

RESOLUTION NUMBER R- 309120

DATE OF FINAL PASSAGE JUL 30 2014

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

WHEREAS, on October 1, 2013, by San Diego Resolution R-308481 (Oct. 15, 2013), the San Diego City Council (Council) approved a Memorandum of Understanding (MOU) between the City of San Diego (City) and the San Diego Municipal Employees' Association (MEA) regarding terms and conditions of employment for Fiscal Years 2014 through 2018; and

WHEREAS, on March 24, 2014, Council President Todd Gloria presented a proposal to the Council's Economic Development and Intergovernmental Relations Committee (ED & IR Committee), related to improving wages and working conditions for employees in the City; and

WHEREAS, on March 24, 2014, April 30, 2014, and June 11, 2014, the ED & IR Committee heard public testimony related to a proposed ordinance, which would provide eligible employees working in the geographic boundaries of the City with up to five days of earned sick leave, based on hours worked, and a local minimum wage (Proposed Ordinance); and

WHEREAS, on June 11, 2014, the ED & IR Committee voted to forward the Proposed Ordinance to the full Council for consideration; and

WHEREAS, the ED & IR Committee also requested that the Council consider two options for adoption of the Proposed Ordinance: by City electors considering a ballot proposition to be placed on the November 2014 ballot and by Council adoption; and

WHEREAS, on June 16, 2014, the Council approved a resolution of intent to place the Proposed Ordinance on the November 2014 ballot, or in the alternative to adopt it by Council action, subject to the City's compliance with all procedural requirements set forth in California law and the San Diego Charter (Charter) and other local law; and

WHEREAS, the June 11, 2014 action of the ED & IR Committee and the June 16, 2014 action of the Council included direction to City staff to take all necessary steps to comply with the City's obligations as a public agency employer related to the Proposed Ordinance, including compliance with the Meyers-Milias-Brown Act (MMBA) and Charter section 70.2; and

WHEREAS, the Proposed Ordinance, if adopted, will apply to certain employees who work for the City in that their base compensation is presently lower than the proposed local minimum wage or they receive no earned sick leave as defined in the Proposed Ordinance; and

WHEREAS, under the MMBA, and specifically California Government Code (Government Code) section 3504, wages and compensated leave are mandatory subjects of bargaining; and

WHEREAS, under the MMBA, and specifically Government Code section 3505, the City, as a public agency employer, must meet and confer in good faith on proposed modifications to mandatory subjects of bargaining before a final decision on a proposed modification is made; and

WHEREAS, Charter section 70.2, which was added by City voter approval of Proposition B on June 5, 2012, requires that, from July 20, 2012 until June 30, 2018, before the Council takes any action that establishes an initial bargaining position for meet and confer with the City's recognized employee organizations, which includes increases to salaries and benefits for any City officer or employee, that the San Diego City Employees' Retirement System (SDCERS) actuary prepare and submit to the Mayor and Council an actuarial study; and

WHEREAS, under Charter section 70.2, the required actuarial study must identify and disclose the impact on the City's Defined Benefit Plan of any increases in proposed compensation or benefits contained in an initial Council proposal for collective bargaining; and

WHEREAS, under Charter section 70.2, the actuarial study must also certify whether the proposed action increases the average or mean Base Compensation, for any job classification; and

WHEREAS, Charter section 70.2 also states that "[p]rior to any submission of a tentative agreement with any recognized employee organization or bargaining group to the City Council for approval of a Memorandum of Understanding, the City shall refer the tentative agreement to the Retirement System's Actuary to update the actuarial study to include any additional fiscal impacts of the tentative agreement. Such analysis shall be made readily available to the public ten days prior to any final action taken by the Council."; and

WHEREAS, the actuary for SDCERS has prepared the required study pursuant to Charter section 70.2, related to the Proposed Ordinance; and

WHEREAS, on June 16, 2014, the Council was presented with the actuarial study prepared under Charter section 70.2; and

WHEREAS, the Council considered modifications to the Proposed Ordinance, lowering the proposed local minimum wage, and requested that the actuary for SDCERS prepare an updated actuarial study, which the actuary has done; and

WHEREAS, the City received the updated actuarial study and posted it for public review outside the City Administration Building, at 202 C Street, on July 2, 2014; and

WHEREAS, on June 16, 1964, the Council also directed the City's labor negotiators to meet and confer with the City's recognized employee organizations impacted by the Proposed Ordinance; and

WHEREAS, between June 16, 2014 and July 14, 2014, the City met and conferred with MEA regarding the Proposed Ordinance, and has reached agreement allowing the Council to proceed with consideration of the Proposed Ordinance; and

WHEREAS, the agreement, which amends the MOU, acknowledges that any changes to mandatory subjects of bargaining for MEA-represented employees will not occur unless and until the Proposed Ordinance is approved and takes effect; and

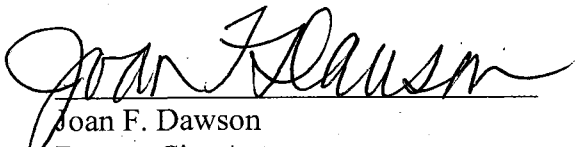
WHEREAS, under the MMBA and Council Policy 300-06, it is within the discretion of the Council to approve and ratify the negotiated agreement; and

WHEREAS, the Council desires to approve and ratify the Side Letter Agreement, which amends the MOU, to allow the Council to consider the Proposed Ordinance; NOW,

THEREFORE,

BE IT RESOLVED that, pursuant to the authority of the MMBA and Council Policy 300-06, the Council of the City of San Diego approves and ratifies the Side Letter Agreement to the MOU between the City and the MEA, which amends the MOU to allow the Council to consider the Proposed Ordinance, as specified in the Side Letter Agreement, on file in the Office of the City Clerk as Document No. RR- 309120.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFD:cm
07/09/2014
Or.Dept: Council District 3
Doc. No. 818356

I certify that this Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 14 2014.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: _____
(date)

Kl *Not signing* or

Vetoed: _____
(date)

Kl _____ or

NOTE: This Resolution was returned unsigned by the Mayor's Office to the Office of the City Clerk on July 30, 2014. Pursuant to San Diego Charter Section 295 (a) (2), this Resolution is deemed approved on July 30, 2014.

Passed by the Council of The City of San Diego on JUL 14 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 30 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Fernandez*, Deputy

Office of the City Clerk, San Diego, California

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