

#104B  
9/12/17

(R-2018-64)

RESOLUTION NUMBER R- 311311  
DATE OF FINAL PASSAGE SEP 20 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING AN AGREEMENT BETWEEN THE  
CITY OF SAN DIEGO AND THE SAN DIEGO POLICE  
OFFICERS ASSOCIATION TO AMEND ARTICLE 27 OF THE  
MEMORANDUM OF UNDERSTANDING REGARDING  
MILITARY LEAVE

WHEREAS, by San Diego Resolution R-309613 (April 22, 2015), the City Council (Council) approved a memorandum of understanding (MOU) between the City of San Diego (City) and the San Diego Police Officers Association (POA), for the term of July 1, 2015 through June 30, 2020, which includes Article 27, section 7, on military leave; and

WHEREAS, military leave and reinstatement rights are governed by the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), at 38 U.S.C. §§ 4301 through 4355, the California Military and Veterans Code, and local legislative action, including Council-approved agreements between the City and its recognized employee organizations; and

WHEREAS, federal and state laws prohibit discrimination and retaliation against individuals because of their military service or membership and provide specified reinstatement rights after employees are absent for military service. Federal law does not require an employer to provide salary and compensation to an employee on active duty; and

WHEREAS, the California Military and Veterans Code, at section 395.02 provides, that certain public agency employees on active duty leave are entitled to receive salary or compensation for the first 30 calendar days while engaged in the performance of ordered military duty. California Military and Veterans Code section 395(b) makes it discretionary for a local

public agency to provide paid military leaves of absence for periods of inactive duty training, commonly known as weekend drills; and

WHEREAS, therefore, the Council must authorize paid military leave for employees participating in inactive duty training; and

WHEREAS, the City's Military Leave Policy, set forth in Civil Service Rule X, section 7, codified at San Diego Municipal Code section 23.1107, incorporates state law. The Civil Service Rule states that City officers or employees who are also members of the armed services or organized reserves are entitled to the leaves of absence and employment rights and privileges provided by state law. City officers and employees who have worked for the City for not less than one year "shall receive their regular City compensation during the military leave, not to exceed a period of 30 calendar days in any fiscal year." The Civil Service Rule, approved by the Council, is silent on whether paid military leave includes inactive duty training; and

WHEREAS, the City's labor negotiators have reached an agreement with POA to amend Article 27, section 7 of the MOU, by modifying the language describing the military leave benefit, to clearly state that paid military leave may be used for inactive duty training under specified conditions; and

WHEREAS, the City has complied with San Diego Charter section 70.2 by obtaining the required actuarial analysis from the San Diego City Employees' Retirement System and making it available to the public ten days prior to this Council action; and

WHEREAS, the Council determines that it is in the best interests of the City to clarify that POA members are entitled to paid military leave for inactive duty training under the

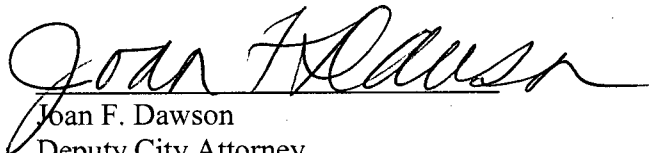
conditions set forth in approved agreements, and approves this agreement to amend the MOU, retroactive to July 1, 2016; NOW THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego that the agreement to amend the MOU between the City and the POA, presented to the Council and on file in the Office of the City Clerk as Document No. RR311311 is approved and ratified, and is to be applied retroactively to July 1, 2016.

BE IT FURTHER RESOLVED that the Council directs the City's management team to incorporate the language set forth in the approved agreement in any successor MOU.

APPROVED: MARA W. ELLIOTT, City Attorney

By

  
Joan F. Dawson  
Deputy City Attorney

JFD:jdf  
08/24/17  
Or.Dept: Labor Relations  
Doc. No.: 1567102

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 12 2017.

ELIZABETH S. MALAND  
City Clerk

By *Linda Krwin*  
Deputy City Clerk

Approved: 9/19/17  
(date)

*Kevin L. Faulconer*  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on SEP 12 2017, by the following vote:

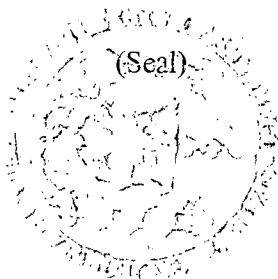
Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**SEP 20 2017**

Date of final passage \_\_\_\_\_

(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.

By *Jennifer*, Deputy

Office of the City Clerk, San Diego, California

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