

RESOLUTION NUMBER R- 304803

DATE OF FINAL PASSAGE APR 21 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO RESOLVING IMPASSE BETWEEN THE CITY AND LOCAL 127, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO BY UNILATERALLY IMPLEMENTING THE TERMS AND CONDITIONS OF EMPLOYMENT SET FORTH IN THE CITY'S LAST, BEST, AND FINAL OFFER.

WHEREAS, from January 22, 2009 until April 1, 2009, the Management Team of the City of San Diego [City] met and conferred with Local 127, American Federation of State, County, and Municipal Employees, AFL-CIO [Local 127] regarding wages, hours, and other terms and conditions of employment for employees represented by Local 127 in the Classified Service of the City, and made detailed recommendations to the City Council in relation thereto; and

WHEREAS, the City has been unable to reach agreement with Local 127 regarding wages, hours, and other terms and conditions of employment for Fiscal Year 2009-2010, beginning July 1, 2009; and

WHEREAS, the Meyers-Milias-Brown Act [MMBA], at California Government Code section 3500 *et seq.*, is the state law that governs labor relations between the City of San Diego and its employees; and

WHEREAS, the MMBA, and specifically California Government Code section 3505.4, authorizes the City to unilaterally implement the City's last, best, and final offer so long as all impasse procedures, where applicable, have been exhausted; and

WHEREAS, impasse procedures in the City of San Diego are governed by City Council Policy 300-06; and

WHEREAS, on April 1, 2009, the City declared impasse with Local 127, and filed with the City Council a written request for an impasse meeting together with a statement of the City's position on all disputed issues; and on April 10, 2009, the City and Local 127 held an impasse meeting pursuant to Council Policy 300-06; and

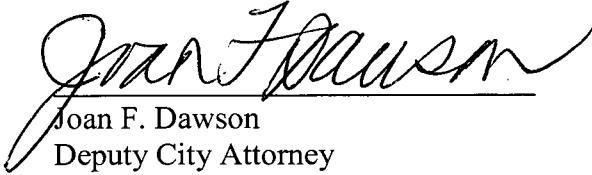
WHEREAS, no agreement was reached at the impasse meeting; therefore, pursuant to City Council Policy 300-06, the City Council shall and, today, has conducted an impasse hearing on the merits of the dispute and resolves the impasse; and

WHEREAS, the City's last, best, and final offer to Local 127, dated April 8, 2009, 4:30 p.m., is set forth in the term sheet attached as Exhibit A to this Resolution and is incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED, that, pursuant to the authority of the MMBA and City Council Policy 300-06, the Council of the City of San Diego hereby unilaterally implements and adopts the City's last, best, and final offer, as set forth in the term sheet attached as Exhibit A to this Resolution, as terms and conditions of employment for all employee members of Local 127, beginning July 1, 2009, with the following exception: Article 33 shall read: Effective July 1, 2009, Terminal Leave shall be eliminated and leave balances for terminating employees shall be cashed-out at the time of termination or retirement, contingent upon review and recommendation by the Civil Service Commission; the Civil Service

Commission is requested to provide said review and recommendation to the City Council as soon as practicable.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFG:cfq
04/14/09
Or.Dept: C.A.
R-2009-1061

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 14 2009.

ELIZABETH S. MALAND
City Clerk

By *Aria Richard*
Deputy City Clerk

Approved: 4-21-09
(date)

J.S.
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

**CITY'S LAST BEST AND FINAL OFFER TO DEFINE THE STATUS QUO FOR FY2010
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, LOCAL 127
April 10, 2009**

PROPOSAL	PROPOSED LANGUAGE CHANGE TO OPERATING PROCEDURES
<p>TERM: The current terms and conditions of employment as reflected in the prior MOU will continue for FY2010, except as modified by the terms set forth below.</p>	<p>ARTICLE 2: <u>The term of these Operating Procedures shall begin at 12:01 a.m. on July 1, 2009; however, the effective date of all changes affecting payroll shall be July 4, 2009.</u></p>
<p>DROP:</p> <ol style="list-style-type: none"> 1. Provide notice that the City intends to negotiate over the elimination of any element of DROP that a court of competent jurisdiction or PERB determines is a mandatory subject of meet and confer under the MMBA. 2. Acknowledge that the City will negotiate the impact, if any, resulting from the City's definition of DROP's "cost neutrality". 3. Change eligibility age to enter the DROP program from 55 to 60 for general members, effective July 1, 2009. 4. Eliminate DROP annuity option for any unit member who has not yet entered the DROP program by July 1, 2009. 	<p>ARTICLE 43 (NEW SECTION): <u>2009 Benefit Changes</u> <u>Effective July 1, 2009, a unit member must be age 60 or older to participate in DROP.</u></p> <p><u>The DROP annuity option will be eliminated for all employees who enter DROP on or after July 1, 2009 when a unit member transitions from DROP-active status to DROP-retired status.</u></p> <p><u>The City will negotiate with AFSCME Local 127 on the impacts, if any, that result from the City defining DROP's "cost neutrality." The City will also negotiate over the elimination of any element of DROP to the extent any court of competent jurisdiction or PERB decides that DROP is a mandatory subject for meet and confer under the MMBA.</u></p>
<p>RETIREE MEDICAL:</p> <ol style="list-style-type: none"> 1. Increase service eligibility standards for City service from 5 to 10 years for 50% benefits, and from 10 to 20 years for 100% benefits. 2. Freeze the City contribution at FY2009 level for current employees at \$740/month and \$8880 /year. 3. Adopt a defined contribution medical plan for those unit members more than seven (7) years from retirement and funded by the City at a level calculated to provide a payment at the \$8,880 per year level. The City's contributions to the plan will begin no later than June 30, 2010 and the City will meet and confer over any additional 	<p>ARTICLE 43 (NEW SECTION): <u>2009 Benefit Changes</u> <u>Unit members who retire on or after July 1, 2009, must have 20 years of service with the City of San Diego to receive 100% of the retiree health benefit and 10 years of service with the City of San Diego to receive 50% of the retiree health benefit. The maximum benefit for any employee who becomes a "Health-Eligible Retiree" on or after July 1, 2009 shall be \$740 per month. The definition of "Health-Eligible Retiree" in Sections 24.0103 and 24.1201 of the Municipal Code will be revised to reflect these changes.</u></p> <p><u>Effective no later than June 30, 2010, the City will adopt a defined contribution medical plan for all unit members who are more than seven years from retirement eligibility on July 1, 2009. The City</u></p>

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subjects of bargaining.	<u>will meet and confer over any additional subjects of bargaining. Retirement eligibility shall be defined as including both age and length of service eligibility as defined by SDCERS. The City will fund the plan at a level sufficient to provide an annual payment at least comparable to the FY2009 payment.</u>
SALARY SCHEDULE: Maintain the current FY09 salary schedule for FY10.	ARTICLE 44, SECTION A (1): <u>The Fiscal Year 2009 salary schedule shall be maintained for Fiscal Year 2010. There shall be no general salary increase.</u>
SDCERS Pick-Up: Eliminate City's 5.4% pick-up of SDCERS employee contribution.	ARTICLE 43 (NEW SECTION): <u>2009 Benefit Changes</u> <u>Effective July 1, 2009, the City's offset or "pick-up" of employee pension contributions for employees in Local 127-represented bargaining units shall be eliminated.</u>
FLEX BENEFITS: 1. Reduce Cash-in-lieu waiver to \$4575. 2. Eliminate AFLAC from Flex options. 3. Eliminate Hyatt Legal plan for the current list of employee-paid benefit options.	ARTICLE 45: Amend Note 2: <u>Effective July 1, 2009, the cash-in-lieu waiver option shall be reduced to \$4575 per year.</u> Modify Section 3 and add: With remaining FBP monies, eligible employees may select from other optional benefits including dental, vision, cancer/intensive care protection , 401(k), Dental/Medical/Vision ("DMV") and Dependent Care reimbursement and/or cash payment. <u>Effective in plan year 2010, AFLAC cancer/intensive care protection and the Hyatt Legal Plan will be eliminated as benefit options.</u>
PRESIDENTIAL LEAVE: Eliminate City-paid Presidential Leave.	ARTICLE 19: <u>Effective July 1, 2009, the Presidential Leave Program (City-paid Presidential Leave) for the President of AFSCME Local 127 shall be eliminated.</u>
LONG TERM DISABILITY: Reopen meet and confer when the City proposes a modified LTD plan.	Article 63: <u>When the City proposes a revised LTD plan, the parties shall reopen negotiations on this subject.</u>
TERMINAL LEAVE: Eliminate terminal leave.	Article 33: <u>Effective July 1, 2009, Terminal Leave will be eliminated and leave balances for terminating employees will be cashed-out at the time of termination or retirement.</u>
BEREAVEMENT LEAVE: Require that proof of death be provided in	Article 75: <u>Proof of death, including but not limited to, death</u>

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order to receive Bereavement Leave.	<u>certificate, obituary or funeral notice, must be provided in order to receive Bereavement Leave.</u>
CONTACTING-OUT Delete	ARTICLE 50: Delete entire article.
USE OF CITY EMAIL: Limit AFSCME Local 127's use of City email to business with City representatives and for brief notices to AFSCME Local 127-represented employees of an announcement on the AFSCME Local 127 website.	ARTICLE 17: <u>AFSCME Local 127 may use the City's email system to direct employees to information contained on the AFSCME Local 127 website. No further use or access of the City's email system is authorized unless such use pertains directly to the Employer-Employee relationship. Examples of this relationship include but are not limited to: communicating with management or Labor Relations, responding to disciplinary actions or appeals, submitting grievances, and communicating a tentative agreement for ratification purposes. AFSCME Local 127 agrees to comply with all City policies on the use of City resources.</u>
SUBSTANCE ABUSE: Change current substance abuse policy to prohibit consumption of alcohol on duty and during unpaid meals.	ARTICLE 65: <u>Employee consumption of alcohol is prohibited during work hours, breaks and meal periods. Administrative Regulation 97.00 shall be revised to reflect this prohibition.</u>
WORK SCHEDULES: In General Services Department, eliminate alternative work schedules and standardize all schedules.	ARTICLE 28: <u>Effective July 1, 2009, General Services Department work schedules will be standardized. Exceptions to standardized work schedules, such as alternative work schedules, will be approved on a case by case basis by the General Services Director and will be reduced to writing with copy provided to AFSCME Local 127.</u>
RETIREMENT: Inclusion of new pension plan in MOU for AFSCME Local 127, as agreed to on July 25, 2008.	ARTICLE 43 (NEW SECTION): <u>2009 Benefit Changes</u> <u>Add language from ratified agreement establishing a new pension plan for non-safety employees hired on or after July 1, 2009.</u>

R-304803