

ORDINANCE NUMBER O- 20636 (NEW SERIES)

DATE OF FINAL PASSAGE APR 13 2016

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING AND RATIFYING A SIDE LETTER AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND THE SAN DIEGO MUNICIPAL EMPLOYEES ASSOCIATION RELATED TO PAYMENT OF INTEREST TO THE SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM.

WHEREAS, by letters dated March 27, 2014 and January 15, 2015, the San Diego Municipal Employees Association (SDMEA) notified the City of San Diego (City) of SDMEA's allegations that the City unilaterally modified a mandatory subject of bargaining, when the San Diego City Employee's Retirement System (SDCERS or Retirement System) amended its Overpayments and Underpayments Policies; and

WHEREAS, SDMEA also alleged that the City refused to bargain issues related to the Overpayments and Underpayments Policies; and

WHEREAS, under the Overpayments and Underpayments Policies, SDCERS requires City employees to pay interest in addition to any underpaid employee contributions and City retirees to pay interest in addition to overpaid benefits, to make the Retirement System Fund whole for the underpaid contributions and overpaid benefits; and

WHEREAS, the City disputes SDMEA's allegations, in part because the San Diego City Charter (Charter), at section 141.2 specifically, prohibits the City from paying, capping the employee contribution rate, or otherwise compensating for any portion of a contribution to the Retirement System; and

WHEREAS, the City Council desires to resolve the dispute without the need to litigate SDMEA's allegations by entering into a Side Letter Agreement that authorizes the payment of interest in the event that Charter section 141.2 is invalidated as it applies to SDMEA-represented

employees by a court of competent jurisdiction following exhaustion of all appeals or in the event Charter section 141.2 is modified through a Charter amendment and the City Council then authorizes payment of interest in a manner consistent with the Charter amendment; and

WHEREAS, it is unknown at this time whether or when either of the occurrences that trigger payment of interest will happen; this Side Letter Agreement, by its terms, may extend for multiple years and beyond five years, within the meaning of Charter sections 11.2 and 99; therefore, the procedural requirements of these Charter sections are being applied; and

WHEREAS, the Council, in approving this Side Letter Agreement, finds that it is in the best interests of the City to enter into this multiple-year agreement to indemnify MEA-represented employees for interest payments related to errors by SDCERS employees, when the MEA-represented employees, detrimentally impacted by the errors of SDCERS, are not at fault and the City is lawfully able to pay the interest accrued as a result of the errors; and

WHEREAS, this Side Letter Agreement is intended to resolve the dispute between the City and SDMEA that could have resulted in lengthy and costly litigation; and

WHEREAS, the Side Letter Agreement has been negotiated pursuant to the MMBA and City Council Policy 300-06 and is subject to City Council approval to take effect; and

WHEREAS, the negotiated Side Letter Agreement must be approved by a two-thirds majority vote of this Council and by ordinance noticed and adopted in accordance with San Diego Charter sections 11.2 and 99; NOW, THEREFORE,

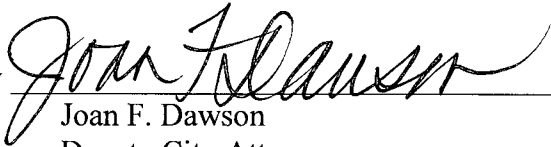
BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That pursuant to the Meyers-Milias-Brown Act and City Council Policy 300-06, the City Council approves and ratifies the Side Letter Agreement between the City and the SDMEA, related to payment of interest to SDCERS, on file in the office of the City Clerk as Document No. 00- 20636.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage, in accordance with Charter section 99.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

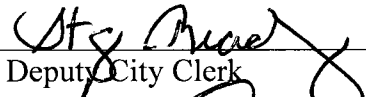
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Joan F. Dawson
Deputy City Attorney

JFD:cm
March 1, 2016
Or.Dept: Human Resources
Doc. No.: 1231855

I certify that this ordinance was passed by the Council of the City of San Diego, at this meeting of APR 05 2016.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 4/11/16
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on APR 05 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input 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 APR 13 2016

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 Sty Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

MAR 22 2016, and on APR 13 2016

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

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

(Seal)

By Sty Brady, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>20636</u></p>
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