

Agreement No. 2009-027

City Council Approved: 6/1/2009

**MEMORANDUM
OF
UNDERSTANDING**

City of San Buenaventura

and the

**Professional "Q" Unit of
Service Employees International Union (SEIU), Local 721, CTW, CLC**

March 1, 2009 Through February 29, 2012

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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF SAN BUENAVENTURA AND THE "Q" UNIT OF
SERVICE EMPLOYEES INTERNATIONAL UNION, SEIU-LOCAL 721**

MARCH 1, 2009 THROUGH FEBRUARY 29, 2012

PREAMBLE

This Memorandum of Understanding is between the City of San Buenaventura, California (hereinafter "City") and the duly authorized representatives of the Service Employees International Union, Local 721. Its purpose is to promote harmonious relations between the City, the Union, and the unit employees by setting forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding the wages, hours and certain other terms and conditions of employment of regular employees in the classifications comprising the " Professional Employees " (hereinafter "Q" Unit).

ARTICLE 1 - RATIFICATION

It is agreed that this Memorandum of Understanding is of no force and effect until ratified by the Union members and approved and implemented by the City Council of the City.

ARTICLE 2 - FORMAL RECOGNITION

SEIU Local 721 is hereby recognized as the formally recognized employee organization for those regular full-time and regular part-time employees occupying the job classifications in Schedule "Q" of the Salary Resolution (See Attachment "A").

ARTICLE 3 - RIGHTS

- A. The Union recognizes that the City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage municipal services and work force performing those services in all respects, subject to this Memorandum.
- B. The City Manager and appropriate Department Head have and will continue to retain exclusive decision-making authority over matters within their jurisdiction that are not lawfully and expressly modified by specific provisions of this Memorandum.
- C. The exclusive rights of the City shall include, but not be limited to, the right to determine the organization of City government and the purpose and mission of its constituent departments, to set standards of services to be

offered to the public, and, through its management officials, to exercise control and discretion over its organization and operations, to establish and effect administrative regulations and employment rules and regulations consistent with law and the specific provisions of this Memorandum, to direct its employees, to take disciplinary action for proper cause, to relieve its employees from duty because of lack of work or for other legitimate reasons in accordance with applicable City procedures, to determine whether goods or services shall be made, purchased or contracted for, to determine the methods, means and personnel by which the City's services are to be provided, including the right to schedule and assign work and overtime, and to otherwise act in the interest of efficient service to the community.

ARTICLE 4 – PROBATION AND MERIT INCREASES

A. Probation

All probationary periods shall be in accordance with the Personnel Rules of the City of Ventura.

Probationary employees shall receive two (2) written evaluations during their initial probationary period; at three (3) and at six (6) months from the commencement of the probationary period.

For classifications designated as flexibly-staffed, there shall be no additional probationary period for advancement to a corresponding higher level of designated flexibly-staffed classification.

B. Merit Increases

All merit increases shall be in accordance with the Personnel Rules of the City of Ventura.

ARTICLE 5 - WAGES

Wages for unit members will be governed by the City's existing merit system rules, procedures and practices. Pay increases negotiated to be "across-the-board" will be applied to all unit members and will not be subject to allocation via the Merit System.

ARTICLE 6 - SPECIAL PAYS

6.1 BILINGUAL PAY:

Unit employees who demonstrate proficiency in a second language in accordance with policies approved by the City Manager shall receive \$25.00 per pay period.

6.2 STANDBY PAY:

Upon request of the Department Head, the City Manager may in exceptional cases, such as flood, fire or prolonged periods of state of emergency, when deemed appropriate, authorize in writing overtime compensation up to time and one-half when the Emergency Operations Center has been activated.

ARTICLE 7 - DEFERRED COMPENSATION

The City will make a non-matching contribution of \$6.46 per pay period (regardless of any employee contribution) and will match (on a dollar for dollar basis) an individual employee's contribution to deferred compensation in an amount up to \$63.46 per pay period. This benefit shall only apply to deferred compensation plans offered through the City.

ARTICLE 8 - RETIREMENT

- A. The City will pay a total of seven percent (7%) of "member's earnings" as defined in the Public Employees' Retirement System law, on behalf of the employee, into the employee's account.
- B. The City shall provide for employee retirement benefits through participation in the Public Employees' Retirement System (PERS) as follows:
 - 1. Two percent at fifty-five (2% @55) retirement formula.
 - 2. Level IV 1959 Survivor Benefit pursuant to California Government Code 21574, which provides, in general, the following monthly survivor benefits:
 - a. Spouse with two or more children; or three or more dependent children, alone - \$2,280.
 - b. Spouse with one dependent child; or two dependent children alone - \$1,900
 - c. One dependent child; or surviving spouse at age 60, or older until remarriage, or dependent parents - \$950.

3. Military Service Credit pursuant to California Government Code 20930.3.
4. One Year Final Compensation pursuant to California Government Code 20042.
5. Report the value of Employer Paid Member Contributions (EPMC) as a benefit in compliance with Government Code Section 20636(c)(4) pursuant to Section 20691.

ARTICLE 9 – MEDICAL AND DENTAL INSURANCE

The City shall contribute \$97 semi-monthly (\$194 per month) per unit employee for dental and health insurance coverage. The exact amount of the City contribution per member will depend on the insurance coverage selected by the employee and whether dependent coverage is selected by the individual employee under the medical insurance plan.

ARTICLE 10 - VISION INSURANCE

The City agrees to provide a vision insurance plan for each unit member and dependents.

ARTICLE 11 - LIFE INSURANCE

The City shall provide term life insurance benefits in an amount equal to one-times the employee's annual salary (rounded to the nearest \$1,000). In addition, the City will provide dependent life insurance for dependents of each unit member in the amount of \$2,000 per dependent.

Optional Coverage – Employees may purchase additional life insurance coverage, subject to the terms and conditions set by the insurance carrier.

ARTICLE 12 – OPTIONAL BENEFIT PROGRAM

The City agrees to provide a semi-monthly amount of \$207.50 semi-monthly (\$415 per month) per employee as part of an optional benefit program. This amount will be increased by \$20/month (to \$435/month) effective the first pay period of the 2010 plan year.

The primary purpose of the optional benefit program is to provide additional money toward medical insurance coverage for employees and their eligible dependents. Nonetheless, each unit employee will have the option of electing to use this money in one of two ways:

1. To pay for medical premium costs under the City's group insurance program which exceed the City's monthly medical/dental contribution. When an employee elects Option 1, any amount accrued and not usable to cover insurance premium costs shall be paid as cash pursuant to Option 2.
2. To receive a cash payout on a semi-monthly basis (24 pay periods/year). This cash payout benefit shall not be subject to retirement withholding, nor shall it be used in retirement calculations.

Each unit employee shall, when initially employed, designate how he/she wishes to utilize accruals under this program between medical costs and cash. This designation shall remain in effect unless the employee notifies the Human Resources Department, during the Annual Insurance Open Enrollment period or such other periods as may be required by law (e.g., change in family status), of a different designation. Forms to re-designate are available from the Human Resources Department.

ARTICLE 13 – RETIREMENT HEALTH SAVINGS PLAN

The retirement health savings plan is designed to permit employees to irrevocably designate on a pre-tax basis, salary and/or leave payouts (which occur upon termination of employment), to be used to help pay for health insurance costs when the employee is no longer working for the City. No City contribution is made toward the cost of this plan.* Further terms and conditions of the plan are set forth in the agreement between the City and the City's designated plan administrator. During the term of this MOU the Union may reopen the provisions of this Article. Any agreement reached shall not result in any additional City costs. * NOTE: The City will allow employees to re-allocate all or a portion of the City's Deferred Compensation contribution (Article 7) to the Retirement Health Savings Plan.

ARTICLE 14 – PAY POLICIES

14.1 COMPENSATORY TIME OFF

When an employee is required to work overtime, the Department Head shall allow the employee to take compensatory time off at straight time. No employee shall be allowed to accumulate more than 40 hours of compensatory time to be taken off. Accrued compensatory time not used before notice of termination of employment shall not be paid upon termination.

14.2 OUT-OF-CLASS PAY

Acting appointments may be made by the appointing authority on a temporary promotional basis to fill a vacant position for which no other candidate is immediately available or to provide a replacement for an employee who remains on an approved leave of absence.

Acting appointments may not be extended for a period greater than ninety (90) days without special approval of the City Manager or his/her designated representative.

Acting appointments may not be made in excess of authorized strength or budgeted funds without approval of the City Manager or his/her designated representative.

If an employee is appointed in an acting capacity, the employee shall receive the salary equivalent to an amount which is at least 5% higher than his/her current salary, providing the salary range of the acting position is at least 5% higher and providing that the employee serves in the higher classification for more than ten consecutive working days.

In the event the employee's anniversary date comes due while the employee is serving in the higher class and a merit increase is awarded, the employee's out of class pay shall be increased in order to maintain the minimum 5% differential (provided that such increase does not exceed the top of the higher range).

ARTICLE 15 – LEAVE TIME POLICIES AND PLANS

15.1 SHORT-TERM / LONG-TERM DISABILITY PLAN

- A. The City agrees to provide a Short-Term/Long-Term Disability Plan for all eligible employees in the 'Q' Unit. Coverage will be commensurate with the plan in effect at the time of approval of this Memorandum of Understanding, consistent with the plan available to other eligible employee groups, and subject to the provisions and limitations of the carrier.
- B. 100% of the premium cost will be paid by the City for the term of this Memorandum of Understanding.

15.2 SICK LEAVE

Employees shall accrue sick leave as follows:

- A. A 96-hour bank will be given upon initial employment in lieu of an accrual for the first six months of employment.
- B. Upon the completion of six months of employment, sick leave will be accrued at the rate of two (2) hours semi-monthly up to a maximum accrual of 480 hours.
- C. Notwithstanding the foregoing, all employees within these schedules hired on or before August 1, 1977, may accrue up to a maximum of 1,440 hours.

Employees shall, after ten (10) years of continuous City service, be eligible to receive an amount equivalent to 25% of their accrued sick leave upon resignation, or retirement from employment or in the case of death to the employee's beneficiary. No payment shall be made to an employee who is discharged for cause.

15.3 VACATION

Vacation time shall be accrued in hourly amounts according to the following schedule:

<u>Years of Service</u>	<u>Hours Earned</u> <u>Semi-Monthly</u>	<u>Yearly Equivalent</u>	<u>Use & Payout</u> <u>Maximum Accrual</u>
Less than 3	4.33 hours	13 days	400 hours
3 but less than 5	4.67 hours	14 days	400 hours
5 but less than 7	5.33 hours	16 days	400 hours
7 but less than 10	6.00 hours	18 days	400 hours
10 or more	6.67 hours	20 days	400 hours

Annual vacation time is earned according to consecutive months of full-time service beginning with the employee's initial employment date. The employment date for vacation purposes will not change except when a new employment date is assigned as in the case of a reinstatement.

The maximum vacation payout amount as noted above is available for payment only upon separation. Payment will be made at the hourly rate being earned at the time of separation. If a partial month's service is involved at the time of separation, the employee will receive credit for accrued vacation for that partial month based on the number of days worked in the month.

15.4 HOLIDAYS

A. Holiday Leave Accruals

Unit employees shall be granted nine (9) hours of holiday leave to correspond to the ten (10) designated holidays listed below. For unit employees regularly scheduled to work less than nine hours, any additional holiday hours not used on the holiday will be added to that employee's Optional Holiday Bank. Unit employees regularly scheduled to work more than nine hours may use optional holiday time or may use annual leave as needed to receive a full day's pay.

Designated Holidays:

New Year's Day
Martin Luther King Holiday
Presidents' Birthday
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day

1. When a holiday falls on a Sunday, the following Monday shall be observed. If the holiday falls on a Saturday, the preceding Friday shall be observed. If a holiday falls on an employee's regularly scheduled time off, equivalent time off shall be granted. Insofar as possible and as scheduling permits, time off should be taken within the same payroll period in which the holiday occurs.
2. In the case of employees in the "Q" Unit who are assigned to 7-day-a-week operations or for those employees regularly scheduled to work Saturday and/or Sunday, the paid holiday shall be the day on which the holiday actually occurs.
3. Regular holiday time shall be accrued by all employees who work or are on paid leave the day before and the day after the holiday.

B. Optional Holidays

1. In addition to the ten (10) designated holidays listed above, each eligible employee shall be granted 18 hours of "optional holiday"

time for a consecutive twelve month period which will be available in an employee's holiday bank beginning with Pay Period 1 in December, through Pay Period 26 the following December, for use anytime throughout that time period.

Beginning in 2009, all holiday hours must be utilized by the end of Pay Period 26 in December. There shall be no carry over of any holiday hours beyond this time period. No payment for unused holiday hours shall be made.

2. These optional holidays may be scheduled any time through the end of Pay Period 26 in December. Time off shall be requested in advance and is subject to prior approval by the employee's supervisor, but shall not be unreasonably denied.
3. Accrual of the "optional holiday" time shall be prorated for employees in this unit who were not hired (or eligible for holidays) before the beginning of Pay Period 1 according to the following schedule:

Proration of Optional Holiday Hours

	Hours
Hired Pay Period 1 - end of February	18
Hired March 1 - April 30	15
Hired May 1 - June 30	12
Hired July 1 - August 31	9
Hired September 1 - October 31	6
Hired November 1 - November 30	3
Hired December 1 - Pay Period 26	0

4. Those affected by the mandatory Winter Shutdown of City Hall will be given 18 additional hours of Optional Holiday time each year the Winter Shutdown is in effect. If the City closes other facilities and/or work groups besides the City Hall as part of a Winter Shutdown, those employees affected by the shutdown will receive 18 additional hours of Optional Holiday time each year the Winter Shutdown is in effect. The Optional Holiday hours reflected in this subsection will accrue at the same time and in the same manner (per subsections 1 and 2 above) as the existing Optional Holiday hours.

C. Additional Holiday Provisions

All holidays for eligible unit employees are granted on a calendar year basis and are to be utilized within the calendar year in which

they are granted. There shall be no carryover of any holiday hours to the next payroll year. No payment for unused holiday hours shall be made.

15.5 BEREAVEMENT LEAVE

When an employee who is eligible to receive sick or vacation leave is compelled to be absent from duty by reason of the death of his immediate family or registered domestic partner, such employee shall be entitled to three (3) working days leave of absence with pay.

An employee may take an additional two days chargeable to either accumulated sick or vacation leave if in the opinion of the Department Head or designee extended travel is required in connection with the death of an immediate family member or registered domestic partner and provided the employee has the accrued sick or vacation leave available in his/her account.

Definition of immediate family shall be the same as established under Definition of Terms in the Personnel Rules and Regulations.

ARTICLE 15.6 - 6% PAY REDUCTION WITH FLEXIBLE FURLOUGH

- A. Employees represented by the Union at the time this provision takes effect shall participate in a 6% pay reduction with flexible furlough through one of the following methods. Part-time employees shall be subject to the provisions outlined below on a pro-rated basis. This provision will be effective pay period beginning April 18, 2009 up through and including pay period ending June 25, 2010.

Employees who occupy a position that has been identified in the 2009/10 budget reduction as an impacted position which resulted in a permanent voluntary or involuntary reduction in their FTE pay status, or a demotion to a position in lieu of layoff that resulted in a reduction in their hourly rate of pay will be exempted from the additional 6% payroll reduction. Employees who signed Option II and Option III voluntary separation incentive program agreements will also be exempted.

1. Method One

Relinquish 78 hours from existing vacation leave/optional holiday bank. The relinquishment can be made in two increments in May 2009 and/or October 2009. In the event an employee does not have a sufficient amount accrued to relinquish the remainder in October 2009, such employee's vacation leave bank will reflect a negative balance in the pay period ending October 30, 2009 and all subsequent vacation leave accruals will go towards satisfying that negative balance.

AND

A 78 hour pay reduction taken at the rate of 2.52 hours per pay period for 31 pay periods to be used as accrued as flexible furlough with prior approval from the employee's supervisor. Every effort will be made to allow employees to use their furlough time. When this accrued time is taken it will be with pay. Any hours not used by July 9, 2010 will be forfeited.

2. Method Two

Relinquish 78 hours from existing vacation leave/optional holiday bank. The relinquishment can be made in two increments in May 2009 and/or October 2009. In the event an employee does not have a sufficient amount accrued to relinquish the remainder in October 2009, such employee's vacation leave bank will reflect a negative balance in the pay period ending October 30, 2009 and all subsequent vacation leave accruals will go towards satisfying that negative balance.

AND

Seventy-eight (78) hours of unpaid leave to be used as flexible furlough no later than June 25, 2010. The unpaid leave can be used with prior approval from the employee's supervisor. Every effort will be made to allow employees to use their furlough time. The dollar value of any hours not used by June 25, 2010 will be deducted from the employee's July 16, 2010 paycheck.

3. Method Three

Relinquish 156 hours from existing vacation leave/optional holiday bank in May 2009. Seventy-eight (78) hours will be banked for use as furlough time taken with pay and can be used with prior approval from the employee's supervisor. Every effort will be made to allow employees to use their furlough time. Any hours not used by July 9, 2010 will be forfeited.

- B. Method two will be implemented for any employee who has not completed a selection form by May 1, 2009.
- C. Sick leave and vacation hours shall accrue as though the employee were working a full pay period pursuant to their regular full or part-time status. The City's contribution for medical/dental insurance and optional benefit cash shall accrue as though the employee were in a paid status according to their regular full or part-time status.

Furlough time shall not count as a break in service for any purpose and shall not affect seniority, merit increases, or probationary periods.

Employees shall make their regular contributions to all employee benefits such as retirement and dependent health insurance premiums, as if they were in a paid status according to their regular full or part-time status.

- D. The relinquishment of *leave* hours shall be pro-rated over a 15-month period for any affected employee whose employment terminates before June 30, 2010 by paying out at termination the value of the difference between the 78 or 156 hours and the pro-rated relinquishment. The pro-ration will be based upon the number of pay periods the employee has worked from pay period ending May 1, 2009 to the pay period of his/her separation from employment.

ARTICLE 16 – TUITION REIMBURSEMENT

Unit employees are eligible for tuition reimbursement of 100% of eligible tuition and book expenses in accordance with the Administrative Regulation on file in the City Clerk's Office or available from the Human Resources Department.

The City reserves the right to amend or delete such policy at any time. Prior to any amendments and/or deletions the City will notify the unit and provide an opportunity to meet and discuss such amendments and/or deletions before implementation.

ARTICLE 17 - COMPUTER LOAN PROGRAM

Unit employees are eligible to receive an interest free loan from the City for the purchase of personal computers in accordance with the guidelines established in the Administrative Regulation on file in the City Clerk's Office or available from the Human Resources Department.

The City reserves the right to amend or delete such policy at any time. Prior to any amendments and/or deletions the City will notify the unit and provide an opportunity to meet and discuss such amendments and/or deletions before implementation.

ARTICLE 18 – UNIFORMS

The City will provide, replace as needed, and maintain the upkeep of uniforms or special attire that is required to be worn by employees in the course of their duties.

ARTICLE 19 – SAFETY EQUIPMENT

Employees who are required to use specific safety equipment shall have that equipment provided by the City.

ARTICLE 20 - SAFETY COMMITTEE

SEIU Local 721 shall have a representative on the City-wide Safety Committee. The definition of the committee functions shall include, but not be limited to:

1. To review work practices, physical facilities and equipment.
2. To review non-vehicular accidents.
3. To identify specific employee safety training.
4. To review and investigate alleged or reported safety violations or unsafe conditions.

ARTICLE 21 – DRIVER’S LICENSE POLICY

All unit employees are covered by the Driver’s License Policy as set forth in the Administrative Regulation on file in the City Clerk’s Office or available from the Human Resources Department. If the City intends to add a requirement that a position possess a driver’s license, the City will notify the Union and provide it with an opportunity to provide input. An employee who is terminated from service because he/she fails to possess a required driver’s license may appeal the termination through the grievance procedure (Article 25) up to and including the City Manager level. The City Manager’s decision will be considered final and binding.

ARTICLE 22 - UNION ACCESS

A. Designation of Stewards

1. The Union may designate a maximum of 10 trained stewards (combined maximum between ‘S’ and ‘Q’ units) that shall be distributed throughout the city, taking into consideration Departments, Divisions, worksites, shifts and classifications. Either party may request a meeting annually to discuss the maximum number of stewards. Stewards shall represent employees, in either the ‘S’ Unit or ‘Q’ Unit, within their assigned area, unless there are extenuating circumstances. Stewards may represent employees in grievances or disciplinary appeals, serve as a communication link between the union and management, interpret the contract to employees, and otherwise represent the interests of the Union. The names of such stewards, once designated by the Union, shall be submitted, at least annually, or as vacancies occur, to the Human Resources Director for appropriate distribution.

2. The stewards, to the extent such cannot be done on non-duty time, may use a reasonable amount of on-duty time for the purpose of processing grievances or appeals of represented employees. Such use of on-duty time shall be subject to advance approval by the appropriate supervisor(s) or manager(s) on the basis that it shall not interfere with the normal operations or with established safety or security requirements.
3. Designated representatives of the Union shall be entitled to up to a combined total of 65 hours (combined total between 'S' and 'Q' Unit) of Union Leave per contract year for the purpose of conducting Union business. Such time is in addition to time spent in meet and confer sessions with City representatives, is subject to reasonable advance notice to the employee's Department Head or designee, and is subject to departmental organizational needs. Such time shall be used in units of no less than two (2) hours per person.

B. Reasonable Access

1. Reasonable access to employee work locations shall be granted officers of SEIU Local 721 and their officially designated representatives, for the purpose of processing grievances, conducting meetings or contacting members of the organization concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the knowledge of the unit supervisor. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.
2. Solicitation of membership and activities concerned with the internal management of the Union, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, shall not be conducted during working hours, unless otherwise authorized by the City Manager.

C. Bulletin Boards

Bulletin boards will be made available at major work facilities where unit employees are assigned, as determined by Human Resources. The City will work to make an electronic bulletin board option available to SEIU 721 Supervisory and Professional Unit employees.

ARTICLE 23 – ORGANIZATIONAL SECURITY/UNION DUES DEDUCTION

A. Union Dues Deduction

The City shall deduct from twenty-four (24) paychecks of unit employees the regular (periodic) Union membership dues as certified by an authorized official of the Union, pursuant to the City's deduction authorization form duly completed and signed by the employee, and transmit such deductions monthly to the Union. Such deduction shall be made only when the Union member's earnings for a pay period are sufficient after other legally required deductions are made.

It is agreed that the City assumes no liability on account of any actions taken pursuant to this section.

B. Organizational Security

Any employees in this unit who have authorized Union dues deductions on the effective date of this agreement or at any time subsequent to the effective date of this agreement shall continue to have such dues deduction made by the City during the term of this agreement; provided however that any employee in the unit (s) may terminate such Union dues during the period of February 15 and February 25 of each year of the agreement by notifying the Union of their termination of dues in writing with a letter containing the following information: employee name, employee number, job classification, department name and name of Union from which dues deductions are to be canceled. The Union will provide the City's Human Resources with the appropriate documentation to process these dues cancellations within ten (10) business days after the close of the withdrawal period.

ARTICLE 24 – SEPARATION FROM EMPLOYMENT & LAYOFF

A. Resignation

An employee wishing to leave the Personnel Merit System in good standing shall file with the appointing authority, a written resignation stating the effective date and reasons for leaving at least two weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Human Resources Director. Failure to give notice as required by this Rule may be cause for denying future employment by the City. Prior to receiving one's final paycheck, all City equipment shall be returned and the appropriate clearance form signed.

B. Layoff Procedure

The appointing authority will identify those classifications which will be reduced which will minimize the impact on the continued effectiveness of that Department and will meet the necessary reduction in force requirements as determined by the City.

1. Definitions. These definitions shall apply for purposes of layoff, displacement and reemployment:

- a. SENIORITY - CITY SERVICE ("City Seniority"). The total continuous service in regular or probationary City employment including all positions held in the City work force.
- b. SENIORITY - CLASSIFICATION LENGTH OF SERVICE ("Classification Seniority"). The total period of time (does not need to be continuous) an employee has been in a particular classification as a regular or probationary employee.
- c. SENIORITY - FLEXIBLE STAFFING. For purposes of layoff and displacement, flexibly staffed classifications are considered as one classification.

2. Notification

- a. Once the City has determined to lay off employees it will notify SEIU 721 and consult with the Union regarding the impact this plan will have on bargaining unit employees.
- b. All regular City employees to be laid off will be given written notice from the Human Resources Department of the effective layoff date no less than fifteen (15) calendar days before the effective day of the layoff. Such notice will be hand delivered or sent by certified mail. SEIU 721 will receive a copy of the notice.
- c. The written notice shall inform the employee of applicable displacement and priority reemployment rights.

3. Reduction in Force

Once the classifications to be reduced have been identified:

- a. Temporary extra-help employees in the identified classifications shall be terminated.

- b. Temporary limited-term employees in the identified classifications shall be terminated.
- c. Employees serving an initial probationary period in the identified classification shall be terminated.

The Human Resources Director shall then determine the employee(s) to be laid off. Layoffs shall be in the following order:

- d. Regular employees who within the twenty-six (26) pay periods immediately prior to the effective date of layoff have had their merit increase withheld for reasons of unsatisfactory job performance.
- e. Regular employees who within the twenty-six (26) pay periods immediately prior to the effective date of layoff received an overall unsatisfactory job performance evaluation.

If an employee is laid off pursuant to subsection "d" or "e" and believes the unsatisfactory performance evaluation or denial of merit increase is a pretext to lay off the employee, he/she may request an appeal hearing under the procedures set forth in Rule XIV of the Personnel Rules and Regulations.

- f. Regular employees with the least classification seniority.
- g. If there are two or more employees to be laid off who have identical classification seniority, the order of lay-off shall be by City Seniority. If such City Seniority is also identical, layoff shall be determined by drawing of lots.

4. Displacement Rights (Bumping).

- a. Regular employees who are designated to be laid off and have held regular status in a lower classification may demote into a vacant position or may displace employees in the lower classification provided that the employee exercising the displacement privilege has greater City Seniority than the incumbent in the classification to which the employee is bumping. If the employee designated to be laid off has not held regular status in a lower classification, then no displacement rights accrue to that individual.

- b. Employees being displaced shall be displaced in the same order as specified in Section 3 - Reduction in Force.
- c. An employee must exercise displacement privileges within five (5) working days after receipt of a notice of layoff, by written notice to the Human Resources Director. If displacement privileges are not exercised within the specified time period, they are automatically forfeited.

5. Demotions in lieu of Layoff.

- a. An employee designated for layoff shall be demoted into a vacant lower classification for which he/she has not held regular status if the following conditions are met:
 - 1) The employee requests or otherwise agrees to the demotion,
 - 2) The employee meets the minimum qualifications of the lower position, and
 - 3) The City Manager concurs with the proposed action.
- b. All employees who are demoted will be paid at the same rate of pay as prior to demotion, if, and only if, the rate of pay is within the range of the lower position. If this is not the case, the rate of pay shall be within the salary range of the lower position which is closest to the rate of pay prior to demotion.
- c. An employee must accept a demotion within five (5) working days after receipt of a notice of demotion, by written notice to the Human Resources Director. If acceptance is not exercised within the specified time period, an employee will automatically forfeit the ability to demote.

6. Transfers in lieu of Layoff.

- a. An employee designated for layoff shall be transferred to a vacant authorized position with the same maximum salary grade/range if the following conditions are met:
 - 1) The employee requests or otherwise agrees to the transfer,
 - 2) The employee meets the minimum qualifications of the position, and
 - 3) The City Manager concurs with the proposed action.

- b. Employees who are transferred will be paid at a rate of pay equal to the rate of pay prior to transfer.
- c. An employee must accept a transfer within five (5) working days after notice of transfer is given, in writing to the Human Resources Director. If acceptance is not exercised within the specified time period, an employee will automatically forfeit the ability to transfer.

7. Reemployment List For Demoted Employees.

- a. Employees who are demoted in lieu of layoff shall have their names placed on a Reemployment List(s) for Demoted Employees. Employees shall have their name placed on lists for classifications at the same or lower salary grade/range in the same classification series as the classification held at the time of the demotion or any classification in which the employee held regular status. Vacant positions within a classification series shall be first offered to employees on these lists.
- b. Eligible employees will be placed on and selected off eligibility lists in the following order.
 - 1) Employees with the greatest classification seniority. When the classification seniority is equal, the Human Resources Department shall notify all those on the reemployment list with equal seniority of the reemployment opportunity and they shall be interviewed and considered to fill the vacancy.
 - 2) Employees, notwithstanding their seniority, who within the twenty-six (26) pay periods immediately prior to the effective date of layoff received an overall unsatisfactory job performance evaluation.
 - 3) Employees, notwithstanding their seniority, who within twenty-six (26) pay periods immediately prior to the effective date of layoff had their merit increase withheld for reasons of unsatisfactory performance.

8. Reemployment List For Laid Off Employees.

- a. Employees who are laid off and who held regular status at the time of layoff shall have their names placed on a Reemployment List for each classification in which they previously held regular status and for classifications at the same or lower salary grade/range for which they meet minimum qualifications. Vacant positions in such classifications will be offered to eligibles on the Reemployment List who qualify for such vacancies after employees on the Reemployment List for Demoted Employees and prior to an open or promotional recruitment for the vacancy.
- b. Eligible employees will be placed on and selected off the list in the following order:
 - 1) Employees with the greatest classification series seniority. When the classification series seniority is equal, the Human Resources Department shall notify all those on the reemployment list with equal seniority of the reemployment opportunity and they shall be interviewed and considered to fill the vacancy.
 - 2) Employees, notwithstanding their seniority, who within the twenty-six (26) pay periods immediately prior to the effective date of layoff, received an overall unsatisfactory job performance evaluation.
 - 3) Employees, notwithstanding their seniority, who within twenty-six (26) pay periods immediately prior to the effective date of layoff, had their merit increase withheld for reasons of unsatisfactory performance.

9. Duration of Reemployment Lists.

The eligibility of the individual on the Reemployment Lists shall extend for a period of two (2) years from the date of demotion or layoff. Eligibles not responding to written notification of an opening within five (5) working days of receipt of notification shall have their names removed from the Reemployment List. Eligibles who refuse an offer of reemployment to the same classification (or equal classification) which they held at the time of layoff shall have their names removed from the Reemployment List for that classification and all classifications at the same or lower salary grade/range.

Once a person on a reemployment list is reinstated to a regular position as a result of his or her reemployment rights, his or her name will be removed from the reemployment list for the classification to which he or she was reinstated and from all reemployment lists for classifications at the same or lower salary range of the classification in which he or she was reinstated.

A list outlining the person's status on all reemployment lists shall be incorporated in the notice of the reemployment opportunity.

10. Restoration of Benefits Upon Reemployment Following a Reduction in Force

Upon reemployment following a reduction in force, an individual will have the following benefits restored:

- a. Prior sick leave accruals minus the number of hours cashed out at time of layoff.
- b. Classification Seniority at time of layoff for purposes of determining merit increases and future reduction in force. City Seniority at the time of layoff for purposes of determining vacation leave accruals and future reduction in force.
- c. No probationary period shall apply upon reemployment or reappointment, in the case of demoted employees, unless the employee has never held regular status within the classification series for the classification the employee is appointed to.

11. Non-Discrimination in Reduction in Force

Layoffs and demotions which result from a reduction in force shall be made without impermissible consideration being given to an employee's race, color, religious belief, national origin/ancestry, ethnicity, gender, marital status, sexual orientation, age, disability (physical or mental), medical condition or union membership or lack thereof.

12. Due Process Procedures

- a. Pre-Layoff Procedural Due Process
 - 1) In addition to the procedures that may apply under Rule XVII, Section 2(c)(3) of the Personnel Rules and Regulations, a regular employee as defined in the

Personnel Rules and Regulations, will be provided the following safeguards prior to the implementation of a layoff:

- a) A written notice of the proposed layoff;
- b) The reasons for the proposed layoff;
- c) The right to respond to the proposed layoff orally, in writing, or both to the applicable department head within seven (7) calendar days from the date of the written notice.

- 2) The department head shall consider the employee's oral and/or written response and will render a reply with comments in writing within seven (7) calendar days after receiving the employee's response.

b. **Post-Layoff Procedural Due Process**

In addition to the procedures that may apply under Rule XVII, Section 2(c)(3) of the Personnel Rules and Regulations, if a regular employee as defined in section 1 above, believes the layoff is a pretext for discipline or in retaliation for protected activity, the employee shall have the right to request an appeal hearing under the procedures set forth in Rule XIV of the Personnel Rules and Regulations. The issue to be decided in the appeal hearing is limited to whether or not the layoff is a pretext for discipline or in retaliation for protected activity and not based upon grounds described by Rule II, Section 27 of the City's Personnel Rules and Regulations. The employee shall have the burden of proof on that issue.

C. **Reinstatement**

With the approval of the appointing authority and the Human Resources Director, a regular or probationary employee who has resigned with a good record may be reinstated without examination to a vacant position of the same or comparable class previously held within two (2) years. Upon reinstatement, the employee for all purposes shall be considered as though he/she were a new employee.

D. **Break in Service** - An interruption of continuous service

The following are considered breaks in service:

1. Resignation.
2. Discharged for just cause.

3. Absent without notice for three (3) consecutive work days.
4. Failure to report for work within five (5) working days after the City sends to the last known address a written notification of return to work after a layoff.
5. Failure to report for work following termination of authorized leave of absence, unless such time is extended in writing by the City.

A break in service has the following effect on the employee's personnel record:

1. Removes from consideration all previous periods of employment in the determination of Vacation Leave benefits.
2. Removes from consideration all previous periods of employment in the determination of seniority when considering layoffs due to lack of work or lack of funds.
3. Removes from consideration all previous periods of employment for purposes of computing eligibility for the next salary increment.
4. Removes any claim or right employee has to his/her former position and salary.
5. Removes all accrued sick leave.

The following shall not be considered an interruption of continuing service (break in service) for persons who work during the regular hours or shifts of the classification in which they are employed:

1. Sick leave/temporary disability.
2. Leaves of absence granted by the Department Head.
3. Paid Vacation Leave.
4. The period of military service and incidental periods pertaining thereto prior to reinstatement under the provisions of the Government Code.
5. Layoff.
6. Suspension.

The City Manager, at his/her sole discretion, may take into account previous periods of City employment in making determinations regarding various employee benefits.

E. Retirement

The Public Employees' Retirement System provides income for the service and disability retirement, death benefit payments, plus a guarantee that member contributions, with interest, will be refunded to all who wish to withdraw such contributions upon termination of employment. Membership is compulsory (except for elected officials) for all probationary and regular employees employed 1,000 hours or more per fiscal year.

The City may request the Public Employees' Retirement System to retire an employee who becomes physically or mentally incapacitated to perform the duties of his/her position.

The City may also request disability retirement for an employee if an industrial injury leaves the employee with a permanent disability which prevents him/her from performing the duties of the job for which he/she was hired or which might subject him/her to further injury if employment were continued.

The City shall make every effort to transfer or reassign the partially disabled employee to another existing position within the classification plan before a request for disability retirement is made.

F. Severance Benefit

The following severance benefit package is available to employees who are laid off:

- Cash payment equal to one (1) week of salary of each year of service plus one additional week, up to a thirteen (13) week maximum. Partial year of service rounded up to the next whole year.
- Flat dollar amount equal to 12 months of the average monthly optional benefit dollars of all City employees to be used in an optional benefit manner (i.e., take as cash or apply to insurance premium payments) to allow for continuation of insurance coverage.
- City paid outplacement services for access to professional outplacement assistance for a 30-day period.

Receipt of the severance package is subject to the employee signing the City's Release and Waiver Agreement.

ARTICLE 25 - GRIEVANCE PROCEDURE

A. Purpose of Rule

1. To settle the disagreement at the employee-supervisor/manager level informally, if possible.
2. To provide an orderly procedure to handle the grievance, through each level of supervision/management, if necessary, with final decision being vested in the City Manager.
3. To resolve the grievance as quickly as possible.
4. To correct, if possible, the cause of the grievance to prevent future similar grievances.
5. To provide for the development of a two-way system of communication by making it possible for all levels of supervision to hear such problems, complaints and questions raised by employees.
6. To reduce the number of grievances by allowing them to be expressed, and thereby adjusted and eliminated.
7. To promote harmonious relations generally among employees, supervisors/managers and the administrative staff.
8. To ensure fair and equitable treatment of all employees.

B. Matters Subject to Grievance Procedure

Any unit employee shall have the right to grieve under this provision any dispute concerning the interpretation or application of any provision of the City's written Personnel Rules and Regulations or of the interpretation or application of this Memorandum of Understanding.

C. Informal Grievance Procedures

An employee who has a grievance should discuss the matter with his/her immediate supervisor/manager within 21 days after the occurrence of the act or omission giving rise to the grievance or 21 days after the grievant knew or reasonably should have known about the act or omission, whichever is later. If the employee is not in agreement with the proposed outcome provided through the informal procedure, he/she shall then have the right to file a formal grievance in writing within seven (7) calendar days after the informal discussion with his/her immediate supervisor/manager.

The written formal grievance shall contain:

1. Employee name, classification and department.
2. Name of union representative representing the employee, if any.
3. Statement of grievance giving:
 - a) date and time of action being aggrieved.
 - b) circumstances of grievance.
4. Specific provision of the Personnel Rules and Regulations or MOU alleged to have been violated
5. Desired resolution of grievance.
6. Signature of aggrieved employee and date.
7. Signature of union representative, if any.

D. Formal Grievance Procedure-Levels of review through chain of command.

1. First Level of Review. The grievance shall be presented in writing to the employee's immediate supervisor/manager, who shall render his/her decision and comments in writing and return them to the employee within seven (7) calendar days after receiving the grievance. If the employee does not agree with his supervisor's (or manager's) decision, or if no answer has been received within seven (7) calendar days, the employee may present the grievance in writing to his/her Department Head after notifying his/her supervisor/manager. Failure of the employee to take further action within seven (7) calendar days after receipt of the written decision will constitute a dropping of the grievance.
2. Department Review. The Department Head or his/her designee receiving the grievance should discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The Department Head shall render his/her decision and comments in writing, and return them to the employee within seven (7) calendar days after receiving the grievance. If the employee does not agree with the decision reached, or if no answer has been received within seven (7) calendar days, he/she may present the grievance in writing to the City Manager. Failure of the employee to take further action within seven (7) calendar days after receipt of the Department Head's decision will constitute a dropping of a grievance.
3. City Manager. The City Manager receiving the grievance should discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The City Manager may designate a fact-finding committee, or officer not in the normal line of supervision, to advise him/her concerning the grievance. The City Manager shall render a decision in writing to the employee within 14 calendar days

after receiving the grievance. The decision of the City Manager shall be final.

E. Conduct of Grievance Procedure

1. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
2. The employee, at his/her own expense, may request the assistance of another person of his/her own choosing in preparing and presenting his/her grievance at any level of review.
3. The employee and his/her representative may be privileged to use a reasonable amount of work time as determined by the appropriate Department Head in conferring about and presenting the grievance.
4. Consultation with the Human Resources Director may be made as it relates to clarification and interpretation of these Rules.
5. The employee shall follow the established chain of command in presenting his/her grievance to upper levels of management, except where a grievance involves an employee's immediate supervisor in which case he should present his grievance to the next level of supervisor.
6. Employees shall be assured freedom from reprisal for using the grievance procedures.

ARTICLE 26 – DISCIPLINARY ACTION REVIEW PROCESS

A. Minor Discipline

Minor disciplinary actions subject to this review procedure include written reprimands or suspensions of less than five (5) days. (Oral reprimands and counseling memos cannot be reviewed or appealed.) Major disciplinary actions, such as suspensions of five (5) days or more, pay reductions, demotions or dismissals, will be undertaken in accordance with Rule XIV of the Personnel Rules and Regulations, provided however, employees will have seven (7) business days to submit an appeal.

1. Department Head Review.

The employee receiving a Notice of Minor Discipline may request a review of the disciplinary action by submitting a written request for disciplinary review to his/her Department Head within seven (7) calendar days of receipt of the Notice of Minor Discipline. The

Department Head or his/her designee receiving the request for review should discuss the disciplinary action with the employee, his/her representative, if any, and with other appropriate persons. The Department Head shall render his/her decision and comments in writing and return them to the employee within seven (7) calendar days.

Failure of the employee to request a review within seven (7) calendar days after receipt of the Notice of Minor Discipline shall constitute a waiver of review and acceptance of the discipline.

2. City Manager Review.

If the employee does not agree with the decision of the Department Head, or if no answer has been received within seven (7) calendar days, he/she may present a request for disciplinary review in writing to the City Manager. The City Manager receiving the request for review should discuss the disciplinary action with the employee, his/her representative, if any, and with other appropriate persons. The City Manager may designate a fact-finding committee, or officer not in the normal line of supervision, to advise him/her concerning the disciplinary action. The City Manager shall render a decision in writing to the employee within 14 calendar days after receiving the request, unless the employee is notified regarding an extension of the time period for response. The decision of the City Manager shall be final.

Failure of the employee to take further action within seven (7) calendar days after receipt of the Department Head's decision will constitute a waiver of review and an acceptance of the Department Head's decision.

B. Major Discipline

An employee's right to appeal major discipline is set forth in Rule XIV of the Personnel Rules and Regulations:

1. Right to Appeal

Any regular employee in the Personnel Merit System shall have the right to appeal in the following cases:

- a. Discharge.
- b. Demotion involving reduction in pay.
- c. Reduction in pay constituting more than one (1) weeks pay.
- d. A suspension without pay in excess of one (1) week.

No appeal shall be granted in those cases where the right of appeal is specifically excluded by Ordinance, Resolution, or the Personnel Rules and Regulations. Any employee who feels aggrieved for any other reason shall follow the grievance procedure as outlined in Rule XIII of the Personnel Rules and Regulations, provided the issue is a matter subject to the grievance procedure in accordance with Rule XIII, Section 2.

2. Method of Appeal

- a. In the event of one of the above actions, the action of the appointing authority shall be final unless the employee files an appeal.
- b. An employee wishing to appeal shall file a written statement signed by the appellant with the Human Resources Director within seven (7) calendar days of the effective date of the action. This shall set forth the employee's intention to appeal, the reasons for the appeal, and whether or not the employee wishes the use of a hearing officer.
- c. Upon receipt of such notice of appeal, and if no hearing officer is requested, the Human Resources Director or his/her designated representative shall arrange for a meeting with the City Manager or his/her designated representative within seven (7) calendar days of the filing of the appeal. After weighing all evidence, the City Manager shall render a decision within seven (7) calendar days of the meeting unless an extension of time is deemed necessary. The decision of the City Manager or a designee thereof shall be final.
- d. If a hearing officer is requested, the Human Resources Director shall arrange for a meeting between the employee, his/her representatives, and the City Manager or a designee thereof within seven (7) calendar days after the hearing officer has submitted findings and recommendations. The City Manager, after weighing all the evidence and the findings of the hearing officer, shall make his/her decision which shall be final.

2. Hearing Officer

- a. At any time during the conduct of an appeal, but prior to its submission to the City Manager or designee thereof for final decision, the use of a hearing officer may be requested by the employee, the appointing authority, or the Human Resources Director.
- b. If a hearing officer is requested, the City shall request that the name of a hearing officer be provided by the State Conciliation Service or some similarly appropriate body. The services of the hearing officer shall be at City Expense.

- c. The hearing officer shall be a neutral professional with fact-finding experience.
- d. The function of the hearing officer shall be to examine all the facts and available evidence, to question witnesses, and to make a recommendation to the City Manager.
- e. Evidence taken at the hearing by the hearing officer shall conform to the provisions of California Government Code Section 11513.
- f. The findings and recommendations of the hearing officer shall be submitted to the appellant, the City Manager, and the appointing authority.

3. Right Of Representation

In the conduct of an appeal, the appellant shall have the right, at his/her own option and expense, to be represented by another person of his/her own choosing; to the summoning of witnesses in his/her behalf and/or to the employment of counsel.

ARTICLE 27 – LABOR MANAGEMENT COMMITTEE

A Labor/Management Committee will be established. Each side shall be able to have up to four (4) persons attend each meeting. The committee shall meet as needed at the request of either party.

ARTICLE 28 – EMPLOYEE ORGANIZATIONAL LEAVE

SEIU LOCAL 721 requests for employee organizational leave for up to thirty (30) calendar days shall be in writing to the City Manager, and copied to the Department head and Human Resources Director at least ten (10) business days in advance of the leave.

SEIU LOCAL 721 may not have more than 2 (two) employees in the bargaining unit on leave of absence to work with SEIU LOCAL 721

SEIU LOCAL 721 will reimburse the City for any cost (i.e., provision is at no cost to the City) and the applicable manager retains the right to approve the employee's schedule.

ARTICLE 29 – CONCERTED ACTIVITIES

A. No Strike Provision

1. It is agreed and understood that there will be no strike, work stoppage, slow-down, or refusal or failure to fully and faithfully perform job functions and responsibilities, or other interference with the operations of the City by the Union, its officers, agents or unit members during the term of this Agreement, including compliance with the request of other labor organizations or bargaining units to engage in such activity.
2. In the event of a work action, as described above, the Union agrees to take all necessary steps in good faith to cause those persons to cease such action.
3. In the event of any unit member covered under this MOU violates the terms and conditions of this Article, the City retains the right to discharge or otherwise discipline such employee.

B. No Lockout Provision

The City agrees that it will not engage in or authorize any lockout of employees for the duration of this MOU.


ARTICLE 30 - CONCLUSIVENESS

With this Memorandum of Understanding, the City has met its obligations to meet and confer in good faith as provided by law for the term hereof; except, however, any changes proposed by the City in the Personnel Rules and Regulations that fall within the scope of meeting and conferring pursuant to the Myers-Millias-Brown Act (MMBA) and this Memorandum of Understanding, and that affect employees represented by the Union will be submitted to the Union 30 days in advance of such proposed action, except in case of emergency as provided by the Myers-Millias-Brown Act, for the purpose of meeting and conferring regarding such proposed changes.

ARTICLE 31 – TERM

This Memorandum of Understanding shall be and remain in full force and effect during the period from March 1, 2009 through February 29, 2012, with re-openers in the second and third years on Article 5 (Wages), Articles 9 and 12 (Benefits) and one additional article for each side. Re-opener negotiations will commence no later than March 1, 2010 and March 1, 2011 in each of the respective years.

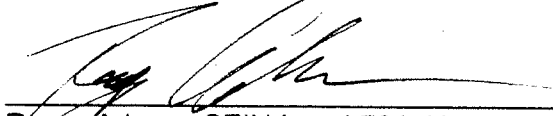
FOR THE UNION:




Sandy Stewart, SEIU Regional Director Local 721
Date 6-8-09



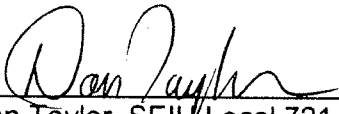
Danny Carrillo, SEIU Local 721, Worksite Organizer
Date 6-8-09



Roger Adams, SEIU Local 721, Negotiating Team Member
Date 6/4/09

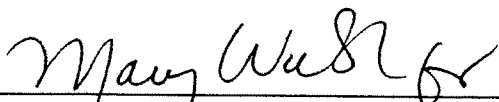


Richard Newsham, SEIU Local 721, Negotiating Team Member
Date 6/4/09



Don Taylor, SEIU Local 721, Negotiating Team Member
Date 4 JUNE 2009

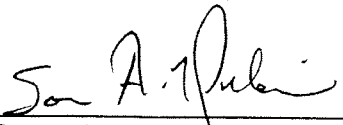
FOR THE CITY:



Rick Cole, City Manager, City of Ventura
Date 6/8/09

APPROVED AS TO FORM:

Ariel Pierre Calonne



By Sonia Hehir, Assistant City Attorney
Date 6-2-09

Attachment A

Professional Unit (Q)

*Accountant I
*Accountant II
*Assistant Planner
*Associate Planner
Buyer Civic Engagement Specialist
Emergency Medical Services Coordinator
Environmental Services Specialist
*Financial Analyst I
*Financial Analyst II
Network Administrator
Senior Financial Analyst
*Systems Analyst I
*Systems Analyst II
Website Specialist

* Flexible Staffing