday with every other Friday off. The normal hours are Monday through Friday from 7:00 a.m. until 7:00 p.m. and an employee may request a work schedule within those business hours.

Employees shall be granted and must take a rest period of fifteen (15) minutes during each four (4) hours of work. Rest periods shall be considered as time worked for pay purposes. In addition, employees who work on a computer shall not work more than sixty (60) consecutive minutes at the display without ten (10) minutes away from the display.

Lunch periods shall be scheduled for all employees and are typically one (1) hour but may be modified at the employee's request as appropriate. Employees shall not be paid for lunch period. Part-time schedules are subject to approval by the Commission based on operational needs, customer service requirements, and are subject to approval by the President and Chief Executive Officer or designee.

The President and Chief Executive Officer may modify or eliminate the (CWS) in accordance with the Commission's business needs.

The Commission will meet with SEIU as soon as possible to discuss the impact of this decision.

ARTICLE 19. PAY PLAN

The Basic Pay Plan consists of a 7-step range on the salary schedule which is attached as **Attachment B**. Employees shall be paid within the ranges assigned to their classifications in accordance with the established salary schedule.

The program will consist of a Performance Incentive, as set out below, as determined by the results of an employee's performance review, as provided in Article 15. The foregoing does not limit or restrict in any way employees right to overtime compensation, if any, and the following provisions:

- A. The first step in each range is the minimum rate and shall normally be the hiring rate for the classifications. In cases where it is difficult to secure qualified personnel or a person of unusual qualifications is employed, the President and Chief Executive Officer or designee may approve appointment at a higher rate.
- B. The differential between steps one to two, and steps two to three, shall be 5% rounded up to the nearest dollar.
- C. The differential between steps three to four, four to five, five to six, and six to seven, shall be 2.5% rounded up to the nearest dollar.
- D. Employees eligible for a step increase to the second, third, fourth, fifth, six and seventh steps shall automatically receive the normal pay/step increase effective the pay period following their anniversary date.
- E. **Performance Incentives** are provided in accordance with a pay for performance plan, to recognize sustained annual performance at the levels of strong performer or excellent performer. Performance incentives shall not be paid until after the first annual focal performance review, as defined in Article 15, has occurred on or after June 30, 2014, and will recognize performance from the preceding year, July 1, 2013 through June 30, 2014. Performance Incentives for fiscal years 2015 and 2016 shall be managed and processed in accordance with this schedule. The amount of the Performance Incentive is a lump sum. The Performance Incentive payment, as defined below, will be paid with the first pay check issued in September.
- F. Employees who obtain an overall solid rating for technical and core performance competencies shall be rated as overall solid performers.
- G. Employees who receive an overall strong performer performance review rating shall receive a Performance Incentive equal to 2% of the employee's base salary.

- H. Employees who receive an overall excellent performer performance review rating shall receive a Performance Incentive equal to 4% of the employee's base salary.
- I. Short Term Awards may be granted for \$250, \$500, \$750 or \$1,000 as a one-time lump sum per performance recognition. The purpose is to provide employees recognition and reward for specific short term performance less than a full rating period, which is excellent or clearly demonstrates performance exceeding normal job expectations.

Short term bonus awards should not be used to encourage unrealistic and/or inappropriate job expectations or work assignments. Determination of short term bonus awards are not subject to appeal or negotiation and are at the discretion of the President and Chief Executive Officer or designee and will adhere to good management practice. All employees are eligible to participate in short term bonus awards.

The Union will be provided information about award selection including name, classification and amount. Annually, full disclosure of nominations will be provided to the Union/Management Committee for discussion.

- J. Pay Equity Adjustment increase of one, two or three steps may be approved to alleviate salary inequities between incumbents of the same classification or supervisorial/employee salary relationships. The Commission encourages proper salary relationships between supervisors and subordinates and employees in the same classification. Normally, salary relationships are in balance, but in some cases, salary inequities may exist, due to position hiring and advancement or employee/supervisor re-assignment. In order to further the goals of fairness and good personnel practices, the Commission may exercise discretion to award salary increases to alleviate salary inequities.

Equity adjustments require the approval of the President and Chief Executive Officer or designee and are effective on a prospective basis only. Equity adjustments may not exceed 15% and do not supplant the normal performance evaluation and salary administration system or schedule.

Equity adjustments are at the sole discretion of the President and Chief Executive Officer or designee.

- K. Pay Differentials may be assigned to individual positions within a classification to recognize assignments which though difficult and specialized, do not warrant reclassification to a new or different classification.

The Commission maintains a classification system to adhere to proper salary administration practices and recognize appropriate classification for assigned work. Assignments within a classification generally follow classification guidelines but in some cases may require difficult and

specialized duties, but do not warrant reclassification to a new or different classification. Such assignments may include:

- Ongoing responsibilities exceeding those typically required of other incumbents in the class
- Special projects and assignments of a specified duration which entail added responsibilities and the application of specialized knowledge or skill
- Temporary exercise of lead or supervisory responsibilities in the absence of a lead or supervisory position, for a maximum of twelve (12) months

This policy should not substitute for the use of temporary positions. Pay Differentials are at the sole discretion of the President and Chief Executive Officer or designee and subject to the grievance procedure.

ARTICLE 20. OVERTIME

Overtime is authorized work performed by an eligible employee in excess of the normal forty (40) hour workweek. For overtime purposes, all paid leave shall be included in the normal forty (40) hour workweek. Overtime work must be specifically authorized, in advance, by the employee's supervisor. Overtime credit shall be computed for each one-hundredth (1/100) of an hour or fraction thereof.

Overtime work shall be compensated at one and one-half (1-1/2) times the employee's hourly rate of pay.

Overtime shall be paid in the pay period in which it was earned.

ARTICLE 21. BILINGUAL PAY

The Commission shall designate positions and assign employees to perform bilingual duties in positions which require such skills. In order to ensure an adequate level of bilingual proficiency, the Commission may require an evaluation of bilingual skills.

For employees required to utilize primarily oral, non-technical bilingual skills, the employee shall be paid a differential of ~~\$0.62 per hour/\$107.46 per month~~. For employees required to utilize technical translating skills, the employee shall be paid a differential of ~~\$0.77 per hour/\$133.47 per month~~. Technical translations may include oral or written interpretation and translation of technical programmatic information such as local program regulations, policies, procedures, forms, and documents, but does not include written and oral translation of routine information provided in basic letters, general flyers, or bulletins.

Employee may submit request for review by Human Resources Manager if supervisor has denied earlier request.

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\$0.51 per hour/\$88.40 per month

ARTICLE 22. UNIFORMS

The Commission shall provide and maintain uniforms and safety equipment required by the Commission. Employees shall wear uniforms as provided by the Commission. Employees shall use safety equipment provided by the Commission and shall notify the Commission when such equipment is not made available and inadequate supply.

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Employees in designated positions shall also wear safety shoes. The Commission shall reimburse these employees the amount of \$200 each year for boots or safety shoes.

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Designated positions include maintenance technicians, site cleaners, housing inspectors and other additional positions as determined by the Housing Commission.

ARTICLE 23. MILEAGE/TRANSPORTATION REIMBURSEMENT

Employees required to use personal vehicles on Commission business shall be reimbursed at the end of each calendar month at the rate per mile as approved by the Internal Revenue Service (IRS).

Employees shall keep detailed mileage logs and submit as required by the Commission to support reimbursement requests.

Employees who purchase monthly passes for public bus and/or trolley transportation will be reimbursed 100% of the cost by the Commission. Such passes shall be exclusively for the use of the staff member.

Employees shall be reimbursed for reasonable and necessary parking expenses related to on-the-job driving requirements. Employees required to use their personal vehicle on a daily basis as the primary means of performing their regularly assigned field duties, such as inspectors and related qualifying classifications, shall receive free parking at the facility. A list of these positions will be maintained by the Commission. Employees assigned to 1122 Broadway are eligible for either half of the parking cost or \$65.00, whichever is greater or 100% reimbursement of a monthly pass for public bus, trolley and/or coaster transportation.

On-the-road vehicle repairs may be made on Commission time up to two (2) hours.

The Commission and the Union agree to discuss in Union/Management Committee incentives for use of public transportation, carpooling and other work-related transportation issues.

ARTICLE 24. STANDBY/CALL-BACK COMPENSATION

Standby is hereby defined as the requirement that an employee be within immediate reach by telephone and be ready to report for work without delay other than necessary dressing time and travel to the job during all hours and days other than the employee's regularly scheduled work hours. Immediate reach will include returning Commission phone calls within 15 minutes. Employees on standby or call-back assignment will be allowed no less than one (1) hour to report to work.

An employee assigned to standby shall receive standby pay of \$35.00 per week (7 days); or the equivalent amount of compensatory time.

Standby shall be approved under the following conditions:

- A. The Department Vice President must approve assignments to standby, which must be in addition to the employee's regular work schedule.
 - 1. An employee receiving standby pay may use vacation or compensatory time off in lieu of working regularly scheduled work hours. However, the employee must be available to respond during all hours and days during which the employee is receiving standby pay.
 - 2. An employee using annual leave related to illness, industrial leave or injury leave may not receive standby pay when on annual leave related to illness, industrial leave or injury leave for more than two days during a full pay period assignment, or for more than one day during a one week standby assignment.
- B. One week shall constitute the minimum tour of standby duty.

Standby assignments shall be voluntary and shall be rotated so that no person serves more than two (2) consecutive pay periods of standby duty, unless requested.

An eligible employee on standby duty shall receive standby pay plus one and one-half (1-1/2) times base pay for all hours actually worked on call with a one-half hour minimum for each field trip, and actual time on telephone contacts.

ARTICLE 25. INSURANCE

The Commission shall provide eligible employees with a cafeteria-style benefits program in accordance with Section 125 of the Internal Revenue Service Code. The Commission reserves the right to make changes to any and all aspects of the insurance covered by this article during the course of this Memorandum of Understanding; however, prior to implementing any such change, the Commission shall meet and confer with the Union on all such changes.

The Commission provides employer-paid "core benefits" which include:

Basic Term Life & AD/D Insurance - Equal to the employee's annual salary with a minimum of \$15,000.

Long Term Disability Plan - Long Term Disability benefits after 60 days of continuous disability of 65% of an employee's basic monthly pay, and when combined with other income, 70% of pay to a maximum of \$8,500 per month.

Flex Credits - The Commission will contribute **increased flex credits of 8% per year, as reflected in the amounts listed below. All changes will be effective July 1 (beginning with the first pay day in July).**

For employee only health care benefit

- \$11,429 effective July 1, 2019
- \$12,343 effective July 1, 2020
- \$13,330 effective July 1, 2021

For employee plus one (1) health care benefit

- \$12,401 effective July 1, 2019
- \$13,393 effective July 1, 2020
- \$14,464 effective July 1, 2021

For employee plus family health care benefit

- \$14,345 effective July 1, 2019
- \$15,492 effective July 1, 2020
- \$16,732 effective July 1, 2021

Amounts are per eligible full-time employee, prorated for part-time employees, for allocation by employee for employee and eligible dependent(s) benefit options including:

A. Medical Insurance:

- 1. Major medical insurance providers**
- OR**
- 2. No medical coverage if employee provides written verification of other coverage.**

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\$10,582 for employee only health care benefit effective July 1, 2016¶
\$11,482 for employee plus one (1) health care benefit effective July 1, 2016¶
\$13,282 for employee plus family health care benefit effective July 1, 2016¶

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- B. Dental Insurance
- C. Voluntary Life and Accidental Death and Dismemberment Insurance for Employee/Spouse/Dependents.
- D. Set-aside for flexible spending accounts:
 - 1. Health expense account
 - 2. Dependent care account

If the employee does not allocate the entire contribution, the remaining balance may be received in taxable cash. If the cost of coverage elected exceeds the Flex Credits, the employee may contribute the balance from their paycheck.

Note: Coverage for “dependent” refers to a family member, significant other or same sex partner as defined and when provided by the Plan.

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ARTICLE 26. WORKER'S COMPENSATION

The Commission shall provide a Worker's Compensation insurance program funded entirely by the Commission. It shall afford medical, hospital, death and other benefits in case of injuries received on the job.

ARTICLE 27. RETIREMENT SYSTEM

The Commission shall offer its employees a retirement system, with benefits no less than those outlined by HUD. The Commission agrees to maintain the contribution to the contribution retirement system to a minimum of 14%.

Notwithstanding the language of Article 3, the Commission retains the right to notify the Union at any time of any proposed changes or modifications to its retirement system. Upon ten (10) days written notice given by the Commission to the Union, the Commission and Union agree to meet and confer upon the changes or modifications proposed by the Commission to its retirement system. The meet and confer process shall be conducted in accordance with California law.

ARTICLE 28. HOLIDAYS

The following shall be holidays observed as days off from work with full pay and benefits. Regular full-time employees shall be granted the following days off with pay equal to their scheduled pay for those days. Regular part-time employees' compensated holiday time shall be equivalent to one-fifth (1/5) the number of regularly scheduled hours in that employee's workweek during which the holiday occurred.

- January 1 - New Year's Day
- Third Monday in January - Martin Luther King, Jr. Day
- Third Monday in February - Washington's Birthday
- March 31 – Cesar Chavez Birthday
- Last Monday in May - Memorial Day
- July 4 - Independence Day
- First Monday in September - Labor Day
- November 11 - Veteran's Day
- Thanksgiving Day
- Friday following Thanksgiving Day
- December 25 - Christmas Day
- One additional holiday to be credited as annual leave on December 31 of each year for all employees in the unit.

When a holiday, as identified above falls on a Sunday, the following Monday shall be observed as a holiday.

When a holiday, as identified above falls on a Saturday, the preceding Friday shall be observed as a holiday.

When a holiday falls on a day off due to the Compressed Work Schedule, the preceding Thursday will be observed as a holiday.

Holidays which fall while an employee is on annual leave shall be counted as a holiday and not charged to annual leave.

If holiday work is assigned and authorized, that time worked shall be reimbursed at the rate of one and one-half (1-1/2) times the regular hourly rate plus the holiday pay to which the employee is entitled.

In order to be eligible for holiday pay, an employee must be either at work or on paid leave of absence on the regularly scheduled workday immediately preceding the holiday or day observed in lieu of the holiday and the regularly scheduled workday immediately following the holiday or day observed in lieu of the holiday.

ARTICLE 29. ANNUAL LEAVE

Annual leave is compensated leave for those eligible employees who are absent because of illness, injury, medical or dental care appointments, or personal business or who utilize time off as personal vacation. As provided for under Article 30, a doctor's statement may be required for any period of annual leave as a result of personal or family illness.

Each regular full-time employee shall earn annual leave credit as follows:

<u>Years of Service</u>	<u>Hours per Month</u>	<u>Days Per Year</u>
Beginning of the 1st through the 4th Year	12.00 hours	18 days
Beginning of the 5th through the 10th Year	14.67 hours	22 days
Beginning of the 11th through the 15th Year	17.33 hours	26 days
Beginning of the 16th through the 25th Year	18.67 hours	28 days
Beginning of the 26th through the 29 th Year	20.00 hours	30 days
Beginning of the 30 th Year	21.33 hours	32 days

Annual leave accrual shall be pro-rated for part-time regular employees.

An employee appointed from temporary non-benefited status directly to regular or temporary benefited status, or within one (1) year of separation, shall receive credit toward annual leave accrual for the period of continuous temporary non-benefited employment immediately preceding appointment.

Upon rehire to a regular or temporary benefited position following a break in service of less than three (3) years, all previously counted service toward annual leave shall be restored.

A. Approval of Leave Requests

Employees may request use of accrued annual leave, in writing, prior to dates scheduled and shall receive a response, in writing, up to one (1) year prior to the dates scheduled and shall receive a response, in writing, within ten (10) days of such request. Total annual leave granted may not exceed the amount posted to an employee's account as of the last day worked preceding leave.

Authorization for time off shall be determined by the supervisor based on staffing requirements. Authorization shall not be unreasonably withdrawn once approved.

B. Credits Accumulated During Leave

Annual leave credits will continue to accrue while on paid leave and can only be used after return to active duty. Annual leave credits are not earned during periods of unpaid leave.

C. Unscheduled Absences

Employees are required to notify supervisors of unscheduled absences as early as possible and to keep supervisors informed of additional days off required as soon as possible.

D. Maximum Accumulation

Maximum annual leave may not accumulate over 650 hours for employees who were hired prior to July 1, 1994.

For employees hired on or after July 1, 1994, the maximum accumulation of annual leave is 380 hours.

Annual leave may not accumulate over the maximum hours. A supervisor may mandate a leave which draws the employee's balance below the maximum level if it is projected to exceed the maximum accumulation.

E. Pay in Lieu of Annual Leave

Employees may make up to two (2) requests for payment in lieu of annual leave each fiscal year. The total of both requests cannot exceed 80 hours. Requests for payment in lieu of annual leave may be made if the employee has sufficient hours of earned leave credits and meets the following conditions:

1. Has taken at least five (5) days (40 hours for full-time employees) of annual leave during the previous twelve (12) months, and;

2. After receiving the requested number of hours in lieu of annual leave retained at least 24 hours of earned annual leave credits.

F. Pay Off at Termination

An employee whose service is terminated shall be entitled to receive the equivalent amount of pay for annual leave accrued, but not taken, up to the maximum allowable accumulation of hours plus the current year's accrual. Such payment shall be made in a lump sum on the effective date of termination; unless the Commission has not received two weeks notice of intent to terminate employment, in which case such payment shall be made within one (1) week of the date of termination.

G. Catastrophic Leave

In the event of a catastrophic occurrence, serious illness, injury, or personal situation in the life of an employee requiring absence from the job beyond available compensated leave, the President and Chief Executive Officer or designee may authorize donations of up to a minimum of one (1) eight (8) hour day and a maximum of six (6) eight (8) hour day donations from the accrued annual leave balance of employee(s) authorizing such donation in writing. After consultation with the Union/Management Committee, the President and Chief Executive Officer or designee may establish guidelines for implementing such transfers of leave.

In an effort to provide a mechanism for assisting employees who have a serious or catastrophic illness or injury, annual leave hours may be transferred from one or more employees and donated to another employee, upon the request of both the receiving employee and the transferring employee(s), and upon approval of the President and Chief Executive Officer or designee under the following conditions:

1. The receiving employee is required to be absent from work due to injury, prolonged illness, or similar personal situation, and has exhausted or will exhaust all earned leave hours by the end of the pay period, and is therefore facing the loss of salary and benefits.
2. The donations are voluntary. Transfers may be authorized for minimum of one (1) eight (8) hour day and in whole eight (8) hour increments thereafter.
3. Transfers are made from accrued annual leave balances; annual leave transfers are irrevocable. If any donated hours remain at the end of the employee's catastrophic leave, they shall remain added to the annual leave balance of the recipient. Acceptance of donations ends upon recipient's return to work.

4. The total transfer credits accumulated by an employee shall not exceed the maximum accumulation of hours per policy. However, accumulations in excess of the maximum may be considered and approved by the President and Chief Executive Officer or designee.
5. Upon the approval of a request for donations, the Commission shall, at the employee's request, provide notice of the eligible employee's need for donations. Confidential medical information shall not be included in the notice.
6. Donations shall be administered according to standard payroll procedures. Signed approvals for the recipient and donors' hours must be properly provided before a donation is processed.

H. Family Sick Leave

Pursuant to Labor Code Section 233 Family Sick Leave, "any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six month at the employee's then current rate of entitlement, to attend to an illness of a child, parent, spouse or domestic partner of the employee. All conditions and restrictions placed by the employer upon the use by an employee of sick leave also shall apply to the use by an employee of sick leave to attend to an illness of his or her child, parent, spouse, or domestic partner."

I. Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA)

For employees qualifying under the FMLA and CFRA, leave up to twelve (12) workweeks shall be provided to care for a serious illness of the employee, and the employee's child, spouse, domestic partner or parent as specified by the Acts.

ARTICLE 30. INJURY & EMERGENCY LEAVE

It shall be the responsibility of each employee to notify his/her immediate supervisor in advance of absence for scheduled medical appointments, or anticipated absences, or as soon as possible, if the absence is unscheduled. The employee shall notify the supervisor when he/she expects to return to work. A doctor's statement may be required for any period of annual leave as a result of personal or family illness.

- A. Pursuant to Labor Code Section 233, "any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six month at the employee's then current rate of entitlement, to attend to an illness of a child, parent, spouse or domestic partner of the employee. All conditions and restrictions placed by the employer upon the use by an employee of sick leave also shall apply to the use by an employee of sick leave to attend to an illness of his or her child, parent, spouse, or domestic partner."
- B. For employees qualifying under the Family Medical Leave Act and California Family Rights Act, leave up to twelve (12) workweeks shall be provided to care for a serious illness of the employee, and the employee's child, spouse, domestic partner or parent as specified by these Acts.
- C. "Emergency leave" refers to cases of illness of an employee's immediate family. Immediate family shall include: domestic partner, spouse, son, daughter, father, mother, brother, sister, grandparent, grandchildren, step parent, step children, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, and any dependent residing in the employee's household.

Work Related Injury Leave

The Commission employee is required to immediately report a work-related accident/injury to their supervisor and thereafter must complete and return the *Incident Report Form* to Human Resources.

An employee injured on the job and requiring a visit to a medical doctor the same day will remain on paid status. In addition, if a follow-up medical appointment is required and the employee is not able to schedule the appointment outside of their scheduled working hours, the employee will be on paid status for time used for a follow-up appointment within the first three (3) days following the work injury.

Time off for doctor's appointments, beyond the first three (3) days of injury, may be supplemented with available approved annual leave. The employee may schedule follow-up appointments before/after their scheduled workshift.

All medical documentation must be forwarded to Human Resources after each scheduled

appointment. Thereafter, Human Resources will inform the respective supervisor, as appropriate.

Note: The Commission's work injury policies/procedures will be developed.

ARTICLE 31. MILITARY LEAVE

The Commission shall provide military leave in accordance with the California Military and Veterans' Code.

Any employee who has been in the service of the Commission for a period of not less than one (1) year immediately prior to the date on which military leave starts shall be entitled to paid military leave. Service with the Commission and in the military constitute service in a public agency, and may be combined for the one (1) year requirement. The maximum paid military leave entitlement during any one fiscal year shall be no more than the pay for a period of thirty (30) calendar days.

Upon return from active duty military leave under the conditions prescribed above, the employee shall present military separation papers. Following medical examination by the Commission's examining physician, the employee shall be returned to the position the employee left, or to a comparable position for which the employee is qualified, as determined by the Commission.

ARTICLE 32. COURT LEAVE

Any employee in court as a witness or on jury duty, is entitled to court leave and such absence shall not be construed as annual leave or leave without pay, if the employee is not a party in the action.

Any fees for such duty shall be retained by the employee.

Before court leave is granted, the employee must submit a copy of the official summons to the Human Resources Section prior to the beginning date of such duty or service.

Employees who elect to be on "on-call" jury duty shall report to work on days when they are not required to be at the courthouse. Employees who are released from jury service, and who will not have one full hour of work time after returning to the workplace, shall not be required to return, with no loss of pay.

ARTICLE 33. LEAVE WITHOUT PAY

A. At the employee's request, a leave of absence without pay may be granted to eligible employees for a period not to exceed one (1) year for the following reasons:

- 1. Leave for employee illness or injury beyond that covered by paid leave, including Worker's Compensation cases.**
- 2. Education or training which will materially benefit the Commission.**
- 3. Maternity/Paternity leave.**
- 4. Short term leave up to 180 days.**
- 5. Other personal reasons, such as for temporary employment, to seek public office, or for a sabbatical.**

B. Leaves of absence without pay shall also be granted as required by law for family care or medical leave due to:

Birth or adoption, including foster care placement, of a child; care for serious health condition of employee's parent, spouse, or child; employee's serious health condition; or other lawfully specified purposes.

Entitlement to leave or benefits, definitions of child, parent or spouse within the provisions of Part B above shall be in accordance with California Government Code 12945.2 of the Family Rights Act of 1991, and Title I, Sections 101-109 of the US Family Care and Medical Leave Act of 1993.

The President and Chief Executive Officer or designee may, in exceptional cases, extend a leave for an additional period not to exceed one (1) year. Only one (1) extension may be granted and only in cases of illness or disability.

Immediately prior to, or at the time of return to work from employee illness or disability leave, the employee shall submit a statement from a physician certifying that he/she is released to return to work. Reasonable accommodation will be made to an employee released with work restrictions or limitations.

When an employee has been granted a leave without pay and desires to return before expiration of such leave, the employee may be required to give reasonable notice within five (5) calendar days.

Failure to report to work after a leave of absence has expired or has been denied may, at the option of the President and Chief Executive Officer or designee, be considered a resignation.

Employees may not accrue annual leave while on leave without pay. Unpaid leaves of absence longer than 180 calendar days shall delay and extend day-for-day the period of satisfactory service necessary for pay step advancement.

Premiums required under the Commission's health, life insurance, and dental programs shall not be paid by the Commission while the employee is on leave without pay status beyond the provision of the plan document and as required by law. Employees may coordinate with Payroll to make premium payments to continue benefits during leave without pay if allowable by the plan provider.

If an employee is determined eligible for leave pursuant to Part B above of this article, and elects to continue medical coverage, the Commission shall pay the premium to continue the current medical plan coverage to the extent required by law.

If, in the opinion of the Commission, an employee is unable to properly perform the duties of his/her position due to injury, illness, disability or impairment, the employee may be required to submit to an examination by a physician designated or approved by the Commission. If the report of the physician shows the employee unable to perform his/her essential job duties, the Commission may compel the employee to take sufficient leave of absence until such time as the employee is able to satisfactorily perform his/her essential duties with or without accommodation. If an employee is unable to return to his/her position, he/she will be subject to termination.

ARTICLE 34. BEREAVEMENT LEAVE

Regular employees shall be granted up to a maximum of three (3) consecutive days bereavement leave to be used in case of death in an employee's immediate family. Immediate family shall include: domestic partner, spouse, son, daughter, father, mother, brother, sister, grandparent, grandchildren, step parent, step children, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, and any dependent residing in the employee's household at the time of death. The employer may require that the employee provide proof of death and/or a signed affidavit from the employee regarding the relationship of the deceased.

ARTICLE 35. ADMINISTRATIVE LEAVE

An employee may be placed on administrative leave by the President and Chief Executive Officer or designee at any time. Administrative leave for the remaining hours in a work shift may be required of an employee by the immediate supervisor whenever an urgent or dangerous situation exists.

An employee placed on administrative leave may be required to immediately leave the property of the Commission. At the initiation of administrative leave, the employee shall be instructed regarding return to work procedures and of the reason for requiring administrative leave.

Administrative leave is a required absence from work for the benefit of the Commission. Administrative leave is not a disciplinary action. As long as the employee remains available for business consultation or immediate recall to work, the administrative leave may be in regular paid status. The President and Chief Executive Officer or designee may determine subsequent to administrative leave to take disciplinary action in compliance with this Agreement.

ARTICLE 36. EDUCATIONAL INCENTIVE

An employee may receive paid leave from regularly scheduled work, tuition and/or travel reimbursement to attend courses, seminars, workshops or conventions that enhance, improve or add to the knowledge, skills and performance in the employee's employment with the Commission. Reimbursement may be requested for the maximum amount provided below per fiscal year. Based on request and information provided, an employee may be advanced tuition for courses, seminars, workshop or conventions on a case by case basis to be determined by the President and Chief Executive Officer or designee. If proof of attendance and successful completion of courses is not provided to the Commission, the employee will reimburse the Commission for all tuition advanced.

Maximum tuition reimbursement per fiscal year:

FY 2017: \$4,600

FY 2018: \$4,600

FY 2019: \$4,600

The determination as to when and whether an employee is granted leave and/or reimbursement shall be made by the President and Chief Executive Officer or designee. Requests for such leave and/or reimbursement shall be submitted in writing in advance, in a timely manner. If a request is denied an appeal may be made to the Department Vice President.

ARTICLE 37. PROMOTION

When an employee is promoted, that employee shall be placed on a step within the new range to be determined by the President and Chief Executive Officer or designee.

Notice of all regular job openings shall be posted on the Commission website for a minimum of five (5) workdays.

Equally qualified employees will be given preferred consideration over external candidates in filling job openings in accordance with merit competition and selection methods.

Employees promoted will normally receive at least 5% pay increase, if the new salary range permits.

Employees may submit performance reviews conducted within the last two (2) years for consideration as part of the selection process.

ARTICLE 38. CHANGES IN STATUS

When an occupied position is reclassified upward and the incumbent is promoted, the incumbent's salary shall be affected as provided for in "Promotions," and an introductory period may be waived or reduced as provided in Article 14.

When an occupied position is reclassified downward, the incumbent employee's salary shall be placed at a step in the new pay range which does not reduce the employee's pay, or shall remain unchanged until the new range exceeds the employee's pay rate.

- A. When an occupied position is reclassified downward, and the incumbent's pay rate is within the range for the new classification, the incumbent's salary will remain unchanged.
- B. When an occupied position is reclassified downward, and the incumbent employee's pay rate exceeds that of the top step of the range for the new classification, the incumbent employee's salary shall remain unchanged (frozen) until the new range equals or exceeds the employee's pay rate. The employee's pay rate will be placed at the highest step which does not reduce the frozen pay rate when the pay range of the new classification equals or exceeds the employee's frozen pay rate.
- C. Downward reclassification of a position does not change the performance review date of the incumbent employee, as defined in Article 15.

When an employee assumes a lateral reassignment to a position in a different job classification within the same salary range or assumes a transfer in the same classification, he/she shall continue to receive his/her current salary and his/her performance review date, as defined in Article 15 will remain unchanged.

When a salary range adjustment occurs, each incumbent employee shall be placed on the same step within the new range as he/she occupied within the old range. Performance review date, as defined in Article 15, remains unchanged when salary range adjustments occur.

In the event an employee is promoted, demoted, reclassified, transferred or his/her salary is upgraded, said action shall be made effective at the beginning of a pay period whenever possible.

Employees may submit performance reviews conducted within the last two (2) years for consideration as part of the selection process.

ARTICLE 39. HEALTH AND SAFETY

It shall be the policy of the Commission to provide a safe and sanitary place to work, using the Occupational Safety and Health Act (OSHA) and any other mutually approved standards as a guide.

Employees shall observe all safety regulations and requirements given verbally or in writing by the properly constituted authorities. Employees, in addition to guarding his/her own safety and the Commission's property, shall seek to safeguard his/her fellow workers and other people affected by his/her work. An employee shall report to his/her supervisor any accident, illness or disease occurring to himself/herself arising out of employment and shall, if observing, report any apparent unsafe condition to his/her supervisor.

When an employee is personally threatened by an individual, as a direct result of his/her working relationship with the Commission, the employee may request that the Commission conduct a prompt investigation to determine whether any one or more of the following actions would be appropriate:

- A. Work reassignment
- B. Temporary transfer to another position or work location
- C. Disqualify client(s)
- D. Other actions as appropriate
- E. If the investigation shows that the personal threat significantly interferes with the employee's performance of his/her job duties, the Commission shall request injunctive Court action against the threatening individual(s) in conformance with Code of Civil Procedure, Section 527.6, prohibiting harassment.

The Union may designate one employee representative and one alternative to serve on the Commission's Safety Committee. This committee will address, among other safety related issues, the implementation and maintenance of mandated safety programs and such ongoing current health and safety issues as air quality and computer workstation injury prevention.

ARTICLE 40. COUNSELING AND DISCIPLINE

I. CONSTRUCTIVE COUNSELING AND DEVELOPMENT

Employees receive communication, instruction, and counseling to assist in improving performance. Oral and written instructions, counselings, and warnings are considered counseling actions and may be provided for performance development. Counseling actions are non-disciplinary in nature and, as such, clarify performance expectations; improvement needed, and contain no punitive language or specific consequence. The employee has the right to review both the employee's Personnel File and the written records pertaining exclusively to the employee in the working file retained by the supervisor with advance notice of request.

A. Counseling Between Supervisor and Employee

1. **Oral Counseling** (Performance, incident or behavior issue) Discussion regarding performance or minor incident. Informal record may be purged following performance review.
2. **Written Counseling** (Repeated performance, incident or behavior)
 - a. Used when employee fails to respond to Oral Counseling, or if the performance or issue is more serious. Instructions must be specific including examples of and ways to correct poor performance. Action is signed and dated by supervisor and employee, with a copy to employee and supervisor.
 - b. The Interim Performance Review process may be considered to document performance requiring improvement to include an Improvement Plan.

B. Supervisor's Issuance of Warnings

1. **Oral Warning** (Violation of a rule, policy, or procedure)

Used for a minor, first time incident where the supervisor believes an oral warning will prevent repeat occurrence. Documentation may be kept by the supervisor.
2. **Written Warning** (Repeated misconduct or serious first time incident)

Used when employee fails to respond to previous counseling action or the incident is more serious, signed by supervisor and employee. A copy will be given to the employee.

II. DISCIPLINE PROCESS

This process covers discipline for employees whose job performance, actions or behavior fall below acceptable standards. It also provides, wherever possible, for constructive and progressive steps to correct substandard performance or behavior. Severity of action taken shall be appropriate to the cause. In most cases, the employee will be instructed and counseled in performance and development prior to implementing discipline.

REPRESENTATION:

A representative of employee's choice may be present at any meeting concerning disciplinary action or where there is probable cause to believe disciplinary action may be taken. The supervisor will provide employee with a notice of right to representation in advance, except in instances requiring immediate attention.

The following disciplinary actions must include a statement of the behavior, incident or misconduct requiring correction and consequences for failure to correct.

A. Disciplinary Action

1. **Written Reprimand** (Significant incident of misconduct or repeated incidents)

A significant first time incident of misconduct or repeated incidents not corrected through previous counseling action, signed by employee and supervisor with copy to employee, supervisor and Personnel File.

2. **Suspension Pending Investigation** (Major incident of misconduct or repeated serious violations of a rule, policy, or procedure)

Involuntary, non-disciplinary absence with pay, not to exceed thirty (30) days, to investigate and determine disciplinary action if any. Used to maintain the reputation, morale, harmony or safety of the organization. Written Notice, with copy to Personnel File, shall be issued immediately describing charges and cause, and the effective date and duration of suspension with opportunity to respond prior to departure from the worksite except in an emergency situation when oral notice may be given with written notice to follow within twenty-four (24) hours.

B. Serious Disciplinary Actions Impacting Pay

1. Suspension Without Pay

Suspensions without pay shall not exceed 30 calendar days, and shall only be applicable to non-salaried employees, as defined within the Fair Labor Standards Act and implementing regulations.

Salaried employees, as defined under the provisions of the Fair Labor Standards Act and implementing regulations, shall not be suspended without pay, except if such a suspension is imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include only those relating to the prevention of serious danger to the workplace and/or other employees. Exempt status employees are, in general, not disciplined by piecemeal deductions from their pay, but are terminated, demoted or given restricted assignments.

2. Salary Reduction

Reduction in pay step within a salary range.

3. Disciplinary Demotion

Reduction in pay step from a higher class to a lower paid class.

4. Dismissal

Discharge or removal from employment.

C. Causes for Counseling or Disciplinary Action

1. Incompetence
2. Inefficiency
3. Impaired work performance
4. Insubordination
5. Neglect of duty
6. Absence without leave
7. Dishonesty
8. Fraud in securing employment
9. Discourteous treatment of the public or other employees
10. Drinking alcoholic beverages on the job, or reporting for work while under the influence of alcohol or intoxicants
11. Illegal use or possession of drugs or controlled substances, or use of any substance which negatively impacts job performance or safety of self or others
12. Conviction of a felony or misdemeanor involving moral turpitude

13. Willful violation of any Commission policy, or lawful division regulation or order
14. Conduct unbecoming a public employee or reflecting discredit upon the Commission
15. Excessive unscheduled absences
16. Possession of firearms or similar explosives or weapons
17. Physical, verbal, or other threatening conduct which threatens, intimidates, seriously alarms or harasses an employee or a member of the public
18. Other cause of equal seriousness
19. Inappropriate use of Commission equipment, e.g., intranet, copiers, etc.
20. Falsification of records
21. Bribery
22. Excessive Tardiness

D. Procedures for Affecting Serious Disciplinary Action

1. Investigation:

Prior to taking any disciplinary action, an investigation by the President and Chief Executive Officer or designee into circumstances leading to the Disciplinary Action must occur.

2. Notice of Intent Procedure:

The President and Chief Executive Officer or designee issues a Notice of Intent to Take Disciplinary Action to include Suspension Without Pay, Salary Reduction, Disciplinary Demotion and Dismissal for cause. The Written Notice of Intent must be served in person or by registered mail within a reasonable period following the incident and at least five (5) workdays prior to the disciplinary action becoming effective. The Notice of Intent shall include:

- a. Disciplinary action to be taken;
- b. Effective date of the action;
- c. Statement of the cause thereof;
- d. Concise statement citing the causes for discipline, explanation of the employee's acts or omissions, and specific Personnel or Commission policies violated; and a statement that materials upon which the discipline is based will be made available if requested;
- e. Statement advising employee of his/her right to respond;
- f. Statement advising of the right to representation.

3. Employee Response to Notice of Intent

An employee may respond verbally or in writing (and if verbally, follow up with written confirmation) to a Notice of Intent to Take Disciplinary Action during the period between the service of notice and the effective date of disciplinary action. The response shall be delivered to the President and Chief Executive Officer or designee as specified in the Notice.

4. **Meeting to Address Employee Response**

The date and time to appear in response to the intended action with right to representation shall be mutually arranged without delay. The noticed disciplinary action shall be stayed (i.e. shall not become effective prior to the employee presenting the response to the intended action and a decision being made by the President and Chief Executive Officer or designee).

- a. The meeting shall be conducted informally.
- b. The employee may present any additional relevant facts.

5. **Notice of Final Action**

After full consideration of the employee's response, the President and Chief Executive Officer or designee may withdraw, modify or confirm the intended action and serve Final Notice of the disposition to include:

- a. A summary of the Notice of Intended Action and the result of the decision, the Final Disciplinary Action Taken and effective date, and;
- b. The right to appeal with evidentiary hearing as describe in Article 40 II 6. below.

6. **Appeal of Final Action**

- a. Suspension Without Pay, Salary Reduction, Disciplinary Demotion, Dismissal

Within ten (10) workdays of service of Notice of Final Disciplinary Action Taken, the employee may file a written appeal with request for evidentiary hearing in person or by registered mail to the President and Chief Executive Officer or designee as described below:

- 1) Request a hearing by an independent neutral hearing officer who shall be impartial. The hearing officer shall not be an employee or member of the

Commission. The hearing officer shall be appointed by mutual agreement of the parties.

The hearing shall be held within a reasonable time of the employee request.

The hearing shall be informal. The rules of evidence shall not strictly apply but should be used as a guideline to an orderly administrative hearing. The parties shall have the right to present evidence, examine and cross-examine witnesses.

Upon closing the hearing, the hearing officer shall make written findings of fact, conclusions thereon, and a recommendation affirming, modifying or reversing the disciplinary action.

The President and Chief Executive Officer or designee shall make a final determination based on a review of evidence and the hearing officer's recommendation, with no further hearings. If the decision of the hearing officer is not accepted, the President and Chief Executive Officer or designee shall state the reason(s) in writing;

OR

2) The employee may request a hearing conducted by the President and Chief Executive Officer or designee. If the President and Chief Executive Officer selects a designee to act as the hearing officer, the identity of such designee shall be disclosed to the employee reasonably in advance of the hearing.

a) The hearing shall be held within a reasonable time of the employee's request and will be held during business hours and within a reasonable timeframe established by the President and Chief Executive Officer or designee.

b) The decision of the President and Chief Executive Officer or designee shall be final.

3) If following hearing the Final Action Taken is overturned, the employee shall be reinstated and reimbursed for all salary and benefits that would have accrued.

III. NON-DISCIPLINARY ACTIONS

Certain personnel actions are specifically excluded from requirements to comply with II. DISCIPLINE PROCESS above, these include:

- A. Counseling actions regarding performance or incident except where there is probable cause disciplinary action may result.
- B. Non-retention of a newly hired introductory period employee.
- C. Return of a promoted introductory period employee to the previous classification held for unacceptable performance in the new class.
- D. Denial of a pay step advancement for unacceptable performance.
- E. Separation from employment for reasons of physical or mental disability that cannot be reasonably accommodated, job abandonment, failure to return to work from approved leave, enforcement of the Nepotism Policy, loss of driving clearance where driving is an essential duty, or other similar non-disciplinary reasons. Non-disciplinary separation from employment may be implemented pursuant to Article 41.
- F. Layoff and bumping as a result of layoff.

ARTICLE 41. NON-DISCIPLINARY SEPARATION
FROM EMPLOYMENT

The President and Chief Executive Officer or designee may initiate non-disciplinary separation from employment of an employee for reasons of physical or mental disability that cannot be reasonably accommodated, job abandonment, failure to return to work following an approved leave, enforcement of the nepotism policy or other similar non-disciplinary reasons. Employees in positions which require driving as an essential duty may be subject to non-disciplinary separation from employment in the event of denial/exclusions of coverage by the insurance carrier or failure to maintain a valid driver's license.

The President and Chief Executive Officer or designee shall provide written notice to any regular status employee separated from employment for non-disciplinary reasons. The effective date of employment termination may be determined by the President and Chief Executive Officer or designee to be the last actual day at work, the date the written notice is signed or a future date. Upon receipt of notice of non-disciplinary separation from employment, the employee may accept the decision or within ten (10) calendar days initiate one of the following:

- A. Submit a written request to the President and Chief Executive Officer or designee for informal reconsideration of the employment separation decision. Such request must include statement of facts or information which the employee believes will give the President and Chief Executive Officer or designee good reason to change the termination decision. The President and Chief Executive Officer or designee will respond to any such request for informal reconsideration.
- OR
- B. Submit the decision for review as established by Step 4 of the Grievance Procedure as provided by Article 42 of this Memorandum of Understanding.

ARTICLE 42. GRIEVANCE PROCEDURE

Purpose

The Commission and the Union recognize a mutual obligation on the part of the Commission and the Union to promote and provide efficient and continuous services to the public. Employee morale is an important factor in maintaining a high level of public service, and the administration has a responsibility to provide an orderly and expeditious method for resolving problems which may arise from working relationships and conditions. This procedure is intended to provide an orderly method for processing grievances in the interest of obtaining fair and equitable solutions.

Rules and Regulations

1. Except where a remedy is otherwise provided for by law, any employee shall have the right to present a grievance arising from his/her employment in accordance with this procedure.
2. All parties must act in good faith and strive for objectivity, while endeavoring to reach a solution at the earliest possible step of the procedure. The grievant shall have the assurance that filing a grievance will not result in reprisal of any nature.
3. The grievant shall have the right to be represented by a steward or other person of the employee's choice if the complaint is not resolved at the informal level as provided for in Step 1 of the grievance procedure. This representation may commence after the informal conference with the supervisor. A steward shall have the right to represent, assist and be present with the grievant at all subsequent steps of the procedure.
4. The processing of a grievance shall be considered as official business, and the employee and his/her steward/representative shall have reasonable time and facilities allocated to investigate, prepare and present a grievance.
5. In gathering information on a grievance, a steward may discuss the grievance with employees immediately concerned after obtaining permission from their immediate supervisor; and review all documents, records or data utilized in the action. A list of such employees must be submitted to the Human Resources Manager in advance.

Upon obtaining permission from their immediate supervisor, a steward shall be permitted to leave the normal work area during on-duty time for such time as is necessary to assist an employee in preparing and presenting a grievance. The steward shall obtain permission from the grievant's immediate supervisor. The grievant's immediate supervisor shall have the

right to make arrangements for the steward to contact the grievant at a location other than the work area.

If, in the opinion of the steward's supervisor or the grievant's supervisor, the time requested by the steward would unduly interfere with the maintenance of an adequate level of service, permission may be denied, but must be arranged within 48 hours.

6. Time limits in the grievance procedure are designed to settle a grievance quickly. It is realized, however, that occasionally the parties concerned may be unable to comply with the established limitations. In such instances, the limitations may be extended upon the mutual agreement of all parties concerned.
7. Failure to file an appeal within an agreed time limit for any step of the procedure shall constitute abandonment of the grievance. Management personnel involved shall abide by the prescribed time limits. Failure to do so without good cause shall be considered an automatic ruling in favor of the grievant in any instance where management would have had the authority to grant such settlement. No such ruling shall be considered precedent setting.
8. Any person responsible for conducting any conference, meeting or hearing under the formal grievance procedure shall give due and timely notice to all persons concerned.
9. Standard grievance forms will be made available through each division.
10. When two or more employees experience a common grievance, they may initiate a single grievance proceeding. If the employees do not have a common supervisor, the grievance shall be presented to the division head at Step 3 of the procedure. If the employees work in separate divisions, the grievance shall be presented to the President and Chief Executive Officer or designee at Step 4 of the procedure.
11. At any formal hearing, the employee and Commission have the right to produce evidence and present witnesses and shall have the right of confrontation and cross-examination of any witnesses so presented. Such hearings shall not be bound to any of the rules of evidence governing trial procedure.

Definitions

A. Day/Calendar Day:

A day begins on the first day following the calendar day the grievance is filed or submitted to the next step. When the time period for a given step in the grievance procedure ends on either a weekend holiday, or day off in

accordance with the Compressed Work Schedule, it shall be automatically extended to the next regular workday.

B. Division Head:

The administrative head or acting head of the division involved, or a designated representative.

C. Employee:

An individual employed by the Commission in the bargaining unit.

D. President and Chief Executive Officer or designee

The President and Chief Executive Officer or designee of the Commission or a designated representative.

E. Grievance:

A grievance is a complaint relating to any phase of an employee's employment or working conditions which the employee believes has been adversely affected, or violation of the written policies relating to the employment of the individual. This procedure does not apply to disagreements over performance evaluations.

F. Hearing Officer:

A neutral person who shall be appointed by mutual agreement of the parties.

G. Immediate Supervisor:

The individual who assigns, reviews or directs the work of an employee.

Grievance Procedures

Step 1: When an employee becomes aware that a problem exists, the employee shall discuss the matter informally with his/her immediate supervisor, and may request accompaniment by a Union Steward or Representative or other worker. This discussion shall be sought by the employee not later than thirty (30) calendar days after the alleged problem occurred or was discovered. The provisions outlined below do not restrict the employee or the immediate supervisor from reaching a settlement informally.

Step 2: If within seven (7) calendar days a mutually acceptable solution has not been reached in Step 1, the grievant shall submit it, in writing, on the standard grievance form to the immediate supervisor within three (3) workdays. The supervisor has three (3) days to respond in writing to the grievance.

Step 3: The grievant has seven (7) calendar days to submit the decision for review by the division head or designee. The division head or designee shall give notice and hear the grievance and render a written decision within seven (7) calendar days of receipt of the formal grievance from the employee.

Step 4: If the employee is dissatisfied with the decision of the division head or designee, he/she may within ten (10) calendar days of receipt of the reply submit to the President and Chief Executive Officer or designee a review of the decision by either:

1. A hearing by an independent neutral hearing officer who shall be impartial and shall be appointed by mutual agreement of the parties. In the event mutual agreement cannot be reached, the State Mediation and Conciliation Service shall be asked to name a panel of five (5) individuals from which one (1) name shall be selected by the parties within ten (10) days after the receipt by alternating striking names. The expenses and salary incidents of services of the hearing officer shall be shared equally by the Commission and the Union.

The Hearing Officer shall within ten (10) calendar days of the hearing make an advisory report and recommendation to the President and Chief Executive Officer or designee. The hearing shall be informal and rules of evidence shall not apply. Parties may present witnesses and evidence which shall be subject to cross-examination.

The President and Chief Executive Officer or designee shall review the report and recommendations of the hearing officer and shall render a final decision within ten (10) workdays of receipt; OR

2. The employee may request a hearing by the President and Chief Executive Officer or designee who shall conduct the hearing as above and render a final decision within ten (10) workdays; OR
3. Other process mutually agreeable to both Management and Labor.

The Commission and the Union recognize the right of any employee to present his/her grievance at his/her expense directly to the Commission provided, however, that the adjustment of such grievances shall not be inconsistent with the terms or the established interpretation of the Memorandum of Understanding. The implementation of any mutually agreed upon adjustment in such grievances shall be subject to the approval of the parties to this Memorandum of Understanding.

ARTICLE 43. SEVERABILITY

If any provision of this Memorandum of Understanding is held invalid by operation of law or by a court of competent jurisdiction, or if compliance with or enforcement of any provision is restrained by any tribunal, the remainder of this Memorandum of Understanding shall not be affected thereby.

ARTICLE 44. INTEGRATION WITH PERSONNEL POLICIES

All matters and issues not specifically provided for or prohibited in this Memorandum of Understanding shall be subject to the terms and conditions of the Commission's Personnel Policies.

ARTICLE 45. WORKLOAD

Management will meet and confer with the Union on all proposed workload changes, inequities in workload distribution, or other conditions which cause excessive workload. When such workload problems exist, the Commission and the Union shall seek ways to accommodate or offset the impact.

When major changes in workload result from federal or state legislation or regulatory changes or as a result of management analysis, the Commission will implement the changes as required and advise the Union within fifteen (15) working days after being notified of such change. If the Union wishes to meet and confer with Management regarding the impact on employees affected by such change, the Union shall notify Management within fifteen (15) working days from receipt of such notice. It is understood that this meet and confer shall be conducted expeditiously.

At the time Management notifies the Union, copies of applicable dated legislation, regulations or management analysis reports which necessitated these major changes will be made available to the Union within fifteen (15) working days.

ARTICLE 46. UNION/MANAGEMENT COMMITTEE

The Commission and Local 221 agree to establish a Union/Management Committee which is to include up to four (4) Union representatives and up to four (4) Commission representatives to provide an ongoing mechanism for discussion and resolution of matters brought forward by either the Union or the Commission.

ARTICLE 47. ALCOHOL & DRUG FREE WORKPLACE

Management and the Union are jointly committed to maintenance of a workplace free of alcohol-abuse, drug-abuse and other controlled or illegal substance abuse.

The President and Chief Executive Officer or designee shall establish a drug-free awareness program and publish a statement which notifies employees of the drug-free workplace policy. Management and the Union, in order to implement this joint policy and in compliance with the Drug-Free Workplace Act and attendant Federal Regulations, agree that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace or during work hours and may result in disciplinary action up to and including dismissal.

ARTICLE 48. TERM

This Memorandum of Understanding shall be effective July 1, ~~2019~~ and expires June 30, ~~2022~~.

Deleted: 2016

Deleted: 2019

ARTICLE 49. REOPENER PROVISION

The San Diego Housing Commission or the Union each may, at its option, reopen Article 19 - Pay Plan, Article 25 - Insurance and/or Article 50 - Salary Schedule, by giving written notice to the other Party to this Agreement of its election to reopen, which notice shall be given during the period of December 1 to January 31. Said notice(s) may be given in any and/or all years of this Agreement. Nothing contained in this Article shall require either Party to this Agreement to elect to give said notice to reopen in any year of this Agreement, however.

ARTICLE 50. SALARY SCHEDULE

The following wage increases shall be provided as follows:

Effective: July 1, ~~2019~~ 3.5%
July 1, ~~2020~~ 3.5%
July 1, ~~2021~~ 3.5%

Deleted: 2016

Deleted: 3%

Deleted: 2017

Deleted: 3%

Deleted: 2018

Deleted: 3%

ARTICLE 51: EMPLOYEE ASSISTANCE PROGRAM

The Commission will maintain an Employee Assistance Program (EAP) in an effort to assist workers in overcoming substance abuse and/or other problems. The intended EAP shall incorporate the following provisions and features as they are available and agreed upon:

- Medical evaluation
- Mental health problems
- Financial difficulties
- Family/marital crisis
- Substance abuse counseling, rehabilitation and referral
- Participation by dependents
- Voluntary participation
- Confidentiality

Participation in the EAP may be offered to an employee to mitigate disciplinary action. In such circumstances, participation in the EAP and compliance with the EAP recommendations may be required by the employer as a condition of continued employment.

ARTICLE 52: MANAGEMENT RIGHTS

Section 1.

The rights of the Commission include, but are not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action for just cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission; and exercise complete control and discretion over its organization and the technology of performing its work.

Section 2.

The exercise of such rights shall not preclude the Union from consulting with the Commission representatives about the practical consequences that decisions on these matters may have on wages, hours and other terms and conditions of employment.

Management decisions shall not supersede the provisions of this Memorandum of Understanding.

Positions represented by the Union:

- Accounting Technician
- Administrative Assistant
- Client Services Receptionist
- Housing Assistant
- Housing Construction Specialist
- Housing Inspector
- Information Technology Technician
- Loan Underwriting Specialist
- Loan Servicing Specialist
- Maintenance Technician
- Maintenance Technician (Z)
- Office Specialist
- Senior Accounting Technician
- Senior Housing Assistant
- Site Cleaner



The City of San Diego
Item Approvals

Item Subject: Tentative Agreement for a Memorandum of Understanding with Service Employees International Union, Local 221.

Contributing Department	Approval Date
ENVIRONMENTAL ANALYSIS	05/17/2019
DOCKET OFFICE	05/17/2019

Approving Authority	Approver	Approval Date
HOUSING COMMISSION FINAL DEPARTMENT APPROVER	DAVIS, JEFF	05/14/2019
CITY ATTORNEY	MALCOLM, KATE	05/21/2019
DEPUTY CHIEF OPERATING OFFICER	CALDWELL, ERIK	05/22/2019