

**RESOLUTION NO. 5124**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD  
APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF  
SOLEDAD AND THE SERVICE EMPLOYEES INTERNATIONAL UNION - LOCAL  
521 RELATING TO THE MID-MANAGEMENT UNIT FOR THE TERM OF  
JULY 1, 2015 THROUGH JUNE 30, 2017**

**WHEREAS**, the existing Memorandum of Understanding between the City of Soledad and SEIU – Local 521 expired on June 30, 2015; and

**WHEREAS**, City representatives and representatives of SEIU– Local 521 have bargained in good faith and have reached tentative agreements on terms and conditions of employment.

**NOW THEREFORE, BE IT HEREBY RESOLVED**, that the City Council hereby approves the Memorandum of Understanding between the City and the Service Employees International Union – Local 521, with an effective term from July 1, 2015 through June 30, 2017, that establishes terms and conditions of employment for the City’s Mid-Management Unit Employees in the document attached, and incorporated herein by reference, marked “Exhibit A.”

**PASSED AND ADOPTED** by the City Council of the City of Soledad at a regular meeting duly held on the 7<sup>th</sup> day of October, 2015, by the following vote:

**AYES**, and in favor thereof, Councilmembers: Mayor Fred J. Ledesma, Christopher K. Bourke, Patricia D. Stephens, Richard Perez

**NOES**, Councilmembers: None

**ABSENT**, Councilmembers: Alejandro Chavez

**ABSTAIN**, Councilmembers: None

  
FRED J. LEDESMA, Mayor

**ATTEST:**

  
ADELA P. GONZALEZ, City Clerk



**EXHIBIT A**



**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
CITY OF SOLEDAD  
AND THE  
SERVICE EMPLOYEE'S INTERNATIONAL UNION  
LOCAL 521**

**MID-MANAGEMENT UNIT**

**JULY 1, 2015 – JUNE 30, 2017**

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## **SECTION 1 - PREAMBLE**

Representatives of the Service Employee's International Union, Local 521, Mid-Management Unit, (hereinafter called the "Union") and representatives of the City of Soledad (hereinafter called "City") have met and conferred in good faith and have reached an understanding on the terms and conditions of employment of the Mid-Management Unit Employees, listed in Appendix A, who are members of the Union, in accordance with the provisions of the Meyers - Miliias - Brown Act (Gov. Code Sec. 3500, et seq.) This is a written Memorandum of Understanding (MOU), jointly prepared by both parties hereto pursuant to the provisions of Sec. 3505.1 of the Government Code, the terms of which are as follows:

## **SECTION 2 - NO ABROGATION OF RIGHTS**

The parties acknowledge that the City rights and employee rights contained in State or Municipal laws, the City Personnel Rules and Regulations, and the rights of the City Council are neither abrogated nor made subject to the meet and confer process by the adoption of this MOU. Further, the City and City management reserve all rights, powers and authority customarily exercised by management, except as otherwise specifically designated or modified by express provisions of this MOU.

## **SECTION 3 - PAST PRACTICES**

The parties agree that this MOU supersedes any past practice covered by a provision of this MOU.

## **SECTION 4 - NO DISCRIMINATION**

The City and the Union will cooperate in pursuing a policy of no employment discrimination based on merit and fitness, free of personal and political considerations. There shall be no discrimination by the City or Union in employment conditions or treatment of employees on the basis of race, religious creed, color, national origin, ancestry, gender, age, marital status, sexual preference or orientation, physical disabilities, medical condition, membership, non-membership, or participation in the activities of any lawful organization or any other matter or manner prohibited by State, Federal or local law.

## **SECTION 5 - UNION / EMPLOYEE RIGHTS**

### **A. Recognition**

The City has certified the Union as the exclusive bargaining representative of the unit consisting of regular employees in the classifications listed in Appendix A. The Union shall have the right to represent said employees in all matters relating to employment conditions and employer-employee relations, including, but not limited to wages, hours and other terms and conditions of employment.

### **B. No Discrimination**

An employee shall have the right to form, join and participate in the activities of employee

organizations of the employee's own choosing for the purpose of representation on all matters of employer-employee relations including wages, hours, and other terms and conditions of employment. No such employee shall be interfered with, restrained, coerced or discriminated against by the City or the Union because of his/her exercise of the rights established by law.

**C. Duty of Fair Representation**

The Union, as the exclusive representative, has the duty to provide fair and nondiscriminatory representation to all workers covered by this MOU, regardless of whether they are members of the Union.

**D. Payment of Dues**

All workers covered by this MOU shall, within thirty (30) days of the date upon which said worker was formally hired by the City as a bargaining unit worker, as a condition of regular employment either: (1) Become and remain a member of the Union; (2) Pay an equivalent service fee to the Union, not to exceed Union dues, through payroll deduction, which may be lawfully collected under applicable constitutional, statutory, and case law; or, (3) Present to the Union and the "Employer-Employee Relations Officer" or Designee a written declaration that the worker is a member of a bona fide religion, body, or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and pay a sum equal to the agency fee described in (2) to The Union office of SEIU - Local 521, 2302 Zanker Road, San Jose CA 95131.

**E. Dues Collection**

A member may only drop his or her membership during the last five (5) working days of the final year of this MOU. If a member changes his or her membership status, the City will forward to the Union, via email or US Mail, the member's payroll deduction authorization form within five (5) days of receipt from the employee.

The City agrees to continue to allow dues and other mutually agreed upon payroll deductions to be deducted from the pay of employees who authorized such deductions in writing on a form provided by the Union and approved by the City. Such deductions shall be collected bi-weekly and remitted in a lump sum on a monthly basis to the Union. The City may from time to time adopt rules and regulations relating to administration of this dues collection provision. The City shall not deny consent for reasonable payroll deductions, nor shall Union unreasonably request payroll deductions.

The Union shall indemnify and defend and hold the City harmless against any claims made, and against any suit instituted against the City, on account of collection of Union dues and other mutually agreed upon payroll deductions. In addition, the Union shall refund to the City of Soledad any amounts paid to it in error upon presentation of supporting evidence.

**F. Union Access**

The City agrees to allow an official business representative of the Union to visit City facilities, where

represented members are working, provided that such visit does not in any manner interfere with the City's business or operations; the representative has given advance notice of the visit and the purpose of such visit; and has received authorization for such visit from the appropriate City management personnel.

**G. Union Representation**

The City agrees to provide for paid release time for up to two (2) official representatives of the Union for the sole purpose of meeting and conferring with representatives of the City.

**H. Notice of Represented Employees**

The City shall provide the Union with the names and classifications of all represented employees. This information may be provided semi-annually upon written request to the City Manager.

When a person is hired in one of the classifications represented by the Union, the City shall notify that person that the Union is the exclusive bargaining representative for that classification.

**I. Stewards and Official Union Representatives**

The Union shall be authorized to designate one steward and one alternate steward for the limited purpose of the processing and investigating of grievances. Stewards shall be allowed a reasonable amount of paid time off for this purpose as long as there is no disruption of work. The Union shall notify the City in writing of the individuals selected as soon as possible.

A steward must first obtain permission through the steward's immediate supervisor or normal supervisory channels before leaving their work or work location. It is further agreed that the City shall not pay stewards for time spent in handling grievances when they are not regularly scheduled to work.

The City agrees to provide paid release time for Union representatives to attend mutually agreed meetings. The Union agrees, in so far as possible, to notify Management at least 24 hours, in advance of the request for release time, excluding weekends and holidays. the name(s) of the Union representative(s) to be released. Management agrees to arrange/notify for release time with appropriate supervisor(s). Release time arrangements shall include a reasonable amount of travel time.

**J. Public Documents**

Upon written request, the City shall provide to the Union, as required under the "Public Records Act"; copies of unprivileged and non-confidential documents relating to matters within the scope of representation.

**K. Use of Bulletin Boards**

The City will provide the Union with reasonable bulletin board space at reasonable locations.

Bulletin boards may be used solely for the purpose of posting or distributing notices or announcements for such things as social events, recreational events, and Union meetings, results of Union elections and reports of Union minutes. All materials must identify the Union and be approved by the City Manager for posting.

**L. Union Orientation**

The City shall allow a Union Representative thirty (30) minutes of release time to meet with any new employee for the purpose of union orientation. The thirty minutes shall be contiguous with the new employee's orientation provided by the City. The City will notify the union representative of record, within 24 hours of the new employee's acceptance of the conditional offer, of the employee's start date, and of the date and time of the scheduled orientation, as soon as practicable, but no later than two (2) weeks in advance of the scheduled orientation. The City will not reschedule the orientation to accommodate the Union representative.

**SECTION 6 - PAY RATES AND WORK PRACTICES AND SCHEDULES**

**A. Wages**

The hourly rate salary steps for all classes in this representation unit shall be increased by two point five percent (2.5%), effective August 29, 2015.

The hourly rate salary steps for all classes in this representation unit shall be increased by two point five percent (2.5%), effective July 2, 2016.

**B. Overtime**

Employees not exempt from overtime under the FLSA, shall receive overtime at time and a half (1.5) their regular rate for all hours actually worked in excess of forty in a designated workweek. Overtime must be authorized in advance by the Department Manager or designee. Employees may elect to receive compensatory time off in lieu of overtime pay at the rate of one and a half (1.5) hours of compensatory time for each overtime hour worked up to a maximum banked accrual of forty-eight (48) hours.

**C. Bilingual Pay**

Employees who regularly interact and interpret with the public may be eligible for a bilingual premium of sixty-five (\$65) dollars per month. In addition, the City may approve for employees who are already receiving bilingual pay of sixty-five dollars (\$65) per month, a bilingual premium of an additional thirty-five dollars (\$35) per month when assigned to both interpret and written translation.

Incentive pay is separate from compensation, defined in Part 1 of this agreement, and is earned only during periods in which the Unit Member is actually working and not in a paid or unpaid leave status of greater than two consecutive pay periods.

The City retains the right to determine how many and which positions it needs to provide bilingual

services, and which languages shall qualify; however, sign language shall be deemed a qualifying language. To be eligible, the Department Director must recommend to the Personnel Officer the employee for certification testing by the City. Upon passing an oral examination the employee will be certified as having the appropriate language skills. Sign language shall be recognized as a bilingual skill under this section.

Bilingual employees will be certified via appropriate skill tests at a high level of both oral and written bilingual proficiency. Upon being certified, and prior to an employee receiving payment, the City Manager shall determine whether there is a need for additional bilingual services in the employee's Department. No employee shall receive payment under this provision without the City Manager's determination that the employee's bilingual skills are needed in the employee's Department.

#### **D. Working Out of Class**

An employee working out of class for at least five (5) consecutive work days to temporarily perform duties in a higher classification shall be compensated at the next higher step in the worked classification which is at least five percent (5%) above the employee's current salary. At no time should any employee work out of class for a period of more than six (6) months. There will also be no change to the employee's current benefits.

Working out of class means that an employee is performing the majority of the duties of the higher classification.

Working out of class must be assigned by the Department Head and must be accompanied by a Personnel Action Form (PAF).

#### **E. Call Back Pay (For Non-Exempt Union Member Classifications)**

When an employee is called back to work, on other than a normal scheduled basis, such employee shall be paid at one and one-half (1.5) times the employee's regular rate of pay. A minimum of two (2) hours call back time will be paid, except that the employee will be paid at straight time to the extent, and for the period, that the call back period continues into the regular scheduled shift. Call back time will commence at the time the employee reports for duty. In the case of emergencies or civil disasters, it shall be the responsibility of each employee to immediately contact the department to determine what deployment may be required, and to proceed as directed.

#### **F. On Call/Stand-By Pay (For non-exempt Union Member Classifications)**

Employees in the Utility Division shall receive (thirty-five) \$35.00 per day they are assigned to be in an "on call" or "stand-by" status. These employees will be expected to be available to immediately respond to work as directed by management.

#### **G. Incentive Pay**

Union members, who are not required to have certifications or degrees as part of the City job classification and/or job description, will be paid \$60 dollars a month for each eligible incentive pay.

up to a maximum of four (4) of the following incentives (up to \$240/ month maximum) listed below:

Incentive pay is separate from wages, defined in Section 6 of this agreement, and is earned only during periods in which the Unit Member is actually working and not in a paid or unpaid leave status of greater than two consecutive pay periods.

- Professional Notary Public Certification
- Records Supervisory (POST)
- Qualified Applicators Certification or QAC or QAL License (issued by California Department of Pesticide Redulation)
- Associate of Arts Degree
- Bachelor of Arts/Science Degree
- Master of Arts/Science Degree
- Wastewater Treatment Operator - Grade I, II, III, IV or V (issued by California Water Resources Control Board, Office of Operator Certification)
- Water Treatment Operator - Grade I, II, III, IV or V
- Water Distribution Operator - Grade I, II, III, IV or V (issued by CA State Water Resources Control Board, Office of Operator Certification)
- CDL – Class A or Class B with endorsements (issued by CA DMV)
- Collection System Maintenance Certificate (issued by California Water Environment Association)
- Industrial Source Control Environmental Compliance Inspector Certificate (issued by California Water Environment Association)
- Backflow Assembly Tester Certificate (issued by American Water Works Association)
- Laboratory Analyst Certificate (Issued by California Water Environment Association)

Employees are eligible for specialized certification pay only if it is used in the course of the employee's classification, but not required in a job description, and with authorization from the Department Director.

As of July 1, 2015, new incentive pay requests will be considered and evaluated in January and July of each year. Approved changes will take effect the first pay period following January 1 or July 1, whichever date is closer to the date of approval.

As of July 1, 2015, all existing incentive pay will be considered and evaluated in January and July of each year. Approved changes will take effect the first pay period following January 1 or July 1, whichever date is closer to the date of approval.

#### **H. Educational Reimbursement**

Employees shall be reimbursed for the costs of tuition for job related higher education course undertaken while employed with the City, if approved in advance in writing by the Department Head and the City Manager. The annual amount per Union member shall not exceed \$1,000 dollars.

**I. Annual Safety Boot Stipend**

The City will reimburse each member in the classifications of Building Official; Public Works Supervisor; Water Reclamation Chief Plant Operator; Water Reclamation Shift Supervisor; Water Resources Manager and Water Systems Supervisor up to two hundred and fifty dollars (\$250) for the purchase of safety boots. The reimbursement will be provided in one lump sum in July of each year through Accounts Payable, upon presentation of a receipt or receipts for the purchase of safety boots.

To be eligible for the reimbursement or stipend, the member must obtain Department Director approval for the type of safety boots to ensure the boots are appropriate for use in the field.

As an alternative to the \$250 reimbursement, the City will provide a stipend of one hundred and twenty-five (\$125) dollars, per fiscal year, for the purchase of boots to members in the classifications listed above. The stipend will be provided in one lump sum in July of each year through Accounts Payable. Eligible members may receive the \$250 reimbursement or the \$125 stipend; no member may receive both the reimbursement and the stipend or any combination thereof. Each member shall notify the Public Works Director of his or her selection by June 1.

**J. Uniform/Cleaning Allowance**

The City shall provide cleaning service for each member in the job classifications of Water Resources Manager, Water Systems Supervisor, Water Reclamation Chief Plant Operator, Public Works Supervisor and Water Reclamation Shift Supervisor.

Cleaning services shall be provided for uniforms, jackets and vests.

The City shall provide a uniform cleaning allowance for dry cleaning, not to exceed five hundred dollars (\$500) per year for each member in the job classification of Police Records Supervisor.

Each fiscal year, two uniforms shall be provided for each member in the job classifications of Police Records Supervisor.

**K. Work Schedule Change**

The City agrees to provide three (3) working days advance notice of shift or schedule changes. This section does not limit the City's right, as defined by management, to make shift or schedule changes without the three (3) working days notice in case of emergency or operational necessity.

**SECTION 7 - BENEFITS**

**A. Medical, Dental, and Vision Insurance**

The CITY shall provide each unit member monthly flexible credits as reflected in the table below for medical and dental coverage. The employee is responsible for paying the difference between the monthly premium and the monthly flexible credits.

- Maximum monthly flexible credits based on medical enrollment.
- CITY to allow cash-out of fifty percent (50%) of employee only monthly flexible credits for employees who waive entire health coverage and submit proof of coverage under another plan.

MEDICAL and DENTAL	MAXIMUM MONTHLY FLEXIBLE CREDIT PROVIDED BY CITY (2015)
EMPLOYEE ONLY	\$568
EMPLOYEE + SPOUSE	\$1,146
EMPLOYEE + CHILD(REN)	\$985
EMPLOYEE + FAMILY	\$1,172

MEDICAL and DENTAL	MAXIMUM MONTHLY FLEXIBLE CREDIT PROVIDED BY CITY (effective July 2, 2016)
EMPLOYEE ONLY	\$596
EMPLOYEE + SPOUSE	\$1,203
EMPLOYEE + CHILD(REN)	\$1,034
EMPLOYEE + FAMILY	\$1,230

**VISION** - CITY pays 100% of vision premium.

The CITY's contributions to employees' medical and dental coverage, paid in the form of flexible credits, shall remain at the same levels as noted in the table above. Members shall be responsible for any increases from medical and dental care providers. Should increases from providers exceed fifteen percent (15%), the parties agree to re-open negotiations to discuss this provision.

The City will notify the Union of the time, date, and location of the City's annual meeting with its insurance broker. The Union may send one representative to the meeting.

#### **B. Life Insurance**

The City shall provide basic life insurance for each employee represented in this unit in an amount of one and a half times (1.5) their annual salary subject to a minimum amount of \$50,000 and to a maximum amount of \$150,000. The imputed benefit of the cost of coverage in excess of \$50,000 must be included in income under Internal Revenue Code (IRC) Section 79 and is subject to Social Security and Medicare taxes.

#### **C. Long Term Disability and Accidental Death and Dismemberment Insurance**

The City shall provide Class II disability insurance for each member represented in this unit.

**D. Health Insurance Premiums during Disability Leave**

For an employee unable to work due to a health condition, the City shall continue to pay the City portion of the employee's health insurance premiums for either six months, or such time as the employee returns to work, or premiums are covered by Workers' Compensation, whichever is shorter.

**E. Retirement Benefits**

The City has contracted with CalPERS for the 2% at 60 "Miscellaneous" retirement plan formula for Union members.

All current and new employees are subject to the PERS plans in accordance with the California Public Employees Pension Reform Act of 2013 (PEPRA). Accordingly, all new employees hired on or after July 1, 2013, who are considered "new members" under the PEPRA shall be in the 2% at 62 CalPERS retirement formula, as described by PEPRA. In addition, in lieu of the benefit described below, "new members" shall pay at least 50% of the normal costs of their pension benefit.

**F. Sick Leave Cash-out**

As described in the City's Personnel Rules and Regulations, Section 9.10, current members are permitted to cash out accrued sick leave only upon resignation of employment (120 hours), or retirement (240 hours).

Employees hired after the approval of this MOU by the City Council may cash out up to half of accrued sick leave upon resignation or retirement, up to a maximum of sixty (60) hours in the case of resignation, and 120 hours in the case of retirement.

**G. Emergency Family Leave**

Unit members of the City shall be entitled to three (3) days of emergency family leave in case of illness of a close family member or hospitalization of a close family member. Such leave shall be deducted from the employees' sick leave.

The term "close family" means those closely related to the employee by blood, by adoption, or by marriage, and specifically include only the mother, the father, a grandparent, a son, a daughter, the husband, the wife, the brother and the sister of the employee, and the spouse of a son, daughter, brother or sister, mother-in-law and father-in-law.

**H. Administrative Leave**

The City shall grant Administrative Leave on an annual basis to unit members within the Mid-Management unit.

Said leave is in addition to any other leave such as sick, vacation, or compensatory leave which is earned independently by each employee based on time of service. Administrative Leave may not be accumulated and carried forward from one fiscal year to next fiscal year.

Unit members who are not exempt shall be entitled to thirty-six (36) hours of administrative leave at the beginning of each fiscal year. Balance of leave will be cleared at fiscal year end. City will not buy back leave.

Unit members who are exempt shall be entitled to forty (40) hours of administrative leave at the beginning of each fiscal year. Balance of leave will be cleared at fiscal year end. City will not buy back leave.

## SECTION 8 - HOLIDAYS

The City provides the following paid holidays:

New Year's Day	January 1
Martin Luther King Jr.	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Day after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

In addition, each employee is entitled to one floating holiday which may not be cashed out and may not be carried over to a subsequent calendar year.

## SECTION 9 - Layoff Due to Lack of Work, Funds or Other Reasons

A. The City Manager shall have the sole right to determine which class or classes shall be subject to lay-off. Before regular employees are separated due to lack of work, the City shall explore reasonable possibilities of reassignment. Reduction in Force (RIF) includes the following:

- Temporary Reduction: Recall to work is expected within twelve (12) months.
- Permanent Reduction: Recall to work is not expected because the position has been eliminated, the contract has expired, the department has closed, or the reduction in force is due to budgetary constraints.

B. Whenever, in the judgment of the City Manager, one or more positions are to be eliminated for reasons of lack of work, lack of funds, reorganization, or other reasons of economy or efficiency,

an employee filling such position may be laid off, transferred or demoted without taking disciplinary action or the right of appeal, based on the following criteria:

- Years of service;
  - Overall performance in City employment; and
  - Special knowledge, skill, training, or experience.
- C. Forty-five (45) calendar days before the effective day of layoff, the City Manager shall notify the employee in writing of the intended action indicating the reasons, and a statement certifying whether or not the employee's services have been satisfactory. A copy of such notice shall be given to the Department Director and the affected employee. If certified as having given satisfactory service, the name of the employee laid off shall be placed on an appropriate reemployment list as provided in these Rules and Regulations. Such non-disciplinary action shall not be subject to appeal.
- The City will provide a "Levine Hearing" for affected employees prior to making the layoff final.
- D. In the case of layoffs, temporary and probationary employees within the class or classes subject to lay-off will be laid off before any regular employees are affected by layoffs. The order of lay-off of probationary and regular employees shall be according to seniority based on classification seniority with the employee(s) having the lowest seniority to be laid off first. Among employees with equal seniority, the order of lay-off shall be determined as provided in paragraph "B", above.
- E. Before hiring new regular employees from outside the City, employees laid off or demoted in lieu of lay-off shall have the right of return to their prior class or to any lower class in the same or comparable classification series. This right shall remain effective for one (1) year from the date of demotion or separation from City service. Re-employment Lists may be extended at the discretion of the Personnel Officer, but in no event shall an employment list remain in effect for more than two (2) years. When considering recall of employees with similar skills and abilities for job classifications for which they qualify, past performance and date of hire may be considered as the primary selection criteria. Employees recalled shall not be required to serve a new probationary period, unless recalled or rehired to a new or different classification. An employee to be recalled shall be notified by certified letter sent to the last known address on record. If the employee does not contact the City to make satisfactory arrangements for return to work within ten (10) days of the mailing date of the letter, the offer of recall will be deemed withdrawn, and the employee will be eligible for reinstatement only if some exceptional circumstances prevent the employee from responding, to the satisfaction of the City Manager.

## **SECTION 10 – BUMPING RIGHTS**

A regular employee who is designated for layoff may elect, in lieu of layoff, to be reassigned to a position in the same classification within his/her department or another department, or into the position held by the employee with the least seniority in the class in which the designated worker currently serves, provided that the designated worker has more service with the City than the worker who is being bumped; or the designated worker has previously held permanent status in the position of a different class into which s/he is bumping, and the designated worker meets the job requirements

of the position into which s/he is bumping.

An employee who exercises his/her bumping rights must make such request to the Personnel Officer in writing within ten (10) calendar days of the employee's receipt of written notice of layoff. Failure to comply with the deadline provided herein shall be deemed a waiver of the bumping rights provided herein.

In case of a tie in service, the following will apply:

- Years of Service
- Overall performance in City employment; and
- Special knowledge, skill, training, or experience.

## **SECTION 11 - GRIEVANCE PROCEDURE**

**A. General Provisions:** As used in these Rules and Regulations, a grievance is a dispute concerning an alleged violation in terms and conditions of employment as provided in an existing ratified and approved MOU.

Appeals of discipline shall be governed by Section 12 of the City's Personnel Rules.

1. If a grievant fails to carry the grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the previous step.
2. If a Department Director fails to respond with a written answer within the specified time period, the grievant may appeal the grievance to the next higher level.
3. Grievant may be represented by a Union Representative, Steward or person of their choice at any formal level of this procedure.
4. Time limits and formal levels may be waived by mutual written consent of the parties.
5. Proof of service shall be accomplished by registered mail served on the employee at the last known address on record in the employee's Human Resources personnel file.
6. For purposes of this grievance procedure, "day" is defined as a day in which City Hall is open and doing business with the public.

### **B. Grievance Procedure – Informal level**

1. The employee may bring a grievance to the attention of the immediate supervisor at the earliest possible date, but no later than ten (10) calendar days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of

such action. The employee shall inform the immediate supervisor of the desire to discuss an informal grievance. The supervisor shall discuss, or set a date and time for such discussion, and inform the employee. The grievance does not need to be in writing at the informal stage. The supervisor and the employee shall discuss and attempt resolution of the issues at the informal level.

2. If the issues are not resolved at the informal level, or a supervisor is not available for discussion during the informal level, the employee may, within the time limits specified herein, file a formal grievance.
3. If the employee does not make himself/herself available for discussion during the informal process, the grievance shall be considered abandoned.

### **C. Grievance Procedure – Formal Level**

The employee may file a formal grievance within fifteen (15) calendar days from either the date of the alleged action that caused the grievance, or the date the employee should reasonably have become aware of such action, provided the following have taken place:

- The employee has taken the grievance to the immediate supervisor for discussion.
- The issues have either been discussed without resolution or without resolution satisfactory to the employee; or a supervisor was not available for discussion.

Level 1. A formal grievance shall be submitted to the Department Director in writing on a union grievance form containing the name, classification, department of the grievant, the date and a description of the action that caused the grievance, the section(s) of the MOU allegedly violated, and the remedy sought. The formal grievance shall be signed by the employee, and specify the date(s) of discussion with the supervisor, and a brief summary of the outcome of that discussion. The Department Director may meet with the grievant, and shall thereafter render a decision and comments in writing, and return the grievance to the employee within twenty (20) calendar days after receiving the grievance. If the grievant does not agree with the decision reached, or if no answer has been received within twenty (20) calendar days, the employee may present the grievance to the City Manager. Failure of the employee to take further action within twenty (20) calendar days after receipt of the decision, or within twenty (20) calendar days from the receipt of the grievance by the Department Director if no decision is rendered, will constitute withdrawal of the grievance.

Level 2. Upon receiving the grievance, the City Manager shall discuss the grievance with the employee and all other appropriate persons within ten (10) calendar days of receipt of the grievance. The City Manager may designate an individual not in the normal line of supervision to advise or conduct whatever investigation is deemed appropriate or necessary concerning the grievance. The City Manager shall render a decision in writing to the employee within twenty (20) calendar days after receiving the grievance.

All employees shall be free from reprisal, discrimination or coercion for using the grievance

procedure. Compliance with all the steps outlined above shall be considered as mandatory to the exhaustion of available internal administrative remedies.

#### **D. Advisory Arbitration Procedure**

##### **a. Eligibility:**

Grievances not settled pursuant to the grievance procedure above and which either party desires to contest further, may be submitted to Advisory Arbitration. Only those grievances which directly concern or involve the interpretation or application of the specific terms and provisions of a current ratified and approved MOU may be appealed to Advisory Arbitration.

##### **b. Appointment of Arbitrator:**

1. As soon as possible, but no later than ten (10) calendar days after either party receives written notice from the other of the desire to submit the issue to advisory arbitration, the parties shall meet and attempt to agree on the appointment of an Arbitrator.
2. If no agreement is reached within ten (10) calendar days, an arbitrator shall be selected from a list of five (5) persons requested from the California State Mediation and Conciliation Service by alternate striking of names until one name remains. The party who strikes the first name from the panel shall be determined by mutual agreement. If there is no agreement on who should make the first strike, the party with the earliest letter in the alphabet by last name shall make the first strike. The Arbitrator remaining on the list received from the State Mediation and Conciliation Service shall serve as the Arbitrator.

##### **c. Conduct of Hearing:**

1. The Arbitrator shall preside at the hearing and conduct the proceedings in accordance with acceptable arbitration procedures, be limited to the cited MOU sections at issue, and not exceed the authority allowed in the interpretation and application of the affected MOU provision(s).
2. Either the City or the employee's representative may call any employee as a witness, and the City agrees to release said witness from work at no loss of pay with adequate prior notification to the City. A list of desired witnesses must be received by the City Manager at least five (5) calendar days prior to the date of the hearing so that adequate coverage for the absent employees may be arranged.

##### **d. Timeliness of Decision:**

The decision of the Arbitrator shall be rendered no later than forty-five (45) days from the close of the hearing and submission of legal briefs by the parties, if briefs are requested by the Arbitrator. Such decision shall be set forth in writing, dated, and signed by the Arbitrator.

- e. Effect of Decision:**  
The advisory decision of the Arbitrator shall be binding on all parties, unless the City Council overrules or modifies the decision within thirty (30) calendar days from the date of the decision. The City Council's decision shall be final and binding on all parties.
- f. Extension of Time Limits:**  
The parties may extend any of the time limits by mutual agreement, and approval of the Arbitrator.
- g. Copies of Proceedings:**  
All parties to the proceedings shall receive a copy of all documents, rulings and decisions at their own expense.
- h. Fees and Expenses:**  
All fees and expenses of the hearing shall be shared equally by the City and the appealing party, except that each party shall be responsible for the fees of its own counsel if utilized.
- i. Single Grievance:**  
The Arbitrator may collectively hear multiple grievances which raise the same issue, the same or related MOU provisions, or the same factual matters.
- j. Limitation on Arbitrator's Authority:**  
The Arbitrator shall have no power to alter, amend, change, add to, or subtract from the cited or affected provisions of the MOU raised by the grievance.

## **SECTION 12 - DISCIPLINARY PROCEDURE**

The Disciplinary Procedure is substantially contained in the City's Personnel Rules and Regulations, Section 12. The parties agree to incorporate, without changes to mandatory or permissible language by reference the provisions into this agreement.

## **SECTION 13 - REORGANIZATION**

The City will discuss reorganization recommendations with the Union prior to submission of the recommendations to City Council. During the term of this Agreement, any SEIU bargaining member whose compensation would be negatively impacted because of reorganization(s) shall have his/her salary Y-rated.

## **SECTION 14 - CONTRACTING OUT**

The City agrees to meet and confer with the Union at least thirty (30) working days in advance on the impact of the issue of contracting out for services which would displace currently employed personnel.

"Displace" is defined as termination due to lack of work or downward reclassification due to lack of work.

The City reserves the right, after meeting its obligations under law, to contract out any or all services currently performed or to be performed in the future. During the term of this MOU the City will make every effort to retain SEIU members and fill vacancies of SEIU positions in City services.

If an SEIU position remains vacant after nine (9) months, the City will discuss with the Union, at the Union's request, options for filling the vacancy.

#### **SECTION 15 - CONTINGENT WORKFORCE**

City and Union agree that there will be no contingent workforce additions that would result in layoffs of incumbent bargaining unit employees.

"Contingent Workforce" as defined does not include the hiring of temporary labor, seasonal workers, independent contractors or short term leasing of employees for the purpose of backfilling critical City positions while recruitment efforts are underway.

#### **SECTION 16 - PROFESSIONALISM IN THE WORKPLACE**

All employees, including peers and supervisors, are expected to interact in a professional manner and with respect in the workplace. Unprofessional conduct will not be tolerated. Actions of individuals directed towards an employee, which are intended to intimidate and create a risk to the health and safety of the employee may be cause for disciplinary action.

#### **SECTION 17 - SEVERABILITY**

If any article or section of this MOU should be found invalid, unlawful or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other articles and sections of this MOU shall remain in full force and effect for the duration of this MOU. In the event of invalidation of any article or section, the City and the Union agree to meet within thirty (30) days for the purpose of meeting and conferring upon said article or section.

#### **SECTION 18 - PROHIBITION OF JOB ACTION**

Notwithstanding any other provisions of this MOU, City rule, regulation, ordinance, past practice or policy to the contrary, both parties to this MOU and each employee in a classification represented by the Union agree that:


- A. The unimpaired continuation of City services is of paramount importance to City residents. Therefore, neither the Union nor any employee in a classification or position represented by the Union shall cause, authorize, engage in, or sanction any type of job action which results in less than the full and faithful performance of the duties of employment. Lawful informational picketing on the employee's own time is not prohibited.
- B. An employee who engages in any activity prohibited in Subsection A shall not be entitled to any wages or City-paid benefits whatsoever for the period of the job action and may be

subject to discipline for violating this provision. Prior to implementing this provision by adjusting an employee's paycheck, the City shall give reasonable notification to an employee and opportunity for the employee to respond in writing. Employees and the Union shall have no right to appeal City utilization of this provision.


- C. The Union, its representatives, and represented City employees shall comply with the provisions of this MOU and shall make an effort toward convincing all employees in this unit to fully and faithfully perform their duties.
- D. In the event of any activity prohibited by Subsection A hereinabove, the Union, its representatives, and represented City employees agree to take any appropriate steps necessary to assure compliance with this MOU.
- E. The Union agrees that during the term of this MOU neither the Union nor any representative acting on its' behalf will cause, authorize, engage in, condone, or sanction a strike, sympathy strike, sick in, work stoppage, slow down, or picketing (other than informational picketing on employees own time).

**SECTION 19 - TERM**


The term of this MOU shall commence July 1, 2015 and shall expire June 30, 2017. Negotiations for a subsequent MOU shall commence by April 1, 2017 unless the parties agree to commence negotiations on a later date.

  
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 Adela P. Gonzalez, City Manager  
 City of Soledad

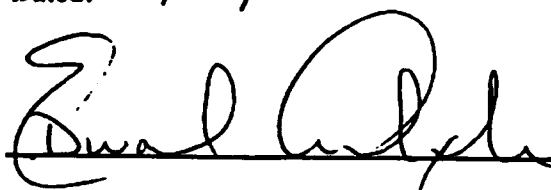
Dated: 10-9-2015

  
 \_\_\_\_\_  
 Jonathan Bernhardt, Internal Organizer  
 SEIU Local 521

Dated: 9/23/15

  
 \_\_\_\_\_  
 Bargaining Unit Member

Dated: 09/23/2015

  
 \_\_\_\_\_  
 Bargaining Unit Member

Dated: 9/23/15

APPENDIX A

<b>MID-MANAGEMENT UNIT Job Classifications</b>
<b>Building Official</b>
<b>Economic Development Housing Program Coordinator</b>
<b>Laboratory Director</b>
<b>Police Records Supervisor</b>
<b>Principal Laboratory Analyst</b>
<b>Public Works Supervisor</b>
<b>Water Reclamation Chief Plant Operator</b>
<b>Water Reclamation Shift Supervisor</b>
<b>Water Resources Manager</b>
<b>Water Systems Supervisor</b>

