

**MONTEREY BAY UNIFIED
AIR POLLUTION CONTROL DISTRICT**

**MEMORANDUM OF UNDERSTANDING
BETWEEN
MBUAPCD & SEIU LOCAL 521**

JULY 1, 2013-JUNE 30, 2015

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MEMORANDUM OF UNDERSTANDING (MOU)

BETWEEN THE MBUAPCD BOARD & SEIU 521

BEGINNING: JULY 1, 2013

ENDING: JUNE 30, 2015

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ARTICLE 1. PARTIES

This Memorandum of Understanding (MOU) is made and entered into between the Monterey Bay Unified Air Pollution Control District (herein called the "District"), which also functions from time to time as the Monterey Bay Building Authority, and, Local 521, Service Employees International Union (herein called the "Union").

It is agreed by and between the parties that any provision of this Memorandum of Understanding requiring legislative action to permit its implementation by amendment of law or by the act of providing the appropriate legislation, shall not become effective until the effective date of such action.

ARTICLE 2. RECOGNITION

The District recognizes SEIU Local 521 as the sole and exclusive bargaining agent for all employees in budgeted “permanent” positions in the District General Employee Representation Unit, which includes the classifications listed in Attachment A.

The District shall recognize other job classifications that are developed during the course of this MOU that fit within the scope of the classifications that SEIU Local 521 currently represents. Such employees shall have full rights to representation in all matters within the scope of representation, (as defined in the California Government Code 3500, et sequens), by the Union.

ARTICLE 3. TERM

The term of this MOU is for the period July 1, 2013 through June 30, 2015 when said Memorandum shall expire and be of no further force or effect.

Unless otherwise specified herein, all provisions of this MOU shall be effective July 1, 2013.

ARTICLE 4. DEFINITIONS

The words and terms not specifically defined in this MOU shall be defined in accordance with applicable California Labor Code definitions.

ARTICLE 5. NONDISCRIMINATION

The provisions of this MOU shall be applied equally to all employees covered hereby without discrimination because of race, color, ethnic group, national origin (including language use restrictions), ancestry, religious creed, sex (includes gender and pregnancy), disability (physical and mental, including HIV and AIDS), sexual orientation, age (40 and over), veteran's status, medical condition (cancer or genetic characteristics) or other status legally protected under federal or State law, or Union membership.

Bargaining unit employees may elect to exercise their right to join and participate in the activities of the Union for the purposes of representation in all matters of their working conditions and employer-employee relations. The parties agree that there shall be no restraint, coercion, or interference with any employee with respect to or because of the employee's membership in said Union.

Any party alleging a violation of this article shall have the burden of proving the existence of a discriminatory act or acts and of proving that, but for such act or acts, the alleged injury or damage to the complainant would not have occurred.

ARTICLE 6. UNION RIGHTS

6.1 Representation

The Union has the right to represent employees in the representation unit, as specified by State law and pursuant to the District employer-employee relation resolution. The Union will notify the District and maintain such notice during the term of this MOU of its elected officers and directors as well as its staff employees. The Union may select up to one (1) person, in addition to its staff employees to act as the official employee representative and will notify the District as to the individual so selected.

The Official Employee Representative shall represent the Union in jointly scheduled meetings with the District to address matters of mutual concern. With prior mutual agreement, up to two (2) additional District employees may participate in these jointly scheduled meetings.

6.2 Official Employee Representatives

The Official Representative who is a District employee may utilize time during normal working hours for meetings and conferring with authorized representatives of the District subject to advanced scheduling, and District priorities as determined by the Air Pollution Control Officer (APCO) or his/her designee.

6.3 Steward Program

- A. The Union may select up to one (1) Steward plus an alternate for represented employees. Union will provide District a list of employees who have been selected as Stewards. Only employees named on the current list will be recognized by the District as Stewards. New employees serving their initial probationary period may not be Stewards.
- B. Stewards will be responsible for the full and prompt performance of their workload.
- C. Stewards shall receive no overtime for time spent performing a function of a Steward.

- D. Stewards shall be authorized a reasonable amount of time without loss of pay to address official union business, and /or investigate and prepare grievances for disciplinary appeals of employees.
- E. Stewards shall be authorized a reasonable amount of time without loss of pay to attend meet and confer sessions as scheduled.
- F. Stewards shall have the right to serve as a representative for employees in grievance and appeal matters in accordance with the grievance and disciplinary appeals provisions of the MOU. One Steward and/or alternate or Union representative shall be permitted to attend formal meetings scheduled as part of the grievance procedure without loss of pay.
- G. Before performing grievance and disciplinary appeal work, the Steward will obtain the permission of her/his supervisor¹ and shall report back to her/his supervisor when the grievance or disciplinary work is completed.
- H. After receiving approval of her/his supervisor, a Steward shall be allowed reasonable time off during working hours, without loss of time or pay, to investigate, prepare and present such grievances and appeals. The immediate supervisor will authorize the Steward to leave her/his work whenever the supervisor determines that the Steward's absence will not interfere with the work of the unit. Where immediate approval is not granted, the supervisor shall inform the Steward when s/he can reasonably be expected to be released from her/his work assignment. However, in such cases the District will make every reasonable effort to grant access within the next working day.
- I. When a Steward desires to contact an employee either the Steward or the employee shall first contact the immediate supervisor of that employee, advise of the need for a grievance/disciplinary action meeting, and obtain release by the supervisor to meet with the employee. When, in the best judgment of the supervisor, the investigation would interfere with the work of the unit, the supervisor will notify the Steward when s/he can reasonably expect to contact the employee. However, in such cases the District will make every reasonable effort to grant access within the next working day.
- J. Stewards when representing employees against whom disciplinary action is pending are subject to the following restrictions:
 - 1. The Steward agrees that the issues which gave rise to the proposed disciplinary action are confidential in nature and will not be discussed with other employees,

¹ "Supervisor" for purposes of Article 6 shall include next level management, as appropriate.

representatives of the news media or others who do not have a direct need to know the details of the proposed discipline. This restriction shall not preclude surveying or otherwise contacting other employees for the purpose of determining the existence of circumstances or issues similar to those in the proposed discipline among other unit members as long as the name of the individual involved and specific details of her/his proposed disciplinary action are not discussed.

2. At the request of the District, the Union will make a reasonable effort to use Stewards who are also employees of the same department and/or a Union staff representative.

6.4 Union Access

Authorized Union staff representatives shall have reasonable access to all work locations in which employees covered hereby are employed for the purpose of transmitting information or representation purposes. Authorized Union staff representatives desiring such access shall first request permission from the APCO or his/her designee at which time the authorized representative shall inform the APCO or his/her designee of the purpose of the visit. The APCO or his/her designee may deny access to the work location if, in his or her judgment, it is deemed that a visit at the time will interfere with the operations of the District or facility thereof, in which event the APCO or his/ her designee will offer an alternative time for the visit.

6.5 Bulletin Board

The District will furnish for the use of the Union, reasonable bulletin board space at reasonable locations. Such bulletin board space shall be used only for the following subjects and other subjects upon agreement by both the Union and the APCO or his/her designee:

- Union recreational, social, and related news bulletins;
- Scheduled Union meetings;
- Information concerning Union elections or the results thereof;
- Reports of official business of Union and;

All material shall clearly state that it is prepared and authorized by the Union.

The Union agrees that notices posted on the District bulletin boards shall not contain anything which may reasonably be construed as maligning the District or its representatives.

6.6 Use of District Mail Boxes and E-mail System

The Union may use the District mail box system and email system for the following limited purposes:

To deliver communications to management personnel.

To deliver communications between employees in this bargaining unit and the union.

6.7 Deduction of Union Dues

The District agrees to deduct Union Dues on a bi-weekly basis, rather than monthly basis, expect for when there are three (3) pay periods in one month there will be no deductions in the third pay period.

- A. **Membership Status:** Unit employees shall be required, as a condition of employment, to become Union member as recognized Agency Shop. Additionally, unit employees shall have the right to charity fee exemption if they choose. Such dues shall be in accordance with the SEIU Local 521 unified dues structure.

Payroll Deduction: Unit employees becoming Union members shall pay any applicable dues via payroll deduction. The District will deduct each pay period Union membership dues/fees from the wages of those employees. Any employee hired by the District in a position subject to the MOU shall be provided, by the District, with a Payroll deduction authorization form during their first pay period of employment (ie, New Employee Orientation) advising the employee of the Agency Shop agreement with the Union and the requirement that all employees subject to the MOU must either join the Union or charity fee exemption in lieu of membership dues to the Union. The District shall automatically deduct the fee established by the Union the first pay period following the date of hire, unless the employee has provided a payroll deduction authorization form electing membership in the Union. If the employee has not properly completed the authorization form of his/her choice and returned said form to the Union within thirty (30) days of hire, the District shall continue to automatically deduct the charity fee and thereafter until such time as a payroll deduction authorization form is properly completed and returned to the Union.

- B. Reinstatement: Upon reinstatement of any unit employee, or upon return from an unpaid leave of absence or recall from layoff, the employee shall have their deductions resumed based on the same status they had previously (member or charity fee payer). Those deductions shall resume on the first pay period in which they return to work.**
- C. Promotion/Change in Job Title: Upon promotion or any change in job title or classification the employee shall continue to have their deductions continue based on the same status they had previously (member or charity fee payer).**
- D. Union membership may only be changed by unit employees in the last year before the end of the existing MOU during the period of the last five working days in December. Notification to the Union must be by U.S. mail or hand delivered to the Union office at 334 Monterey Street, Salinas, California and be received within the days listed above. Notification shall utilize the payroll deduction authorization form.**
- E. The Union will forward to the District a copy of any payroll deduction authorization forms in a timely manner and the Employer shall forward to the Union any such authorization forms received on their end so that both parties can accurately assess the employees and their deduction selection.**
- F. The Union dues or charity fees will be deducted each pay period and remitted, along with a list of the names and employee numbers of those for whom the deductions were made to the Union by the 15th of the month following the month for which deductions were made. For any employee that a deduction of dues or charity fees was not submitted to the Union a reason for non-deduction and any applicable information (i.e., separation date) shall be noted and submitted along with the deductions. This deduction report shall be submitted in an electronic format for importing and posting purposes.**
- G. A comprehensive list of all employees covered by this MOU will be submitted by the District to the Union each quarter with the following information: Full Name, Home Address, Employee Number, Bargaining Unit, Job Classification, Department, Work Location, Work Phone, Hourly Rate or Salary, and Date of Hire. This list should be sent in an electronic format that both the Union and Employer agree upon.**
- H. Voluntary COPE: Any member who chooses to contribute to the COPE fund may do so by submitting a COPE authorization form to the Union specifying**

the amount they choose to have deducted each pay period. Such authorization will stay in effect until the member requests in writing to the Union that such deductions shall be stopped. If any contributing member is no longer in a position subject to this MOU their deduction will be stopped by the District and the Union will be advised both of the reason and their separation date. The Union will forward to the District a copy of any such authorization forms requesting to start or stop any such COPE deductions.

Union agrees to provide District with updated dues structure at least one month prior to the effective date of the change. Questions regarding dues deduction should be directed to SEIU Local 521 staff.

6.8 Indemnification

The Union indemnifies and holds the District, its officers, and employees acting on behalf of the District, harmless and agrees to defend the District, its officers, and employees acting on behalf of the District, against any and all claims, demands, suits, and from liabilities of any nature which may arise out of or by reason of any action taken or not taken by the District under the provisions of this Article 6, Section 1 and 2.

6.9 Labor and Management Meetings

Upon request from either party, both the District and the Union shall meet to discuss issues pertaining to the operation, conditions of employment and Labor-Management issues. The purpose of these meetings is to enhance communication in order to maintain and improve Labor-Management relations. Employees attending as Union Representatives during their regularly scheduled work hours shall not lose any paid time to attend these meetings. Meetings shall be limited to no more than two (2) hours. Nothing in this paragraph is intended to affect management rights pursuant to Article 7 of this MOU, nor grant meet and confer obligations beyond those specified in existing state law.

ARTICLE 7. MANAGEMENT RIGHTS

The District will continue to have, whether exercised or not, all the rights, powers and authority heretofore existing, including, but not limited to the following: determine the standards of services to be offered by the constituent departments; determine the standards of selection of employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; issue and enforce rules and regulations; maintain the efficiency of governmental operations; determine the methods, means and personnel by which the District operations are to be conducted; determine job classifications of District employees; exercise complete control and discretion over its work and fulfill all of its legal responsibilities. All the rights, responsibilities and prerogatives that are inherent in the District by virtue of all Federal, State, and local laws regulations provisions cannot be subject to any grievance or arbitration proceeding.

The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the District Board, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this MOU and then only to the extent such specific and express terms hereof are in conformance with the Constitution and laws of the United States and the Constitution and laws of the State of California.

The exercise by the District through its Board and management representatives of its rights hereunder shall not in any way directly or indirectly, be subject to the grievance procedures set forth herein.

ARTICLE 8. CONCERTED ACTIVITIES

The parties to this MOU recognize and acknowledge that the services performed by the District employees covered by this MOU are essential to the public health, safety, and general welfare of the residents of the District. The Union agrees that under no circumstances will the Union recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in, any strike, sit-down, stay-in, sick-out, slowdown, or picketing², (hereinafter collectively referred to as work-stoppage), in the District to curtail any work or restrict any production, or interfere with any operation of the District. In the event of any such work-stoppage by any member of the bargaining unit, the District shall not be required to negotiate on the merits of any dispute which may have given rise to such work-stoppage until said work-stoppage has ceased.

In the event of any work-stoppage, during the term of this MOU, whether by the Union or by any member of the bargaining unit, the Union by its officer, shall immediately declare in writing and publicize that such work-stoppage is illegal and unauthorized and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the District. In the event of any work-stoppage the Association promptly and in good faith performs the obligations of this paragraph, and providing the Union had not otherwise authorized such work stoppage, the Union shall not be liable for any damages caused by the violation of this provision.

The District shall have the right to discipline, which may include discharge, any employee who instigates, participates, or gives leadership to any work-stoppage activity herein prohibited, and the District shall also have the right to seek full legal redress, including damages against such employee.

² With the sole exception of "Lawful informational picketing" which is defined as peaceful picketing and which occurs outside the District office and outside of the employees' work hours.

ARTICLE 9. SAFETY

9.1 General Safety

The District recognizes its obligation to provide a safe place of employment for its employees, and comply with Labor Code 60401.7 and General Industry Order 3203, Injury and Illness Prevention Program. To assist in accomplishing this goal, it is agreed that the District reserves the right to administer reasonable department rules and regulations.

The Union agrees that it is the duty of all employees to comply with all reasonable rules and regulations and to be alert to all unsafe places, equipment and conditions and to report any such unsafe practices or conditions to employee's immediate supervisor.

9.2 Injury & Illness Prevention Program

The District will appoint a Safety Officer who will implement an Injury and Illness Prevention Program which will include the following elements:

1. Safety communication system with employees.
2. Procedures for correcting unsafe/unhealthy conditions, and
3. An open file for record keeping and documentation containing: date, issue, and action taken.

The actual structure, design and operation of the Injury and Illness Prevention Program is within the complete control and discretion of the District.

For each reported safety issue in which a corrective action is requested by an employee, a response will be sent to the employee describing:

1. The issue.
2. Whether corrective action will be taken.
3. The reasons for no action.
4. The corrective action that will be taken, or had been taken, and
5. The time frame for the corrective action.

Copies of all written reports of safety issues and all responses will be maintained in the central file described in (3) of the first paragraph of this section.

9.3 Grievance Application

This article is subject to the grievance procedure as set forth in Article 26, "Grievance Procedure", but shall not be subject to Article 26.5.D. "Step 4-Arbitration", of this MOU.

ARTICLE 10. SALARIES

10.1 Basic Pay Plan

The basic pay plan consists of the salary ranges and the assignment of classes to such ranges as provided in the District salary schedule. Each employee shall be paid within the range for his/her class unless otherwise provided for in this Article 10.

10.2 Salary Adjustments

The hourly rate salary steps for all classes in this representation unit shall be increased by 3.0% effective July 1, 2013 and 2.3% effective July 1, 2014.

10.3 Hours of Service for Purposes of Step Advancement

A. Defined

Paid hours of work and hours of paid leave of an employee within the number of authorized hours of the position occupied by the employee shall constitute hours of service. Hours worked in excess of the number of hours authorized for the position, whether overtime or not, shall not be included in hours of service. Unpaid absences, whether authorized or not, shall not be included in hours of service.

B. Beginning Date

Hours of service for purposes of step advancement accrue by job classification, beginning from the most recent date of appointment to that classification, except as otherwise provided in this Article 10.

10.4 Step Advancement in Salary Ranges

A. Standard Steps (Steps One through Five)

Step advancements are predicted upon merit and length of service, and each full-time or part-time employee in a budgeted position may receive an advancement to the next higher, standard step in the salary range for his/her classification, after completion of 2080 hours of satisfactory or better service at the employee's current step, as evidenced by a standard or better performance evaluation rating.

B. Special Additional Sixth Step

An employee in a budgeted position in this representation unit shall be eligible for advancement to the special, additional sixth step in the District salary table for his/her classification, provided that all of the following conditions are met:

1. The employee is currently at Step 5 of the salary range for this/her classification or in a directly related class series defined herein; and
2. The employee has 20,800 or more continuous hours of service with the District³; in the class and
3. The employee's performance for the previous four years meets or exceeds the following standards: an average value of A2" on the employee evaluation.
4. The APCO recommends the advancement.

Employees who may not have received an annual evaluation in any year of service will be considered to have met the minimum criteria for the Step 6 Advancement for that rating period.

The APCO may, under exceptional circumstances, waive the performance standards required above.

Step six shall be placed ten percent (10%) above Step 5.

10.5 Step Placement and Step Advancement upon Appointment to Higher Class

A higher class is one in which the fifth step hourly rate of the salary range for the new class is greater than the fifth step hourly rate of the salary range for the current class.

An employee who is appointed to a higher class which is in this representation unit shall be placed at the step in the salary range for the higher class which is closest to the hourly rate in the lower class but which provides at least a five percent (5.0 %) increase; provided that the employee's salary in the new class is not less than the minimum of the salary range nor greater than the maximum of the salary range for the new class.

For purposes of accrual of hours for step advancement, the beginning date shall be the most recent date of appointment to the higher class.

10.6 Step Placement and Step Advancement upon Appointment to an Equal Class

An equal class is one in which the fifth step hourly rate of the salary range of the new class is the same as that for the current class.

³ For purposes of this part (10.3B), a break in continuous service shall be deemed to have not occurred when an employee in a budgeted position is laid off and reemployed in a budgeted position by the District within one year from the date of layoff.

Upon appointment to an equal class, the employee shall retain the same step.

Upon appointment to an equal class, hours of service accrued in the former class for purposes of step advancement shall apply to the new class.

10.7 Step Placement and Step Advancement upon Appointment to a Lower Class

A lower class is one in which the fifth step hourly rate of the salary range for the new class is less than the fifth step hourly rate of the salary range for the current class.

A. Demotion and Demotion in Lieu of Layoff

An employee who voluntarily demotes to a lower class, including a voluntary demotion in lieu of layoff, or who is demoted to a lower class for disciplinary purposes, shall be placed at the same step in the new salary range as she/he was receiving in the salary range of the higher class (e.g., Step 3 to Step 3), and hours of service accrued in the step in the higher class shall be credited towards step advancement in the lower class.

B. Reclassification of Position to Lower Class: Y-Rate

An employee whose position has been allocated to a lower class shall have his/her salary Y-rated (frozen).

An employee who is placed on Y-rate shall retain his/her hourly salary rate of the higher class until such time as the maximum salary of the lower class exceeds the employee's Y-rated (frozen) salary.

At such time as the salary for the lower class exceeds the employee's Y-rated salary, the employee shall be placed at the salary step in the range of the "lower" class which is closest to but exceeds the employee's Y-rated salary.

10.8 Step Placement and Step Advancement upon Re-employment

An employee who is laid off from a budgeted position of the District and who is re-employed in the same job class in a budgeted position of the District within one year from the date of layoff shall be placed at the same step of the salary range the employee held in that class at the time of layoff, and hours of service for purposes of step advancement which the employee held at the time of layoff shall be restored.

10.9 Effective Date of Step Advancement

Step advancements which would be effective the first week of the pay period shall have an effective date of the first day of that pay period; step advancements which would be

effective the second week of the pay period shall have an effective date of the first day of the next pay period.

ARTICLE 11. CONTRACTING OUT

The District agrees to meet and consult with the Union on at least ten (10) working days in advance on the impacts of a decision to contract out for services which would displace current represented employees. "Displace" is defined as termination or downward classification due to lack of work.

ARTICLE 12. WORKING OUT OF CLASSIFICATION

When an employee in this representation Unit is assigned in writing by the District to perform and performs the majority of the duties of a position in a higher class whose salary is at least five percent (5%) higher than the range of the employee's regular class, that employee shall be compensated at the step in the higher class that provides an increase to the assigned employee of at least five percent (5%). The assignment must be for one full pay period or longer. Such additional compensation shall begin on the first working day of the second full pay period of such assignment.

Training is not considered working out of class.

ARTICLE 13. HOURS OF WORK / HOURS OF SERVICE

13.1 Hours of work

A. Basic Work Week

The basic work week for all employees in this representation unit shall consist of 40 hours, eight hours a day, five days a week.

B. Alternate Work Week

Employees may work an alternate work week that provides for 40 hours per seven day period, provided that said alternate work week is approved in advance by the District.

C. Changes between Basic and Alternate Work Week

1. An employee may file a written request for change in work week with the District. Management may approve or disapprove such request.
2. Management reserves the right to change an employee's work week as required
 - a. When making such change, management will notify the employee in advance of the change.
 - b. When directing a change for a particular employee, management will consider primarily the employee's length of service with the District, skills and experience.
3. All changes between work weeks will begin the first day of the first pay period following approval of such change.

D. Meal Periods

All full time employees shall be granted a meal period of not less than thirty (30) minutes, which shall occur at approximately the mid-point of the shift. Meal period must be taken and cannot be waived, added to breaks or used to leave early. Meal period are not counted as time worked.

E. Break Periods

All employees shall be given the opportunity to take two twenty (20) minute breaks. Unless otherwise authorized, one break is to be taken between 9 a.m. and 11 a.m. and

the other between 1:30 p.m. and 3:30 p.m. Breaks may not be consolidated, added to meal period or used to leave early. Break time is counted as time worked.

13.2 Scheduled Hours

A. Full-time employees

The authorized hours of a budgeted position constitute the normally scheduled hours of work for an employee in that position (e.g., 40 hours a week are the normal schedule of work hours for an employee in a full-time position, and 20 hours a week are the normal schedule of work hours for an employee in a half-time position). However, “normal” work hours shall not be construed to mean a guarantee of hours of work. Scheduled hours of work for an employee may be less than those authorized for the position occupied by the employee because of decreased workload, weather, closure of facilities, and other short-term conditions.

The scheduled hours of work of an employee may be reduced on a continuing basis by Board action in accordance with layoff provisions.

B. Part-time employees

Authorized hours worked by an employee in a budgeted, part-time position in excess of the scheduled hours of work of the position shall be compensated in cash at the employee’s base hourly salary rate up to forty (40) hours in one-week work period. Such straight time pay for hours worked in excess of the employee’s scheduled hours shall not be a factor or credit for purposes of step advancement, contributions to PERS, paid leave accrual, or seniority.

13.3 Hours of Service

A. Application

Hours of service, as defined herein Article 13.3 shall apply to: vacation, sick leave, compensatory time taken, and probation.

B. Defined

Paid hours of work and authorized hours of paid leave of an employee within the authorized hours of the budgeted position occupied by the employee shall constitute hours of service. Hours worked in excess of the number of hours authorized for the position, whether overtime or not, shall not be included in

hours of service. Unpaid leave, whether authorized or not, shall not be included in hours of service.

C. Cancellation of accrued hours

Separation of an employee from a budgeted position in District service for any reason shall cancel any accrued hours of service for that employee except for:

- (1) specific provisions of this MOU regarding the layoff of a District employee from a budgeted position and subsequent reemployment by the District of the employee in a budgeted position within one year from the date of layoff;
- (2) reinstatement of an employee who was dismissed from a budgeted position pursuant to Article 22 (Disciplinary Actions).

ARTICLE 14. OVERTIME

14.1 Authorization

If, in the judgment of the APCO or his/her designee extra hours are required to be worked by an employee for the accomplishment of District business, the APCO or his/her designee may authorize and require the performance of said extra hours of work. Employees cannot work overtime without the express, advanced approval of the APCO or his/her designee. Advanced approval may include written instructions from the APCO or his/her designee for standard situations, and such instructions may change from time to time.

14.2 Definition (See also Article 13, Hours of Work/Hours of Service)

A. Work Period/Basic Work Week

A one-week work period is defined as seven (7) consecutive days, commencing on Monday at 0001 hours and ending the next Sunday at 2400.

B. Overtime defined for a basic work week

For employees who are scheduled to work eight hour days on an on-going basis, overtime is defined as authorized time worked either in excess of (8) hours a day or in excess of 40 hours in a one-week work period.

C. Overtime defined for an alternative work schedule

For employees who are not scheduled to work eight hour days on an on-going basis, but are working an approved alternative work schedule, overtime is defined as authorized time worked in excess of 40 hours in a one-week work period.

14.3 Computation

For purposes of this Article 14 only, paid holiday leave hours and paid vacation leave hours shall be considered as hours worked for the purpose of computing overtime. For alternate workweeks, vacation time shall not be used as an add-on to paid holidays or partial days to create an overtime situation. Once 40 hours have been reached prior to the scheduled end of the workweek, no vacation or comp hours will be used to fill a subsequent day off.

Any other form of paid time off from work for any purpose, unless specifically provided otherwise in this Article 14, shall not count as hours worked for purposes of overtime, including but not limited to: sick leave; compensatory time off; jury leave; witness leave;

suspension with pay. Such paid time off shall not be used as an add-on to paid holiday or partial days to create payment for more than 40 hours in a workweek.

All hours worked and all hours of paid leave must be shown on the time card for the work period in which those hours were worked and hours of paid leave were used. Each work period stands alone. There may be no carry over or transference of hours worked, paid leave, or leave without pay between work periods.

14.4 Compensation

- A. Employees shall receive payment in cash for all overtime worked in the amount of one and one-half time the hourly regular rate, except as provided immediately below.

At the discretion of the APCO or his/her designee, employees may receive compensatory time for overtime work in lieu of cash when such overtime is for hours worked in excess of the basic work week or the alternative work schedule. Such compensatory time shall be computed at the rate of one and one-half hours of compensatory time for each hour of overtime worked. However, overtime shall be compensated in cash whenever and to the extent that overtime would result in accrual of compensatory time for the employee in excess (80) hours. (Eighty hours of accrued compensatory time represents 53.33 hours of overtime work.)

- B. Regardless of whether overtime is compensated in cash or compensatory time, any differential/premium applicable in the work period when the overtime is worked shall be shown on the time card for that period, and shall not be shown on the time cards when any resultant compensatory time is taken off.
- C. An employee in this representation unit who is being appointed to another position in the District must use or be paid off for any accrued compensatory time by the time of appointment to the position outside this unit. A District employee from outside this representation unit who is being appointed to a position in this representation unit must use or be paid off for any accrued compensatory time by the time of appointment to a position in this representation Unit.
- D. An employee who separates from District service shall have all accrued compensatory time paid off in cash at the appropriate "regular rate."
- E. At the discretion of the District, accrued compensatory time of employees may be periodically paid off in cash. Such accrued compensatory time shall be paid off at the "regular rate" applicable to the work period in which the payment is made.

- F. Except for the Commute Alternative Program, no compensatory time of any type can be accrued except as provided in this Article 14 for hours worked over the amount provided for basic work week or the alternative work schedule.

14.5 Compensatory Time Off

If an employee makes a request in writing to take off accrued compensatory time and gives reasonable advance notice, and said time off does not unduly disrupt the operations of the District, the District shall grant the request.

The District cannot require employees in this representation unit to take compensatory time off for the purpose of avoiding overtime pay.

ARTICLE 15. SPECIAL PAY PRACTICES

15.1 General (No Pyramiding)

Each type of differential pay shall be applied separately against the base hourly rate of the employee receiving the differential. Pay differentials shall not be added to the employee's base hourly rate for the purposes of determining payoffs of accrued leave or other benefits.

The differentials provided for in Article 15 shall be effective on the first day of the first full pay period of assignment. Such differentials shall cease at the end of the last pay period of assignment, unless the employee separates prior to the end of the pay period.

15.2 Bilingual Skill Differential

With the approval of the APCO or his/her designee, an employee who is requested to provide services to the public, whether verbally or in writing, in a language other than English may be granted Bilingual Skill Differential of \$45.00 per month.

No employee will be approved for a Bilingual Skill Differential until that employee has demonstrated competency in the designated second language to the satisfaction of the APCO or his/her designee.

It shall not be required that said employees provide such services any specific number of times during the month. Nor shall there be any reductions for time not worked.

15.3 Source Test Differential

Employees in this representation unit, excluding the Source Testing Program Coordinator, who are assigned by the District, in writing, to perform and/or observe on-site source testing shall receive a source test differential of \$80.00 per pay period.

15.4 Standby Duty

A. Defined

Standby duty is defined as the requirement by the District for an employee to be available to report to work as directed by management in response to calls for his/her services within a one hour period. An employee on standby duty:

1. must be available by telephone; and

2. shall refrain from activities which might impair, as by intoxication or sedation, the performance of his/her assigned duties if response to a call becomes necessary. To be assigned standby duty, the employee must be on a written standby duty schedule approved by the District.

B. Time Worked

Time spent in answering phone calls or responding to calls by phone is considered time worked, which counts towards overtime.

An employee who is called back to work while on standby duty shall be considered on standby duty until he/she begins travel to the job site or event which is subject of the call back. Travel time to and from the job site shall be considered time worked.

No employee shall be compensated for standby duty and call back simultaneously. Hours worked while on standby duty shall be deducted from the prescribed standby shift to determine the appropriate standby duty pay.

C. Compensation for Standby Duty

Standby Duty

Effective throughout the length of this agreement, standby duty shall be compensated at \$1.00 per hour.

Such standby duty will normally be a two-week period, but may be for a shorter period. No compensation shall be received for the period of standby duty if the APCO or his/her designee determines the employee placed on duty was, in fact, not available at any particular time.

- D. Upon the request of an employee who believes that he or she has been unduly impacted by ongoing assignments to Standby Duty, the District will meet for the purpose of finding alternate coverage or other relief for the affected employee if possible.

15.5 Call Back

When an employee is unexpectedly called back and must report to a work site in response to a directive from management because of unanticipated work requirements, that employee shall receive his/her base hourly rate for a minimum of two (2) hours.

Travel time to and from the work site shall be considered time worked.

Once an employee has initially been called back to duty under call back conditions, no additional call back minimum shall be credited for any subsequent call back which occurs within the initial two hour minimum period. Only one call back minimum will apply when any subsequent call back(s) occur which are more than two (2) hours after completion of any prior call back period, i.e., the maximum number of call backs which can occur are two.

ARTICLE 16. PUBLIC EMPLOYEES RETIREMENT SYSTEM

- 16.1 Excluding new members, unit employees shall receive the PERS 2% at 55 retirement formula. Effective with the first full pay period in April 2014, unit employees shall pay 1% (one percent) of the 7% (seven percent) employee contribution toward PERS. Effective 7/1/14, unit employees shall pay an additional 1% (one percent) of the 7% (seven percent) employee contribution toward PERS.
- 16.2 Effective January 1, 2013, the Public Employee's Pension Reform Act (PEPRA) will apply to new members of CalPERS.

A new member is defined as any of the following:

1. A new hire who is brought into CalPERS membership for the first time on or after 1/1/13, and who has no prior membership in a California public retirement system.
2. A new hire who is brought into CalPERS membership for the first time on or after 1/1/13, and who is not eligible for reciprocity with another California public retirement system.
3. A member who first established CalPERS membership prior to 1/1/13, and who is rehired by a different CalPERS employer after a break in service of greater than six (6) months.

If a member has a break in service of more than six months but returns to service with the same employer, the member will not be considered a new member under PEPRA.

- 16.3 As non-safety employees, under PEPRA, new members shall receive the 2% at 62 retirement benefit formula. Plus, the member contribution rate for new members under PEPRA is fifty percent (50%) of normal cost expressed as percentage of payroll determined by CalPERS.
- 16.4 The District agrees to contract with PERS to provide Section 21574 Fourth Level 1959 Survivor Benefits.

ARTICLE 17. EMPLOYEE INSURANCES

17.1 Plan Documents Controlling

The plan documents for insurances specified below (health, dental, vision, disability, life) are controlling.

17.2 Medical Insurance

A. Employees in this representation unit may enroll in a health plan offered by P.E.R.S. in accordance with the provisions of the Public Employees' Medical & Hospital Care Program. Employees have the option of enrolling their eligible dependents in this program.

B. For active eligible employees in budgeted positions who elect to participate in such program, the District shall contribute to P.E.R.S Public Employees Medical & Hospital Care Program a Minimum Employer Contribution (MEC) according to Section 22892 of the Public Employees' Medical and Hospital Care Act (PEMHCA).

Employees in this Representation Unit hereby authorize the District to make a payroll deduction in the amount equivalent to the remainder of the premium required for the Public Employees Medical and Hospital Plan in which they and their dependents are enrolled.

C. The District agrees to pay the required P.E.R.S. administrative fee based upon the plan selected by the employee for active, eligible employees in budgeted positions who elect to participate in the Public Employees Medical & Hospital plan program.

D. Should P.E.R.S. require a contribution to the Public Employee's Contingency Reserve Fund, the District will be responsible for providing the funding for this contribution.

E. Pre-Tax Dollar Program. The District will make available to members of this Representation Unit voluntary program of pre-tax dollar contributions as provided in Internal Revenue Code Section 125. Should it be determined that this program is in conflict with provisions of the Internal Revenue Code or any other relevant law or regulations which would subject the District and/or its employees to a penalty, the program shall be suspended.

F. Payroll contributions shall normally be deducted in equal deductions in two pay periods in a month (e.g., one-half in the first pay period and one-half in the second pay period). However, for the new enrollees, terminating employees and enrollees going on or returning from an unpaid absence, the entire premium will be deducted in one pay period of the month, rather than two.

17.3 Dental Insurance

The District agrees to pay the premium for a dental plan for employees and eligible dependents during the term of this agreement. The District agrees to maintain the maximum coverage of \$2,000 while maintaining the current deductible.

17.4 Optical

The District agrees to pay the premium for optical insurance for employees and eligible dependents during the term of this agreement.

17.5 Life

The District agrees to provide twenty thousand dollars (\$20,000) in term life insurance for employees during the term of this agreement, effective as early as practicable.

17.6 All Insurance

The District continues to have the right and the obligation to administer the various insurance programs. These rights and obligations include but are not limited to the right to select the carriers and insurance claims administrators after prior meet and confer with the Union. In the event a change in insurance carrier is made, an open enrollment period will be authorized.

17.7 Disability

The District will provide a long term disability (LTD) and short term disability (STD) plan which will provide for benefits equal to 66-2/3% of insured earnings and an elimination period of 90 days for LTD and 60 days for STD. Enrollment in the disability plan is mandatory with payments by contribution of 50% of the premium by employees and by contribution of 50% of the premium by the District on a pro rata basis based on wage earned.

Employee payroll deductions for this benefit shall be made in the first two pay periods of any month in which there are three pay periods.

17.8 Continuation of Insurance during Absences without Pay

- A. Employees granted leaves of absence without pay or employees suspended without pay, must notify the District's Administrative Services Manager and make arrangements for payment of insurances in advance. "Advance" as used in this Article 17 means on or before the first working day of the pay period.

An employee who is absent without pay must pay in advance for all insurance coverage during the absence. The only exception to advance payment is in the case of an emergency beyond the control of the employee and where payment shall be made at the earliest possible time after the leave commences.

Unless otherwise specifically provided under Federal or State law, if the employee does not pay for insurance coverage during the absence without pay, he/she is treated like a new employee in terms of when coverage begins for each type of insurance. Unless otherwise specifically provided under Federal or State law, should employees and/or their dependents not be covered during an absence without pay, they may be treated as initial enrollees for insurance for purposes of qualification period and benefits, including deductions and co-payments, upon return of the employee to active employment.

17.9 Liability of Employee for Ineligible Dependents

Employees shall be liable for payment for all services received by ineligible dependents and for any contributions made on the dependent's behalf by the District for all employee insurances. It is the responsibility of each employee to provide written notification to the District's Administrative Services Manager and the applicable insurance carrier upon any enrolled dependent(s) becoming ineligible.

17.10 Medical Coverage—Retired District Employees

- A. Employees in this Representation Unit who retire through P.E.R.S. may enroll in a P.E.R.S. health plan as provided under the Public Employees' Medical & Hospital Care Program.

For the term of this MOU, the District agrees to contribute the statutory amount per month for eligible retirees from this Representation Unit who are enrolled in a P.E.R.S. Public Employees' Medical & Hospital Program health plan. The District's monthly contribution for retirees will increase annually by a rate determined by P.E.R.S. until it equals the District's monthly contribution for employees.

The “cap” or “limit” on District contributions specified above shall continue and be part of the subsequent MOU for this Representation Unit, notwithstanding any other provision of this agreement or of law.

- B. Nothing in this agreement guarantees continued health insurance coverage upon or after the expiration of this agreement and the underlying MOU for retirees, their dependents, or their survivors. The District reserves the right to make modifications to retiree health coverage, including termination of coverage, upon or after the termination of this MOU.

ARTICLE 18. PAID LEAVE

18.1 Holidays Specified

For employees in this representation unit, the following are holidays during the term of this agreement:

1. New Year's Day
2. Third Monday in January, Martin Luther King Jr.'s Birthday
3. Third Monday in February, Presidents' Day
4. Last Monday in May, Memorial Day
5. Independence Day
6. First Monday in September, Labor Day
7. Veterans' Day
8. Fourth Thursday in November, Thanksgiving Day
9. Friday after Thanksgiving
10. Christmas Eve
11. Christmas Day
12. Personal Holidays; Employees are awarded two floating holidays per calendar year. Floating holidays may be scheduled and taken on any regular workday during each calendar year, subject to advance scheduling and supervisory approval. Floating holidays not used in the year awarded will be forfeited. In addition, terminating employees will not receive pay for any unused floating holiday.

If any of the above listed holidays falls on a Saturday, the preceding Friday shall be a District holiday. If any one of the above listed holidays falls on a Sunday, the following Monday shall be a District holiday. If Monday is also a holiday, then that holiday shall be observed on Tuesday.

18.2 Work on Holiday

Employees in this representation unit who are required to work on a holiday shall, in addition to their hours of holiday leave, received either:

- (1) Hours off on another day in the same one week work period which are equivalent to the number of hours worked on the holiday; or
- (2) Straight time pay for each hour worked on the holiday.

The method of compensation under (1) or (2), above, shall be determined by the APCO or his/her designee after consultation with the affected employee.

18.3 General Provisions

A. Qualification for Pay

In order to qualify for holiday leave, the employee is required to work or be in a paid status (e.g., vacation, sick leave, compensatory time off) on his/her last scheduled work day prior to the holiday and his/her first scheduled work day following the holiday.

B. During Paid Leave

A holiday falling within a period of leave with pay shall not constitute a day of such paid leave e.g., a holiday falling during a period of vacation shall constitute holiday leave and not vacation.

C. Flexible Work Schedule

Employees whose work schedule is different (other than Monday through Friday, 8 a.m. to 5 p.m.) shall be granted the same number of hours off from their work as employees on a normal work schedule because of holiday.

D. Part-time Employees

Employees in budgeted, part-time (requiring between 20 and 39 hours of work per week) position shall receive holiday leave as follows:

1. Holiday compensation shall be provide only for hours which are proportionate to those budgeted for the part-time employee's position (e.g., an employee working in a half-time, or 20 hour a week, position would receive four hours of holiday compensation.)
2. Holidays that occur on a day other than the part-time employee's regularly scheduled work day shall be compensated either by salary at straight time or by allowing the part-time employee to take time off in the same one-week work period for the hours which are proportionate to the part-time position.
3. In order to qualify for the holiday compensation, the part-time employee is required to work or be on a paid leave (e.g., vacation, sick leave) on his/her last scheduled work day prior to the holiday and his/her first scheduled work day following the holiday.

18.4 Vacation

A. Accrual

1. Accrual Rates

Employees in budgeted positions in this representation unit shall accrue vacation as follows:

Employees with 0 – 20,800 hours of continuous service (approximately to the end of 9 years) will accrue .0577 hours of vacation per hour of service (approximately 15 days a year)

Employees with more than 20,800 hours of continuous service (approximately 10 years of service and over) will accrue .0769 hours of vacation per hour of service (approximately 20 days a year).

Employees with more than 41,600 hours of continuous service (approximately 20 years of service and over) will accrue .0961 hours of vacation per hour of service (approximately 25 days a year).

Vacation hours accrued in one pay period shall be available for use in the next pay period.

2. Reemployment

Any employee who has been laid off from a budgeted position of the District and who is reemployed by the District in a budgeted position within one year of the date of layoff shall be credited with hours of service accrued prior to layoff for purposes of determining the appropriate vacation accrual rate.

B. Conditions and Limitations on Use

1. Before utilizing any vacation, employees must first obtain approval from their immediate supervisor (or, in his/her absence the APCO or his/her designee) on a form specified by the District.

The District will attempt to schedule a vacation in accordance with employee requests. However, the scheduling of vacation is subject to the convenience of the District. Any and all previously approved vacations are subject to immediate termination at the direction of the APCO or his/her designee or immediate supervisor should District business so dictate.

2. **Increments**

Vacation may only be taken in increments of one-quarter hour.

3. **Maximum Accrual**

No employee shall accrue more than three hundred (300) hours of vacation.

The District shall not cause an employee who is at his/her maximum accrual to lose vacation credit. The District may require an employee to use vacation at the District's convenience to avoid such loss. In the event the District denies properly requested vacation time due to operational needs, the District shall sell back hours to an affected employee to avoid further harm and/or loss of accruals.

4. **Sell Back**

Any employee with a minimum of 10 years service and minimum of two hundred and sixty (260) hours of vacation on the books, shall have the ability to sell back forty (40) hours of vacation time per calendar year.

Employees must have used eighty (80) hours of vacation in the prior calendar year in order to sell back vacation.

C. **Vacation Payoff Upon Separation**

Employees who have accrued vacation shall be paid the value of such accrued vacation up to a maximum of 300 hours at the employee's base hourly salary rate at the time of separation from a budgeted position of the District. Payoff of accrued vacation upon separation eliminates all earned vacation accrued to an employee.

18.5 **Sick Leave**

A. **Accrual**

1. **Accrual Rate**

Employees in budgeted positions in this representation unit shall accrue sick leave at the rate of .0577 hours of sick leave per hour of service (approximately 15 days a year).

Sick leave accrued in one pay period shall be available for use in the next pay period.

While there is no maximum accrual of sick leave, the maximum number of hours to which conversion upon separation applies, pursuant to Section C, of this Article 18, below, shall be 1500 hours.

2. Re-employment

Any employee who has been laid off from a budgeted position of the District and who is re-employed in a budgeted position by the District within one year of the date of layoff shall have all sick leave to the employee's credit on the date of layoff restored; provided, however, that such sick leave was not converted pursuant to Section C of this Article 18, below.

B. Approval and Use of Sick Leave

1. Approval for Use

Use of sick leave is subject to the prior approval of the immediate supervisor (or, in his/her absence the APCO or his/her designee) with the exception of a medical emergency. When an employee is ill, she/he is required to notify the immediate supervisor (or, in his/her absence, the District receptionist) prior to 9 a.m. of that fact. The employee must submit a record of sick leave used on a form specified by the District.

Sick leave is not for use as vacation and cannot be approved for such use.

2. Use

a. Sick leave can only be used in case of bona fide illness or injury of the employee or for appointments of the employee with a physician, dentist, or other licensed health care provider, except as provided immediately below.

b. Exception: Illness of Relative or Legal Dependent

(1) Employees in this representation unit may be granted the use of accrued sick leave by the APCO or his/her designee because of a bona fide illness of the employee's father, mother, brother, sister, wife, husband, principle domestic partner, child or legal dependent, provided, in the judgment of the APCO or his/her designee, conditions exist which warrant the employee's personal attendance.

- (2) In exceptional cases, employees in this representation unit may be granted the use of accrued sick leave by the APCO or his/her designee because of the bona fide illness of a grandparent, father-in-law or mother-in-law, where, in the judgment of the APCO or his/her designee, conditions warrant the employee's personal attendance.

c. Sick Leave Bank

The District agrees to maintain a catastrophic illness or injury time bank policy subject to the following conditions:

- (1) Employees must submit written requests together with documentation of the duration of the disability.
- (2) Employees must sign certificates of release before the time bank announcement letter is distributed.
- (3) Time bank donations are strictly confidential.
- (4) Vacation and up to eight hours of sick leave per year can be donated to the time bank.
- (5) Donations of vacation must be in increments of four hours or more.
- (6) An employee may not donate vacation to the time bank that would reduce the employee's total accrued combined vacation, sick and compensatory time below 40 hours.
- (7) The time bank can be used by all employees who are on a leave of absence without pay for their full work shift. Employees who have reduced working hours due to illness or injury are not eligible to receive time bank hours.
- (8) Catastrophic illness or injury is an injury which incapacitates an employee for an extended period of time and because of which the employee has exhausted all of his or her accumulated leave. A leave of absence without pay of at least two full weeks is considered a financial hardship.
- (9) Catastrophic illness or injury is further defined as a debilitating illness or injury of the employee.

(10) Donations may be made only in accordance with IRS ruling 90-29, and other federal regulations.

3. Substantiation

The District may require medical certification or substantiating evidence of illness or injury for any period of time for which sick leave is sought.

4. Increments

Sick leave may only be taken in increments of one quarter hour.

C. Sick Leave Conversion Upon Retirement or Death

Any and all accrued sick leave is forfeited upon separation from a budgeted position of the District except as provided immediately below.

Employees in this representation unit whose service with the District is terminated by death or retirement from the District through P.E.R.S as specified immediately below shall receive a sum of money equal to: thirty percent (30%) of their base hourly salary rate multiplied by the number of hours of accrued sick leave, up to a maximum of 1500 hours of such accrued sick leave.

Conversion of sick leave for purposes of retirement is subject to the following:

- (1) The employee must be at least 50 years of age and have a minimum of five years service as a member of Public Employees Retirement System (P.E.R.S); and
- (2) Actually retire concurrent with his/her separation from the District by submitting a retirement application to P.E.R.S.; and
- (3) Payment shall be made only after the District can confirm the employee's retirement.

In the event of the death of the employee, payment shall be made to the employee's death beneficiary.

18.6 Bereavement Leave

Employees in this representation unit may be granted use of District paid bereavement leave because of death of father, mother, sister, brother, wife, husband, child, legal dependent, grandfather, grandmother, stepfather, stepmother, legal guardian, father-in-law, mother-in-law or principle domestic partner. Such use shall be limited to 40 hours per occurrence.

Before utilizing bereavement leave, employee must first obtain approval from their immediate supervisor (or in his/her absence, the Deputy APCO or APCO or his/her designee) on a form specified by the District.

ARTICLE 19. LEAVE OF ABSENCE WITHOUT PAY

- A. Leave of absence without pay may be granted by the District for a period of illness or injury for which paid leave is not available or, in the event of urgent personal affairs that require the full attention of the employee or for education purposes where the granting of the leave of absence without pay is clearly in the best interest of the District.

No leave of absence without pay shall be granted where the purpose of the leave of absence without pay is to seek or accept other employment. No leave of absence without pay shall be granted when an employee has indicated that he or she intends to terminate or is terminating from District service.

- B. 1. A leave of absence without pay may be granted upon recommendation of the immediate supervisor and with the prior approval of the APCO or his/her designee.
2. Leave of absence without pay may be granted for a maximum of six (6) months; provided, however, that the APCO of his/her designee may grant extensions of leave of absence without pay but in no event shall any leave of absence without pay extend beyond one (1) year.

- C. Right of return

An employee granted a leave of absence without pay shall have preference in appointment to a position in the same classification or in another lower classification for which the employee meets the employment standards, provided the position is vacant. For leave of absence of sixty (60) calendars days or less, an employee who has completed the probationary period for his/her class is guaranteed the right of return. The granting of leave of absence without pay of sixty (60) days or more does not guarantee or confer a right of return, except as may be required by State or Federal law.

- D. Substantiation

Any request for a leave of absence for medical reasons, or extensions of such leave, shall require medical certification of illness or injury for the period for which the leave of absence without pay is sought. Such medical certification shall be on a form specified by the District.

At least one week prior to the expiration of any leave of absence without pay for medical reason, the employee shall provide the APCO or his/her designee medical certification, on a form specified by the District, that the employee is

able to resume her/his duties without endangering him/herself or others, or, if additional leave of absence without pay for medical reasons is requested, that the employee is disabled and unable to return to work.

Any requests for leave of absence without pay for personal reasons shall be in writing and shall state the specific reason(s) for the request. If such request is for education purposes, it shall include proof of enrollment, units carried, and the beginning and ending dates of the semester or quarter.

E. Limitation on Use

1. Employees must use all accrued compensatory time prior to the beginning date of any leave of absence without pay.
2. Employees must use accrued sick leave until a balance of 40 hours is reached prior to the beginning date of a leave of absence without pay for medical reasons.
3. Employees must use all accrued vacation prior to the beginning date of any leave of absence without pay.
4. Specific beginning and ending dates must be identified for any leave of absence without pay.
5. Paid leave shall not be received or earned during any period of leave of absence without pay.
6. Any and all leave of absence without pay must be shown on the employee's timecard.
7. Employees shall be responsible for payments of all insurance premiums.
8. The granting of any leave of absence without pay for reasons related to pregnancy shall be in accordance with State law. (See Government Code Section 12945)

F. Notice of Change in Circumstances

The granting of any leave of absence without pay confers on the employee an obligation to inform the District, through the APCO or his/her designee, of any changes in circumstances which affect the purpose or the duration of the leave of absence without pay.

G. Failure to Return

Any employee who fails to return upon the expiration of any leave of absence without pay shall be considered to have abandoned his/her position and to have automatically resigned.

ARTICLE 20. ABSENCE WITHOUT LEAVE

An employee absent from duty for a period which exceeds three (3) working days without authorized leave shall be considered to have abandoned his/her position and to have automatically resigned.

Such resignation shall be rescinded by the APCO or his/her designee, if the employee can show to the satisfaction of the APCO or his/her designee that it was impossible to contact the District and, further, that they employee did contact the District at the earliest possible opportunity.

ARTICLE 21. OTHER COMPENSATION & RELATED PROVISIONS

21.1 Uniform Allowance

The practice of the issuance of coveralls or other safety equipment to laboratory and field staff shall be continued to those presently eligible. Nothing in this section shall be construed to limit the authority of management to require employees to wear a uniform. If employees are required to purchase or maintain a uniform, the District agrees to meet and confer with the Union concerning a uniform allowance.

21.2 Personal Property Reimbursement

Whenever an employee engaged in assigned official duties on behalf of the District sustains a loss of personal property, through no fault of the employee, that employee shall be eligible for reimbursement for such personal property as approved by the District and pursuant to appropriate procedures provided in the Administrative Code.

A request for reimbursement must be submitted by claim to the District no later than thirty (30) days from the date of loss. Management shall review the claim and when circumstances warrant, reimbursement shall be made.

- A. Claims based on cash losses or losses due to lost or stolen credit cards shall not be considered.
- B. Claims based upon damage to automobiles are subject to the following provisions. All three (3) conditions must be met before consideration will be given:
 - (1) Evidence of the required insurance coverage must be presented;
 - (2) Invoice for work completed must be submitted and reimbursement is limited to five hundred (\$500); and,
 - (3) The damage must have occurred while the employee was actually using the automobile on authorized District business, away from the employee's work place.
- C. No reimbursement shall be granted for losses covered by some other source, insurance policy, or agency.
- D. A maximum limit of five hundred dollars (\$500) per incident shall apply to all claims for reimbursement.

- E. No claims for reimbursement for items having a present value of less than twenty five dollars (\$25) shall be considered.

21.3 Deferred Compensation

The District will continue to maintain a voluntary Deferred Compensation Plan for employees in this representation unit. Should it be determined that this program is in conflict with provisions of the Internal Revenue Code or any other relevant law or regulations which would subject the District and/or its employees to a penalty, the program shall be suspended.

21.4 Dependent Care

The District will maintain a voluntary program for pre-tax contributions for reimbursement to employees of the employee expenses for the care of dependents as provided for in Internal Revenue Code Sections 125 and 129. The program will have an enrollment period immediately prior to the beginning of the next year, to be effective for the next tax year. Should it be determined that this program is in conflict with provisions of the Internal Revenue Code or any other relevant law or regulations which would subject the District and/or its employees to a penalty, the program shall be suspended.

21.5 Cafeteria Allowance

- A. Effective July 1, 2013, the cafeteria allowance is as follows;

- (1) \$443.00 per pay period for employees with no eligible dependents.
- (2) \$570.00 per pay period for employees with one eligible dependent.
- (3) \$598.50 per pay period for employees with two or more eligible dependents.

Effective December 1, 2013, the cafeteria allowance for employees with dependents will increase by 50% of the increase to 2014 PERS Choice premiums. There will be no change to the cafeteria allowance for employees with no dependents.

Effective December 1, 2014, the cafeteria allowance for employees with dependents will increase by 100% of the increase to 2015 PERS Choice premiums. There will be no change to the cafeteria allowance for employees with no dependents.

CalPERS health insurance eligibility rules will apply when determining the appropriate allowance for each employee. Eligibility must be verified, and employees will cooperate with the District in verifying eligibility, dependents, and the appropriate allowances.

Such allowance shall be paid in the first two pay period of any month in which there are three pay periods. Such allowance may be used only for statutory nontaxable benefits, or the equivalent value in cash. The cash option is reportable as taxable income.

B. General Provisions

1. Eligible employees who are appointed to or separate from positions covered by this cafeteria allowance provision during a pay period shall receive a prorated amount of the amount proportionate to their service during said pay period. "Service" shall not include any period of unpaid absence.
2. None of the cafeteria allowance moneys are considered compensation for the purpose of P.E.R.S retirement contributions nor are any such moneys included in an employee's "final compensation".

ARTICLE 22. DISCIPLINARY ACTIONS

The parties support the concept of high performance, high productivity, efficiency, and courteous treatment of the public and other staff in order to provide effective services to the community served by the District at reasonable cost.

The purpose of discipline is to improve employee performance, not merely to chastise or punish the employee. Accordingly, any necessary discipline shall be approached in a spirit of fairness and equal treatment. Any actions shall be consistent from division to division and shall adhere to the rules of progressive discipline.

22.1 Application- Disciplinary Actions Defined

The District may take disciplinary action against employees in budgeted positions who are not on probation in their current class in accordance with this Article 22.

As used in this Article 22, "disciplinary action" shall mean:

- Suspension without pay for no more than sixty (60) calendar days. The sixty day limitation shall apply only to management imposition of discipline and does not limit the ability of the hearing officer to impose a greater period of suspension as a modification of an action of dismissal or disciplinary demotion.
- Reduction in salary step— the placement of an employee at a lower step in the salary range of the classification held by the employee.
- Disciplinary demotion—the appointment of an employee for disciplinary reasons to a position in another class with a lower salary range, provided the employee meets the minimum qualifications for the lower class.
- Dismissal— the separation of the employee from District service for cause.

NOTE: The APCO or his/her designee may suspend an employee with pay for a period not to exceed twenty five (25) working days for purposes of investigation for possible disciplinary action. Such suspension with pay is not disciplinary action and is not subject to appeal.

22.2 Written Reprimand

A written reprimand is not disciplinary in nature, but is designed to provide an opportunity for a supervisor to advise a subordinate about performance or conduct

deficiencies that should be addressed. Any written reprimand of an employee in this representation unit by the District shall include the specified reason(s) for such reprimand. A copy of the reprimand shall be placed in the employee's personnel file. Such a reprimand shall be sealed three years after its date of issuance. After the sealing, it may only be unsealed (1) to be used in any legal proceeding, claim, or dispute involving the District, or as ordered by a court or (2) for the inspection of the APCO or District Counsel.

Such written reprimand shall include a statement that the employee may discuss the reprimand with the APCO, and contain a statement that employees in this representation unit are represented by the Union, with the Union's address and phone number.

Such reprimands shall not be subject to appeal but the employee and/or his/her representative shall have the right to discuss the written reprimand with the APCO or his/her designee. APCO or his/her designee may uphold, amend, or withdraw the reprimand at his/her discretion.

22.3 Notices of Disciplinary Action

- A. For disciplinary actions as defined herein (Part 22.1), employees in this representation unit shall be provided notice of intent to take disciplinary action at least five (5) calendar days prior to the effective date of the intended action; provided, however, that for suspensions of five (5) working days or less, the employee need not be given prior notice of such suspension before action is taken.
- B. Notices of disciplinary actions as defined herein (Part 22.1) shall include a statement that employees in this representation unit are represented by the Union, with the Union's address and phone number.
- C. For disciplinary actions which may be appealed pursuant to this Article 22, the notice of action shall specify the time limits for the appeal.
- D. Notice shall be served by personal delivery to the employee at the work site if the employee is at work. The date of delivery shall initiate the period in which an appeal may be filed.

If personal delivery at the work site cannot be accomplished, notice shall be served as follows, using the most current address in the employee's personnel file: (1) by mailing a copy of the notice by certified mail to the employee with return receipt required; and (2) by mailing a copy of the notice to the employee via first class U.S. Mail.

For purposes of establishing the time limits for filing an appeal, service for the notice of disciplinary action shall be deemed complete on the earlier of: (1) The date of receipt of the notice sent by certified mail, or, (2) five (5) calendar days from mailing of the notice by first class U.S. mail.

22.4 Appeals

A. Who May Appeal

Only employees in budgeted positions in this representation unit who are not on probation shall have the right to appeal disciplinary actions as defined herein (Part 22.1).

B. Appeal Time-lines and Contents

A written appeal of a disciplinary action as defined herein (Part 22.1) must be filed with the APCO within ten (10) calendar days of the date the notice of disciplinary action is deemed to have been received. Such notice must be filed by the employee against whom the disciplinary action is taken. The appeal shall contain a specific admission or denial of the material allegations contained in the notice of disciplinary action.

Failure by the employee to file an appeal with the APCO within the ten (10) calendar day time limit shall constitute an automatic forfeiture and irrevocable waiver of any right to appeal to disciplinary action.

22.5 Appeal Hearing

Hearings on appeals filed in accordance with the provisions of this Article 22 shall be as follows:

A. Selection of Hearing Officer

The parties shall select a mutually acceptable hearing officer and schedule a day for the appeal hearing within twenty (20) working days of the date of the appeal of the disciplinary action. Should the Union exercise its option of representing the employee in the appeal, it may require that the hearing officer be an arbitrator.

B. Preparation for Hearing

At least ten (10) working days prior to the appeal hearing, the parties shall attempt to stipulate to as many facts as possible.

C. Expenses

The fees and expenses of the hearing officer shall be shared equally by the parties. It is understood and agreed, however, that all other expenses, including but not limited to fees for witness transcripts and similar costs incurred by the parties during such hearing, shall be the responsibility of the individual party involved.

If the employee is not represented by the Union for the appeal hearing, the employee shall certify in writing that she/he shall pay his/her share of the fees and expenses of the hearing.

D. Criminal Action-Alleged or Charged

When the facts alleged in the notice of disciplinary action constitute a crime, or where the employee has been charged with a crime arising from the same transaction, and the employee has filed an appeal of the disciplinary action, she/he may, at least ten (10) working days prior to the date of the appeal hearing, request a continuance of his/her appeal hearing for a reasonable period to determine whether a criminal charge will be filed or until after termination of the criminal case. Such a request must be accompanied by waiver of salary and all benefits for the period of continuance, in the event the employee is reinstated.

E. Hearings

It shall be the duty of the hearing officer to hear and consider evidence submitted by the parties to thereafter make written findings and a decision within twenty (20) working days of the conclusion of the hearing.

The hearing officer shall have the authority to deny, affirm or amend the disciplinary action appealed, but the hearing officer shall have no authority to add to, subtract from, alter, amend or modify any provision of this MOU or impose on any party a limitation or obligation not explicitly provided for in this agreement.

ARTICLE 23. PERSONNEL RECORDS

The District and the Union agree that personnel records are not subject to public inspection. However, such records may be released as required in any legal proceeding or as ordered by a court. Notification by the District will be made to the employee.

All personnel records are and remain the property of the District.

Employees shall have the right to inspect and review any official record, relating to his/her performance as an employee, which is kept or maintained by the District.

When any comment adverse to an employee's interest is entered in his/her official personnel records, the employee shall have the opportunity to read the adverse entry.

Notwithstanding any other provision of this MOU, the District and the Union agree that an employee is not entitled to inspect or review such documents as reference letters, background investigations, records pertaining to investigation of a possible criminal offense, or material designated confidential by law.

At his/her request, an employee shall be provide one (1) copy of any document placed in the employee's file except the documents listed above. An employee, or a staff representative of the Union with the prior written consent of the employee, may upon request inspect that employee's personnel file during regular business hours by appointment.

The APCO or his/her designee shall keep the official personnel records of all employees within the District.

It is mutually recognized that all performance related material contained within an employee's personnel file may provide material substance and support to proposed and imposed disciplinary actions. Nothing in this MOU shall preclude the use of any material in the employee's personnel file from being used in any proceeding involving the decision of the APCO or his/her designee to take disciplinary action against the employee.

ARTICLE 24. EVALUATION

24.1 Regular Evaluations

Performance evaluations are to be conducted at least annually on the anniversary of hire date in a matter specified in District policy. No evaluation of any employee shall be placed in his/her District personnel file without an opportunity for discussion between the employee and the evaluator(s). The employee may prepare a written response to the evaluation. The employee's response shall be included in the employee's personnel file.

24.2 Special Evaluations

Employees who are not on probation may be placed on a special-two month evaluation schedule at any time when performance problems exist. An employee who has completed the probation period for his/her current job class and who receives a performance evaluation with an overall rating which is less than meets expectations will be placed on a special two-month evaluation schedule. An employee may also be placed on special evaluation through a memo to the employee, with a copy to the APCO or his/her designee, which includes a statement of the performance problems leading to the special evaluation, the date that the performance problems were discussed with the employee, the type of performance improvement that is necessary, and the date that the special evaluation period is to begin.

The special evaluation schedule will continue at two month intervals until the employee attains an overall performance rating of meets expectations, or is terminated; provided, however, that the maximum time period that an employee can remain on special evaluation is six months.

This Section does not limit the District's right to take disciplinary action against an employee at any time, with or without special evaluation.

ARTICLE 25. LAYOFF PROCEDURES

25.1 Policy

The District may lay off an employee because of lack of work, lack of funds, material change in duties or organization, or in the interest of economy or causes outside the District's direct control.

The District shall first meet and discuss with the Union thirty (30) calendar days before any planned reduction in force to collaboratively seek alternatives to layoff.

When a reduction in employees in this representation unit may be required, the District shall contact the Union and shall offer to meet to discuss the possible reduction and to invite suggestions for possible cost saving alternatives to layoff. If alternatives to layoffs are not determined by the time the District determines a layoff should occur, the procedures outlined in Section 25.2 below shall be followed.

25.2 Definitions and Procedures

A. Scope of Application

In the event of a reduction in force, the District shall designate the job classes and number of positions in each job class to be eliminated.

B. Order of Layoffs

Layoffs shall be in the following order:

1. All Contract employees, who have agreements with the District to perform duties regularly carried out by represented employees shall be eliminated first, unless the position covered by the contract employee is under active recruitment.
2. Temporary employees in the affected job class shall be laid off second.
3. Probationary employees shall be laid off after all contract and temporary employees in the affected job class are laid off.
4. Employees with permanent status in the affected job class will be laid off in order of seniority, after any contract (per 25.2.B.1 above), probationary and temporary employees in the affected job class are laid off or released. (No permanent employee in a

job class shall be laid off prior to any temporary or probationary employee in that job class.)

Layoff of employees with permanent status in the job class shall be based on seniority unless it can be demonstrated by the District that an employee possesses job related special skills, training or abilities. The identification of such an employee, if any, shall occur in April of each year, with a copy provided to the Union.

C. Seniority for Purposes of Layoff and Displacement (bumping)

Seniority for purposes of layoff and displacement shall be available only to employees with permanent status in the affected job class at the District.

“Seniority credit” for the purpose of layoff and displacement shall be determined by crediting one seniority point for each pay period of continuous service in a full-time budgeted position. (Part-time employees in budgeted positions receive a pro-rated credit for each pay period of continuous service in a class series—e.g., an employee in a position authorized as half-time would receive one-half a seniority point for each pay period of such service.)

“Class Series” as used herein means those job classifications as grouped into series by job classification as shown on Attachment A. It is understood that the class series shown on Attachment A may be updated from time to time as classification actions occur. The APCO or his/her designee shall maintain an updated listing of job classes and class series.

“Continuous Service” as used herein means service in a budgeted position which is uninterrupted by separation from a budgeted position in the District, and provided that:

(a) No seniority shall accrue for each full pay period in which an employee is on a leave of absence with pay; and

(b) For purposes of seniority only, an employee who is laid off and subsequently reappointed to a budgeted position shall not be considered to have separated. However, no seniority credit shall accrue for an employee during the period of layoff.

D. Displacement (bumping) in Lieu of Layoffs

In the event of a layoff, there shall be no bumping into positions in which the employee does not qualify.

Displacement is the movement in a layoff of an employee to another position on the basis of seniority.

If an employee who is to be laid off had permanent status in an equal or lower class in the same class series, such employee shall be offered a vacant position in the equal or lower class, or, if there is no vacancy, she/he may displace an employee in the equal or lower class having less seniority. Should an employee have the right to displace to more than one class, she/he shall displace first to the highest class in which she/he has rights. Should an employee have the right to displace to two or more equal, lower classes, she/he shall displace first to the most recently occupied equal class.

E. Demotion in Lieu of Layoff

In lieu of layoff, the District may offer an employee a demotion to a vacant position in any class for which the employee is qualified. Employees demoted in lieu of layoff pursuant to this paragraph shall not be eligible for the "Y" rating procedure. An employee with a permanent status in the class from which demotion has occurred and who chooses a demotion in lieu of layoff shall have her/his name placed on a reemployment list for the class from which demoted in accordance with Section 25.4 below.

F. Service in Abolished or Retitled Job Classes

Determination of which current class series, if any, a previous job class (i.e., one which was retitled or abolished) fits into shall be made by the District and said determination shall be provided to affected employees by no later than May 1st of each year. Employees shall be provided an opportunity to submit information supporting a different conclusion. Determination of the appropriate class series for prior job classes may be appealed to the APCO. The finding of the APCO shall be final and not subject to further review.

G. Ranking in Previous Class

A permanent full-time employee may elect to be ranked with employees in any class in the same division with the same or lower salary which the employee has served in permanent status in the District. An employee must notify his/her Supervisor or Manager within five (5) working days after receipt of written notice of layoff of election of this option except if the fifth day following notice of layoff is not a regularly scheduled work day, the employee may give notice on the next work day.

25.3 Notice

When the District designates the job classes and number of positions to be eliminated, the District shall provide the Union a current seniority list for those classes and employees affected.

Written notice of layoff shall be served on the affected employee(s) in person or mailed by the United States Postal Service to the employee's latest address on file with the District. The layoff notice shall be served or mailed at least twenty-one (21) calendar days prior to the expected effective date of separation. The notice shall include:

- (1) The reason for the layoff;
- (2) The expected effective date of the action;
- (3) A reference to the provisions governing layoff re-employment;
and,
- (4) Notice that employment counseling is available.

A copy of the notice shall be given to the Union.

25.4 Re-employment of Permanent Employees

The names of persons in budgeted positions who are laid off or displaced under these procedures and who had permanent status in the class from which laid off or displaced shall be maintained on a re-employment list for the class series from which the employee was laid off for a period of one (1) year, which period shall run from the date of layoff or displacement. When filling any position, the District shall re-employ laid off employees from the re-employment list for the class of the position in inverse order of seniority (i.e. most senior employee being placed highest on the re-employment list). No new employees shall be hired in a class nor shall any employee be promoted in any class until all employees on layoff status in that class have had the opportunity to return to work. However, as an exception to the provisions of this paragraph, the District may make an exception to the order of re-employment when the best interest of the district requires employment of an individual with demonstrated special qualifications, skills or training.

An employee who has been laid off or displaced from a budgeted position under the terms of this Article 25, and who is re-employed within one (1) year from the date of layoff shall have permanent status in the class from which laid off or displaced upon

re-employment, provided the employee attained permanent status in that class prior to layoff.

25.5 Recall of Probationary Employees

The names of persons in budgeted positions who are laid off or displaced under these layoff provisions and who had probationary status, and was laid off or displaced, shall be maintained on a recall list for a period of one year from the date of layoff or displacement. When filling any position, the District shall offer to interview such laid off or displaced employees from the recall list. No new employee shall be hired until all employees on the recall list have had the opportunity to return to work.

A probationary employee who has been laid off or displaced from a budgeted position under the terms of this Article 25, and who is reappointed to a budgeted position within one year from the date of layoff may, at the discretion of the District, receive credit for the period of probationary service completed prior to layoff or displacement, if hired from a recall list. The District shall make a determination with respect to credit for prior service in that class at the time of reappointment of the employee.

25.6 Medical Insurance Coverage for Laid Off Employees

Each employee in a budgeted position who is enrolled in the District Health Plan who is laid off in accordance with the provisions of Article 25 of this agreement shall be issued a District warrant made payable to said employee in an amount equal to the PERS Choice employee only health insurance one month premium at the time of layoff. The provisions on this Article 25.6 shall not apply to an employee who retires coincidental to layoff.

25.7 Appeal Procedure

An employee directly affected by the operation of this policy may, within five (5) working days after a notice of layoff is received, request a meeting with the APCO or his/her designee to review the application of this policy as it affects the employee's status. The employee may be accompanied by a representative of the Union.

The Union, and only the Union, after making an attempt to resolve the matter informally, may within seven (7) days of the date of an alleged violation of this policy file a grievance for final consideration and determination at the level in accordance with the provisions of the grievance procedure in effect between the District and the Union.

ARTICLE 26. GRIEVANCE PROCEDURE

26.1 Grievance Defined

- A. A grievance may only be filed if it relates to:
 - 1. A management interpretation or application of this MOU which adversely affects an employee in this representation unit.
 - 2. Failure by the District to provide a specific condition of employment which is established by the Administrative Code of the District and applies to employees in this representation unit, provided that the enjoyment of such condition is not made subject to the discretion of the District or APCO, and provided further that the condition of employment which is the subject matter of grievance is a matter within the scope of representation as defined in California Government Code Section 3504.
- B. A grievance shall not include the following:
 - 1. Complaints regarding Affirmative Action, Occupational Health and Safety or Worker's Compensation or the applicable procedures for such complaints.
 - 2. The exercise of any District rights as specified in this MOU, so long as the exercise of such rights does not conflict with other provisions of this MOU.
 - 3. Any impasse or dispute in the meet and confer process, any "interest" matters or matters within the scope of representation.
 - 4. Any matter for which a different appeals procedure is provided either by statutes, ordinances, resolutions, or agreements.
 - 5. Disciplinary actions.
 - 6. Decisions of the APCO with respect to classification requests.
- C. Other limitations on arbitrability:
 - 1. Article 9 (Safety) shall not be subject to arbitration (Step 4).
 - 2. Y-rating pursuant to Article 10.7 shall not be subject to arbitration (Step 4).

3. Appeals of layoffs pursuant to Article 25.7 are not subject to arbitration (Step 4).

26.2 No Discrimination

There shall be no restraint, interference, coercion, discrimination or reprisal against any employee for exercising any rights under this grievance procedure.

26.3 General Provisions

A. Grievance Withdrawal

The grievant may withdraw the grievance at any stage of the grievance procedure by giving written notice to the District representative who last took action on the grievance, with a copy to the APCO.

B. Reconsideration

By mutual agreement, the parties may revert the grievance to a prior step for reconsideration. If the grievance is not then settled at that prior level, the grievance shall be processed from the prior step following the time lines and process set forth in this Article 26.

C. Consolidation

The District may consolidate grievances where, in its discretion, the grievances present substantially similar issues.

D. Grievance Resolution

If a grievance is resolved at Step 2 or Step 3 the grievant(s) concerned shall indicate acceptance of the resolution by affixing his/her signature in the appropriate space indicated on the grievance form. If the employee(s) has been represented by the Union at the step of procedure at which a resolution is reached, the Union representative shall also sign in the appropriate space on the grievance form acknowledging that the grievant(s) has accepted the resolution.

26.4 Time Limits

The time limits set forth herein Article 26 are essential to the grievance procedure and shall be strictly observed.

- A. The time limits may be extended by agreement of the parties, however, any such extension must be confirmed in writing.
- B. If, at any step of the grievance procedure, the grievant(s) is dissatisfied with the decision rendered, it shall be the responsibility of the grievant(s) to submit the grievance to the next step within the time limits specified.
- C. Failure to submit the grievance within the specified time limit shall terminate the grievance process and the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.
- D. The grievant(s) has the right to promptly proceed to the next step within the prescribed time limits if the appropriate District representative fails to respond within the time limit specified.

26.5 Grievance Processing Steps

An employee has the right to present his/her own grievance. A group of employees may also present a grievance. The Union may file a grievance on those matters concerning the rights of the Union as an organization as specified in Article 6 of this MOU.

A. Step 1- Informal

The grievant(s) shall first discuss the grievance informally with his/her immediate supervisor, and inform the immediate supervisor that the subject of the discussion is a grievance. The discussion shall be held within ten (10) working days of the action causing the grievance or of the date the action reasonably could have been expected to be known to the grievant(s). In no event shall any grievance be accepted for consideration more than forty-five (45) working days from the date of the action causing the grievance, regardless of the date the action become known to the grievant(s).

Every reasonable effort shall be made to resolve the grievance at this level. The immediate supervisor shall respond verbally to the grievant(s) within five (5) working days of the informal discussion between the grievant and the immediate supervisor.

Any settlement must be in accordance with the provisions of this MOU or, if applicable, the District's Administrative Code.

B. Step 2 – Formal Written Grievance

In the event the grievant(s) believe the grievance has not been resolved satisfactorily at Step 1, the grievant(s) shall submit the grievance in writing to the immediate supervisor within ten (10) working days of receipt of the immediate supervisor's verbal response at Step 1. A copy of the grievance shall also be provided to the APCO. In the event the Union believes a grievance filed with respect to Article 6 has not been satisfactorily resolved at Step 1, the Union shall submit the grievance in writing to the APCO within ten (10) working days of receipt of the APCO's verbal response at Step 1. If the grievance is not filed at Step 2 within the time limits provided herein Article 26 it shall be deemed to not exist.

All formal grievances shall be presented on grievance forms which are available to employees and the Union and which shall contain the following information:

- (1) The name of the grievant(s),
- (2) The specific nature of the grievance and how the grievant(s) was adversely affected,
- (3) The date, time and place of occurrence,
- (4) The specific provisions(s) of this MOU or of the District Administrative Code alleged to have been violated,
- (5) Any decision that was rendered at Step 1,
- (6) The corrective action desired,
- (7) The name of any representative chosen by the employee to represent him/her.

Within ten (10) working days of receipt of the formal grievance, the immediate supervisor (or APCO, with respect to a Union grievance which alleges violation of Article 6) shall respond in writing to the grievant(s) and the grievant(s) representative stating his/her decision, the facts on which the decision is based, on the remedy or corrective action which has been offered, if any

Any grievance settlement at Step 2 shall be subject to the review and confirmation of the APCO before the settlement may become effective, and must be consistent with the provisions of this MOU

or, if appropriate, the District's Administrative Code. Such review and confirmation will occur within ten (10) working days, or the grievant(s) may appeal the grievance to Step 3. Such appeal must be moved to Step 3 within ten (10) working days from the date the APCO's review and confirmation was due.

C. Step 3 – Appeal of Formal Written Grievance to APCO

In the event the grievant(s) believe the grievance has not been resolved satisfactorily, or in the event the Division Manager (or APCO in the case of a Union grievance concerning Article 6) fails to respond within ten (10) working days of receipt of the formal grievance, the grievance may be advanced to Step 3. The grievance must be appealed to Step 3 within ten (10) working days of the receipt of the District's response at Step 2 or within ten (10) working days of the date the District's response became delinquent.

When a grievance is appealed to Step 3, the grievant(s) must specifically set forth the reason(s) that she/he believes the answer provided by the District is not satisfactory.

The APCO shall issue a decision in writing to the grievant(s) and his/her representative, if any, within ten (10) working days of receipt of the appeal to Step 3. Such decision shall be final and binding on the parties unless the grievance is appealed by the Union to Step 4, provided such appeal is received by the APCO within ten (10) working days of the APCO's decision at Step 3, and further provided that the issue is arbitrable in accordance with the provisions of this Article 26.

D. Step 4- Regular Arbitration or Expedited Arbitration (Pilot Program)

Expedited Arbitration (Pilot Program)

The District and the Union (collectively, "the Parties") agree to participate in a pilot program of an expedited arbitration process. The pilot program shall terminate with the expiration date of the MOU, unless extended by mutual agreement.

- A. The grievances/disciplinary appeals to be referred to this process shall be determined by mutual agreement only.

The Parties agree that this process shall be reserved for those cases of limited scope and limited impact.

- B. The arbitrator shall be mutually selected by the Parties. If the Parties cannot agree upon an arbitrator, the Parties shall request the State Mediation and Conciliation Service to furnish a list of seven (7) arbitrators. Any fee for the list will be shared equally by the Parties. The Parties shall alternately strike names until one (1) arbitrator remains.

C. Procedures

The expedited arbitration hearing shall be conducted according to the following procedures, and the arbitrator will be responsible for enforcing them:

1. The agenda of grievances/disciplinary appeals to be heard by the arbitrator shall be determined by mutual agreement of the Parties in advance of the hearing. On the day of the hearing, the arbitrator will hear and decide as many grievances/disciplinary appeals on the agenda as can be reasonably presented in a normal work day.
2. Prior to the hearing, the Parties must mutually agree to a statement of each issue that will be decided by the arbitrator, or the case will not proceed through this process.
3. The grievant/appellant and his/her union steward will attend the hearing, and will not incur any loss of wages for attending.
4. Informal rules of evidence, with Parties stipulating to admission of three (3) exhibits from each side [a single "exhibit" may include or consist of multiple attachments, if the original did, or a series of copies reflecting the exhaustion of a remedy, e.g., a grievance form, plus Step 2 and 3 response letters, and an appeal letter].

5. Each party shall have one official representative, who shall not be an attorney, to give the opening and closing statements, and request a “point of order” if necessary. A “point of order” may be requested on occasion to clarify procedure, or to refresh a witness’ memory. Each party may give short opening and closing statements (not to exceed 5 minutes for each).
6. One witness shall be allowed to testify for each party, limiting the presentation to 15-20 minutes for each side (not including responses to the arbitrator’s questions). No direct or cross-examination will be permitted, but the arbitrator may ask questions at any time.
7. After each side has “rested” (i.e. concluded its presentation), the arbitrator shall be given time for deliberation and a closer reading of the exhibits, for approximately 20 minutes. The arbitrator will then announce a bench decision, with any qualifications or explanations. Each party’s representative may ask up to two (2) short, follow-up questions to understand the arbitrator’s rationale for the decision. Then the room will be promptly cleared in preparation for the next hearing.
8. The bench decision of the arbitrator shall be final and binding, but shall have no precedential value whatsoever. At the request of either party, the arbitrator may provide a one (1) page written decision within 30 days of the hearing.
9. There shall be no stenographic record, transcripts or recording of the hearing.
10. Pre and post hearing briefs are not allowed.
11. The arbitrator shall have no authority to add to, delete, or alter any provisions of the MOU or any supplementary agreements thereto, but shall limit

the decision to the application of the MOU to the facts and circumstances at hand.

12. The arbitrator's fee will be evenly split between the Parties.

Regular Arbitration

Only those unresolved grievances filed and processed in accordance with this Article 26, which meet the definition of a grievance and are not excluded from arbitration pursuant to Section 26.1 of this Article, and which directly concern or involve the interpretation or application of the specific terms and provisions of this MOU may be submitted to arbitration. The Union's appeal of the grievance to Step 4 shall set forth the specific issue or issues which remain unresolved.

Failure to request arbitration within the time limits set forth in Article 26 shall constitute an automatic forfeiture and an irrevocable waiver of the right to process the grievance appeal to arbitration.

Prior to the selection of the arbitrator, the parties shall disclose all pertinent information and will attempt to stipulate to as many facts as possible and agree on the issues(s) to be submitted to the arbitrator.

Within ten (10) working days of receipt of the appeal to Step 4 the parties shall meet to select a mutually acceptable arbitrator. In the event that the parties are unable to agree upon an arbitrator, the parties shall jointly request that the State Conciliation and Mediation Service provide a list of seven (7) qualified arbitrators. Upon receipt of the list of arbitrators the parties shall meet within ten (10) working days to strike names from the list. The parties shall alternately strike names from the list until one name remains, and the person remaining shall serve as the arbitrator. The party having the first choice to strike a name from the list shall be determined by lot.

Within five (5) working days from the date of selection a letter will be sent to the State Conciliation and Mediation Service notifying the service of the arbitrator selected and requesting the arbitrator

be notified of his/her selection and requesting that the arbitrator contact the parties to establish a hearing date.

Once the arbitrator has contacted the parties, the arbitration hearing will be scheduled at the earliest mutually agreeable date, but no later than twenty (20) working days from the earliest date the arbitrator is available.

The fees and expenses of the arbitrator shall be shared equally by the parties. It is understood and agreed, however, that all other expenses, including, but not limited to fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration, shall be the responsibility of the individual party involved.

Proceedings shall be recorded but not transcribed except at the request of either party to the hearing. The party requesting the transcripts shall bear the expense. Upon mutual agreement, the district and the grievant may submit briefs to the arbitrator in lieu of a hearing. At the conclusion of the hearing, both parties shall jointly consider whether the type of case involved lends itself to immediate mediation. If both parties agree to do so, then the arbitrator shall proceed to attempt to settle the particular grievance by the use of mediation. If through mediation the parties can reach a mutually acceptable disposition, then that disposition shall become the decision of the hearing officer. The position of either party to proceed or not to proceed to mediation shall not be disclosed and/or implied by either party to the arbitrator. If the mediation process does not result in a resolution acceptable to both parties within an additional day of conclusion of the hearing, the case shall be determined solely by the arbitrator.

If there is no agreement to proceed through the mediation step, then the case shall be determined solely by the arbitrator. The position of either party to proceed or not to proceed to mediation shall not be disclosed and/or implied by either party to the arbitrator.

Except when briefs are submitted as specified in the preceding, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of

fact and a decision within twenty (20) calendar days of the conclusion of the hearing.

The decision of the arbitrator shall be final and binding on the parties, but the arbitrator shall have not authority to add to, subtract from, alter, amend or modify any provision of this MOU or impose on any party a limitation or obligation not explicitly provided for in this agreement.

The District and Union expressly agree that the terms of this section, shall expire at the expiration date of this MOU and that there is no arbitration of grievances after the expiration date of the MOU until a successor agreement is approved by the District's Board of Directors.

26.6 Representation

A. Meetings and Hearings

The District and grievant(s) or, if the grievant(s) is(are) represented, the grievant's representative, shall be responsible for giving notice of meetings concerning grievances to their respective parties at least 24 hours prior to any such meeting, whenever possible.

If the employee is represented at a meeting to discuss a grievance, the District may also designate a management representative to be present at such meeting.

In no event shall a grievant be represented by more than one District employee at any grievance meeting or hearing.

B. Employee (Grievant)

An employee is entitled to represent him/herself individually in the processing of a grievance. However, only the Union may appeal a grievance to arbitration (Step 4).

Decisions on grievances where employees represent themselves shall not be considered precedent setting or binding with regard to any future grievance filed with respect to the same or similar matters.

The grievant shall be granted a reasonable amount of time off with pay from his/her regularly scheduled duty hours to process a grievance,

provided that the time off will be devoted to the prompt and efficient investigation and processing of the grievance, subject to the following:

1. The scheduling of such time off shall be subject to prior approval of the APCO to assure that the employee's absence does not unduly interfere with priority operations of the District.
2. The grievant shall notify his/her supervisor as soon as possible of any scheduled grievance meeting or hearing and of any change in the time or dates of such meetings or hearing in which she/he must participate.

C. Union Representation

Provisions regarding the involvement of the steward in the preparation and presentation of grievances are specified in Article 6.3. In addition, the following applies regarding Union representation:

1. The grievant may be accompanied by a representative in the discussion of a grievance at Step 1.
2. The grievant has the right to the assistance of the steward in addition to a Union staff representative in the preparation and/or presentation of the grievance at Step 2 or 3.
3. In no event shall the grievant be represented by more than one (1) District employee at any stage in this grievance process.

ARTICLE 27. EMERGENCY AUTHORITY

Nothing contained herein shall be construed to limit the authority of the District to make changes for the purpose of preparing for or meeting an emergency. For the purposes of this article, changes in law or circumstances that significantly reduce currently existing revenue levels, shall be included within the definition of an emergency. Such emergency actions shall not extend beyond the period of the emergency.

Whenever practicable, the District will meet and consult with the Union prior to taking action under the authority of this section. After taking action under the authority of this section, the District, upon request, will meet and confer with the Union over the practical consequences that the emergency action taken had on those terms and conditions of employment that are within the scope of representation.

ARTICLE 28. CONFLICT BETWEEN MOU AND DISTRICT ADMINISTRATIVE CODE

Should any provision of this MOU conflict with a specific provision of the District's Administrative Code which applies directly to employees in this representation unit, the MOU provision will supplant that specific provision of the Administrative Code as it applies directly to employees in this representation unit for the term of this MOU.

Nothing in this Article limits the District's authority or responsibility for the adoption of policies and procedures regarding its operations, including those necessary for the implementation of this MOU.

ARTICLE 29. FULL UNDERSTANDING MODIFICATION WAIVER

It is intended that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Existing benefits and working conditions which are not referenced in the MOU and which are subject to the meet and confer process shall continue without change unless modified subject to the meet and confer process. The District assures the Union that unless changes are warranted by operational necessity it does not intend, nor does it anticipate, during the term of this MOU any change, modification or cancellation of wages, hours, and working conditions which are subject to meet and confer and which are presently in effect or contained in this MOU. Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required, although they may mutually agree otherwise, to negotiate with respect to any subject or matter covered herein or with respect to any other matter within the scope of negotiations, during the term of this MOU.

Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the District Board.

The waiver of any breach, term or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE 30. SEVERABILITY

If any section, subsection, paragraph, clause or phrase of this MOU is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this MOU, it being hereby expressly declared that this document, each section, subsection, paragraph, sentence, clause and phrase thereof, would have been adopted irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrase be declared invalid or unconstitutional.

THE DISTRICT AND SEIU SIGNATURE AGREEMENT

DISTRICT NEGOTIATING TEAM

George E. Sengler 5/15/14

John H. Brown 5/15/14

DATE

UNION NEGOTIATING TEAM

[Signature] 5/15/2014

Mr. Sam 5/15/14

[Signature] 5/15/14

Julia O. Duran 5/15/14

DATE

ATTACHMENT A

The District's Class Series for Purposes of Layoff

The following list job classifications by class series for purposes of defining seniority under the Layoff Procedure:

**AM Technical Assistant
AM Specialist I
AM Specialist II
AM Specialist III**

**AQ Compliance Inspector I
AQ Compliance Inspector II
AQ Compliance Inspector III
Compliance Program Coordinator**

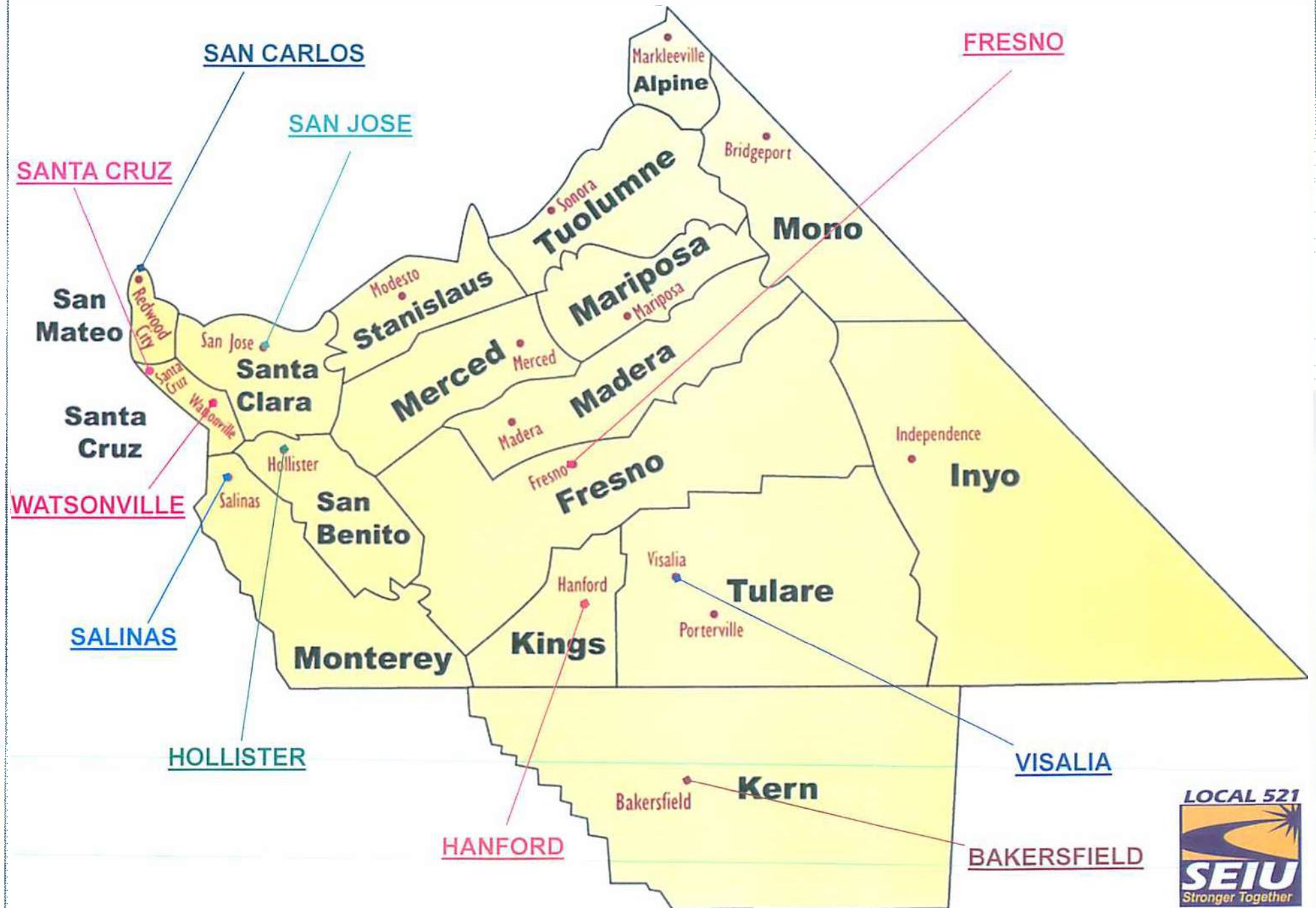
**AQ Engineer I
AQ Engineer II
Source Testing Program Coordinator
AQ Engineer III**

**AQ Planner I
AQ Planner II
AQ Planner III**

**Office Assistant
Administrative Assistant
Senior Administrative Assistant**

**Fiscal Assistant
Senior Fiscal Assistant**

SEIU Local 521 Counties & REGIONAL OFFICES





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SEIU Local 521
Chief Elected Officer
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Matt Nathanson
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