

**MEMORANDUM OF UNDERSTANDING**

**between the**

**SAN BENITO COUNTY WATER DISTRICT**

**and**

**SERVICE EMPLOYEES INTERNATIONAL UNION**

**SEIU, LOCAL 521**

**(Field and Office Employees Representation Unit)**

**Effective**

**July 30, 2014 through June 30, 2017**

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## **PREAMBLE**

It is the intent and purpose of the parties hereto to promote harmonious economic and industrial relationships between the District and its field and office employees and to effect the best possible service at the lowest cost to the customers of the District; and to set forth herein the basic agreement covering rates of pay, hours of work, and conditions of employment to be observed between the parties to this Memorandum of Understanding. The District and Union jointly agree to perform faithfully the obligations imposed by this Memorandum of Understanding, and furthermore, agree that the provisions contained herein shall be recognized as the sole statement of contractual rights and obligations between the two parties.

## **ARTICLE 1 - PARTIES TO THE AGREEMENT**

This Memorandum of Understanding has been executed by a representative of the San Benito County Water District, hereinafter referred to as the District, and by representatives of the SEIU, Local 521, hereinafter referred to as the Union.

The District will print copies of the contract within thirty days of ratification and adoption by the Board. The District shall provide a copy to each SEIU 521 employee and during orientation for new hires. An electronic copy in WORD and PDF shall be provided to the Union.

## **ARTICLE 2 – DISCRIMINATION**

The District, or any agent thereof, agrees that there will be no interference, restraint, or coercion against the Union or any employee because of Union membership or Union activity.

The Union, or any agent thereof, agrees that there will be no intimidation, coercion or interference against the District or any of the District's employees or agents.

There shall be no discrimination by the Union or the District, or any agent of either of them, because of race, color, creed, national origin, sex, handicap, religious or political beliefs, and each party will comply with the Federal Age Discrimination Employment Act of 1967.

## **ARTICLE 3 - OFFICIAL REPRESENTATIVES**

The Union agrees to maintain and provide the District with a current, written list of its duly authorized representatives and officers, which shall constitute the solely recognized group of individuals with whom the District may conduct District/Union business. The Union will also provide the District with written notice of any changes, and only such written notice will be considered as valid notice to the District.

#### **ARTICLE 4 – RECOGNITION**

The Union is hereby acknowledged as the recognized employee organization for the purpose of meeting and conferring in good faith under the provisions of Section 3500 et seq. of the Government Code of the State of California. The job classifications included in the Field and Office Employees Representation Unit are listed in Appendix B.

#### **ARTICLE 5 - DISTRICT RIGHTS**

The rights of the District include all matters of general managerial policy, including but not limited to the exclusive right to set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of District operations; determine the methods, means and personnel by which District operations are to be conducted; contract for or subcontract any work or operation of the District; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. Nothing in this MOU is intended to or shall be construed to restrict or limit in any way the aforesaid District rights or any rights reserved to the District, the Board, the Manager or other authorized agents as specified in applicable provisions of State law including the California Water Code.

#### **ARTICLE 6 - UNION RIGHTS**

The Union agrees that it will not enter onto District property or hold meetings on District property without the prior approval of the District Manager. The Union agrees that access to District properties must be restricted to prevent disruption to District operations and due to safety and security requirements. The Union acknowledges that the District has limited authority regarding access to certain properties required for District operations.

##### **6.1. REPRESENTATION:**

The Union has the exclusive right to represent employees in the representation unit as specified by State law and pursuant to the District's Employer/Employee Relations Resolution. Such approval will not be unreasonably denied. The Union will notify the District and maintain such notice during the term of this Agreement of its elected officers and directors as well as its staff employees.

The Union may select up to two (2) persons, in addition to its staff members to act as official representatives and will notify the District as to those individuals so selected.

Official representatives shall represent the Union in jointly scheduled meetings with the District to address matters within the scope of agreement. Union official representatives who are District employees may utilize time during normal working hours for meeting and conferring with authorized representatives of the District subject to advance scheduling. Such meeting will normally be scheduled during regular working hours.

## **6.2. STEWARD PROGRAM:**

Union stewards shall mean permanent employees within the bargaining unit, who are members of and are designated by the Union to assist employees for the purposes of processing grievances. The Unit may select up to two (2) stewards.

The Union agrees to notify the District in writing of the names and titles of the steward(s) representing employees and shall send a copy of such notice to the District Manager. Changes to the listing of stewards will be provided by the Union as they occur. Only employees named on the current list will be recognized by the District as stewards of the Union.

6.2.A. Stewards shall have the right to serve as a representative for employees in grievance matters in accordance with the grievance and disciplinary appeals provisions of the Agreement. No more than one (1) steward may assist in the investigation or processing of a grievance.

6.2.B. Before performing grievance and disciplinary appeal work, the steward will obtain the permission of his/her supervisor and shall report back to his/her supervisor when the grievance or disciplinary work is completed. Where immediate approval is not granted, the supervisor shall inform the steward of the reasons for the denial and establish an alternate time when the steward can reasonably be expected to be released from his/her work assignment.

6.2.C. After receiving approval of his/her immediate supervisor, a steward shall be allowed reasonable time off during working hours, without loss of time or pay, to investigate and present such grievances and appeals. The immediate supervisor will authorize the steward to leave his/her work only when the supervisor determines that the steward's absence will not interfere with the work of the unit.

6.2.D. When a steward desires to contact an employee, the steward shall first contact the immediate supervisor of that employee, advise of the nature of the business, 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 he/she can reasonably expect to contact the employee.

6.2.E. Stewards shall receive no overtime for time spent performing a function of a steward.

6.2.F. Stewards shall not conduct Union business on District time, except as specifically authorized by this Memorandum of Understanding.

6.2.G. Stewards shall be responsible for the full and prompt performance of their work assignments.

6.2.H. Stewards may represent employees against whom disciplinary action is pending subject to the following restrictions:

6.2.H.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, representatives or the news media, or others who do not have a direct need to know the details of the proposed discipline. The District may refuse to recognize or to deal with a steward who violates this confidentiality.

6.2.H.2. District management may require that disciplinary representation in a particular disciplinary appeal only be accorded through stewards who are also employees of the same department or by a Union staff representative.

**6.3. AGENCY SHOP:**

Each employee in the bargaining unit shall contribute to the cost of administration of this Memorandum of Understanding by the Union and for the representation of workers in the bargaining unit by the Union. As a condition of continued employment, all employees shall pay either Union membership dues or an equivalent service fee. Such payments shall be made by bi-weekly payroll deduction only.

New employees shall be required to execute an authorization for the payroll deduction of Union dues, or of a service fee not to exceed Union dues within thirty (30) days from the date of hire, and shall continue said authorization during the period of employment. If an employee fails to comply with this Agency Shop agreement within the time limits prescribed, the employee will automatically become a Union member and pay Union dues. Said authorization shall be made on a form provided by the Union. The Union shall receive copies of executed authorization forms from the District. Payroll deductions shall commence on the first pay period following receipt of an executed dues authorization form.

Any employee in this unit who is a Union member on the effective date of this Memorandum of Understanding, or at any time subsequent to the effective dates of this MOU, shall continue to have such dues deduction made by the District during the term of this MOU; provided that any employee in the Unit may terminate such Union dues during the last thirty (30) day period prior to the expiration of this contract, and convert to an equivalent service fee as a condition of continued employment the first full pay period following the expiration of the MOU. In addition, for a thirty (30) day period beginning with effective notice to employees of this opt-out period as agreed to by the parties, following the effective date of the agreement, and on a date agreed to by the parties, employees will be allowed to opt out of Union membership by submitting to District payroll a new dues/agency fee deduction form.

Any employee subject to this Section who is a member of a bona fide religion which has historically held conscientious objections to joining or financially supporting an employee organization shall, upon verification of active membership in such a religious body, satisfactory to the Union, be permitted to make a charitable contribution equal to Union dues.

All employee organizations receiving dues and/or agency fees shall indemnify, defend and hold the District, and its officers, employees and agents, harmless against any claims made, against any suit instituted against the District, or its officers, employees and agents, and any resulting liability and damages on account of employee organization dues and/or agency fees. In addition, all such employee organizations shall refund to the District any amounts paid in error upon presentation of supporting documentation.

**6.4. BULLETIN BOARD:**

The District agrees to provide bulletin board space on the District bulletin board for official Union business provided:

6.4.A. All materials must identify the Union as the publisher/provider and be dated.



6.4.B. All materials must be submitted to the Assistant Manager.

6.4.C. Materials approved by Assistant Manager will be posted by the Union and unless special arrangements have been made, those materials will be removed thirty-one (31) days after the posting date.

The Union agrees that the District has the sole right to determine where the District bulletin board is located and the placement of materials on the District bulletin board.

Materials which the Assistant Manager considers objectionable will not be posted, provided, however, the Assistant Manager shall first discuss this denial with the District Manager.

## **6.5 UNION ORIENTATION:**

Within one (1) week of hiring a new employee, the District shall allow a Union Shop Stewart twenty (20) minutes of paid time to meet with the new employee for the purpose of union orientation. This time off must be pre-approved by their supervisor and not cause any operational conflicts. The Union agrees not to make any comments malign the District, its employees or officials.

## **ARTICLE 7 - WORK ENVIRONMENT**

### **7.1. DRUG AND ALCOHOL ABUSE:**

#### **7.1.A. PURPOSE:**

It is the intent of the District that all work environments of District employees be safe, productive, and free of the influence of drugs and alcohol. The District is concerned with the physical safety of all employees and the public they serve, avoiding potential damage or destruction of property and equipment, promoting the mental and physical health of employees, productivity and work quality, minimizing medical insurance costs, and reducing the harm done to employees and their families by drug and alcohol abuse.

#### **7.1.B. PROHIBITED ACTS:**

The use, sale, possession, purchase or transfer of illegal drugs by any District employee on District property, work sites, or while said employee is on District business is expressly prohibited. Being under the influence of drugs, alcohol or other mind-altering substances during work hours where such substance could impair the fitness of any employee to perform his/her work is also prohibited. Commission of any of these actions may subject the employee to disciplinary action, up to and including termination. For the purpose of applying this policy, being "under the influence" of drugs, alcohol or other substances means being impaired in any way from fully and proficiently performing job duties, or having a detectable amount of illicit drugs or alcohol in one's body. Employees who are found to have brought drugs onto District property or work sites and to have provided them to other employees may be terminated without recourse to a rehabilitation program.

Employees are subject to the Personnel Policy Article XV Drug and Alcohol Abuse and the District's Substance Abuse Policy (Department of Transportation).

**7.2. SAFETY:**

The District recognizes its obligation to provide a safe place of employment for its employees. To assist in accomplishing this goal, it is agreed that the District reserves the right to adopt reasonable rules and regulations, which become effective when posted.

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 their immediate supervisor.

The Union agrees to cooperate with the District in conforming to applicable safety rules and regulations and in maintaining the District established safety rules and practices that will eliminate hazards and insure safe working conditions at all times. No employee will be required to perform any work or take any undue risk in the performance of their work under conditions that are dangerous to life or limb or are injurious to their health or which would not meet the requirements of applicable laws of the Federal Government or the State of California.

**7.2.A. SHOES:**

7.2.A.1. Employees in those classifications set forth below in List A, shall be required to wear approved safety shoes as a condition of employment during all hours worked. Appropriate safety shoes or boots shall incorporate the following safety factors depending on the type of work performed:

- a) Non-skid sole
- b) Adequate ankle protection
- c) Puncture protection
- d) Impact/compression protection, and;
- e) Must be in compliance with General Industry Safety Orders.

7.2.A.2. Employees required to wear approved safety shoes, who report to work without their safety shoes, shall not be permitted to work.

7.2.A.3. The District will reimburse employees required to wear safety shoes, upon presentation of receipt, up to \$175.00 each calendar year for safety shoe purchases.

7.2.A.4. All necessary repairs and associated expenses for safety shoes will be the responsibility of the employee.

7.2.A.5. The District shall reimburse up to \$175.00 for each new employee hired and required to wear safety shoes. If the employee resigns within the first six (6) months of employment, the employee shall refund the full amount to the District.

**LIST A: CLASSIFICATIONS REQUIRED TO WEAR SAFETY SHOES**

- Maintenance III
- Maintenance II
- Maintenance I
- Maintenance (Trainee)
- Electronic Technician
- Engineering Technician
- Water Distribution/Maintenance III
- Water Distribution/Maintenance II
- Water Distribution/Maintenance I
- Water Resources Technician II
- Water Resources Technician I

**7.3 UNIFORMS:**

While on field duty, each Field employee will wear District-approved garments. The District approved shirt is mandatory, and if the employee elects to wear a cap, they must wear a District provided cap. Operations and Maintenance employees will receive reimbursement for District-approved garments with logos (i.e., collared shirts, pants, t-shirts, coveralls, jackets) up to \$350 per year. When required during the course of duties, employees shall wear a hard hat for safety purposes in lieu of the uniform cap.

The District will purchase one District-approved garment per year for Office employees.

**7.4. HARASSMENT:**

The District is committed to providing a work environment that is free from intimidation or harassment. In keeping with this commitment, the District maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal, physical and visual harassment of employees by co-workers, supervisors or managers.

Any employee who believes he/she has been harassed by a co-worker, supervisor or manager should promptly report the facts of the incident or incidents and names of the individuals involved to his/her Supervisor and the District Manager or his/her designee. The District Manager or designee will investigate all such claims and take appropriate corrective action. Any individual who is proven to have harassed another employee is subject to appropriate disciplinary action, up to and including termination.

The District and Union shall work together to provide a work environment that is free from intimidation or harassment.

## ARTICLE 8 - WORK SCHEDULES

### 8.1. WORK HOURS:

For employees covered by this agreement, except as specifically designated in writing by the District Manager, the normal workweek shall consist of forty (40) hours worked on five (5) consecutive days and shall begin with Monday as the first day. The normal workday shall be within hours designated in writing by the Manager, provided that:

8.1.A. District Office hours shall be at least 8:00 a.m. to 4:30 p.m., Monday through Friday.

8.1.B. District Field hours shall be at least eight and one half (8-1/2) consecutive hours (including a minimum one-half (1/2) hour lunch period) between 6:30 a.m. and 6:30 p.m.

8.1.C. The District shall maintain an emergency response capability 24 hours per day, seven days per week.

8.1.D. The normal workday may include an a.m. and a p.m. employee rest period of not more than fifteen (15) minutes. Rest period scheduling shall be subject to the needs of the District and subject to supervisor approval. The rest period is paid time and the employees are to remain immediately available to conduct District business should the need arise during the rest period.

Changes in designated working schedules may be requested by employees in writing. Employee's written requests for work schedule changes may be granted on a one (1) day at a time basis at the supervisor's discretion.

### 8.2. OVERTIME:

Overtime shall be any authorized work exceeding eight (8) hours in a work day or forty (40) hours in a seven day period with Monday as the first day of that period. Overtime compensation shall be at one and one half (1-1/2) of the employee's regular hourly rate of pay.

All overtime work must be pre-approved by the employee's supervisor. In exceptional or emergency circumstances where overtime is required and there is no opportunity to obtain such authorization or approval, an employee shall report the overtime hours worked and the purpose to his/her supervisor at the first opportunity.

To be re-evaluated during the negotiation of the successive contract in 2014, the employee may request, and the supervisor will have the discretion to approve or not approve, overtime compensation in the form of accrued compensatory time at one-and-one half (1-1/2). An employee may not accrue more than forty (40) hours compensatory time at any time.

After 40 hours of compensatory time have accumulated, overtime for that employee will be paid. Use of compensatory time off earned shall be granted provided that: 1) its use does not unduly disrupt the operations of the District; and 2) the request is made to the employee's supervisor within the District's standard timelines for the advance approval for use of leave time. Terminating employees shall be

compensated for accrued, unused compensatory time at either the current salary rate, or the average of the prior three years, whichever is higher.

**8.3. OFF DUTY EMPLOYMENT:**

No District employee shall engage in compensated employment outside of the District if such employment is found to interfere or be incompatible with the performance of District duties or to be detrimental to the general interest of the District or to create a conflict of interest with employment by the District.

Employees intending to engage in outside employment must submit a written request to the District Manager, stating the type of employment and the amount of time that will be spent on such employment for the approval by the District Manager. If approved and employment continues, the request must be resubmitted annually by the anniversary date of the initial request for review and approval by the District Manager.

**8.4 CALL BACK:**

When an employee is unexpectedly called back to work after the completion of his/her regular scheduled hours of work in response to a directive from management, that employee shall be credited with a minimum of two (2) hours of work for each call back.

**ARTICLE 9 – TERM**

The term of this Memorandum of Understanding is for the period of the date of Board adoption through June 30, 2017.

**ARTICLE 10 – COMPENSATION**

Employees shall be eligible for a salary increase contingent upon the US Bureau of Reclamation water supply allocation for Central Valley Project agricultural contractors as follows:

<b>USBR South of Delta Ag Allocation as of May 1, 2014, 2015, 2016</b>	<b>First full pay period after adoption of agreement</b>	<b>First full pay period after 7/1/2015</b>	<b>First full pay period after 7/1/2016</b>
65% or greater	3%	3%	3%
35%-64%	2%	2%	2%
11-34%	1%	1%	1%
0-10%	1%	0%	0%

Effective the first full pay period following adoption of the agreement, the salary for Water Programmer III will be increased by two percent (2%) in recognition of additional job duties.

Salary increases for 2014 are reflected in Appendix A, which shall be amended in subsequent years of the MOU following May 1<sup>st</sup>.

**FURLOUGH**

In the event the US Bureau of Reclamation water supply allocation for Central Valley Project agricultural contractors is less than twenty-five percent (25%) for any year of the agreement, FLSA non-exempt employees represented by the bargaining unit shall be required, at District Board discretion, to take an average of monthly furlough days the following fiscal year without pay as follows:

<b>USBR South of Delta Ag Allocation as of May 1, 2014, 2015, 2016</b>	<b>7/1/2014</b>	<b>7/1/2015</b>	<b>7/1/2016</b>
25% or greater	0	0	0
15% to 24%	0	1	1
0-14%	0	2	2

In the event of furloughs, employees may have the option of using accrued vacation or personal leave concurrently with the time off.

**10.1. STEP ADVANCEMENT**

The District currently maintains an eight-step salary schedule which is designed to provide periodic salary increases up to a maximum salary step for each range.

Each of the eight salary steps are assigned a period of time (12 months or 24 months) that an employee must serve prior to being eligible for the next step, as follows:

- Step A 12 months
- Step B 12 months
- Step C 12 months
- Step D 12 months
- Step E 12 months
- Step F 12 months
- Step G 24 months
- Step H (final step)

The advancement through the steps in a salary range is intended to recognize the employee's expected proficiency that comes with experience, training, and progressive improvement in job skills and performance over time within a position, but is not automatic.

In addition to the minimum time requirements in each step, advancement to each salary step is subject to a satisfactory performance rating as documented in a written performance evaluation and review by the supervisor or designated District representative, followed by approval of the District Manager. Employees will receive a written evaluation and review annually. Employees may attach a response to a performance evaluation.

Employees who do not receive a "satisfactory" or better overall rating on the performance evaluation, and are placed on a Performance Improvement Program, will be denied the increase at that time. Denied step increases may be appealed to the District Manager within ten (10) work days of the employee's receipt of the performance evaluation. The appeal may be in writing or in a meeting which will be held within ten (10) work days of the request to the District Manager. The District Manager's decision will be final. An employee who is denied a step increase will be re-evaluated for step advancement for a period of not more than 12 months. The employee will be re-evaluated for step advancement in 120 day intervals.

#### **10.2. ON-CALL COMPENSATION:**

On-Call assignments shall be a designated period of seven (7) days except for those periods lengthened or shortened as provided in Article 10.2.D, for which a lump sum compensation shall be paid in accordance with the following:

10.2.A. On-Call Compensation will be paid to the employee who was actually approved for the on-call period by the Supervisor, regardless of whose name appears on the On-Call list. On-Call Compensation shall be paid as follows:

For the normal seven (7) day assignment: \$210; for an eight (8) day assignment: \$240; for a six (6) day assignment: \$180; for each recognized Holiday as listed in Article 13.2 occurring during the on-call assignment: \$25 per holiday.

10.2.B. Any and all deviations from the On-Call list must be reported to the On-call Supervisor immediately so that the appropriate agencies can be notified.

10.2.C. If the On-Call period falls within two (2) pay periods, payment of on-call compensation shall be made in the first pay period.

10.2.D. If a recognized Holiday falls on a Monday following the On-Call period, the employee will be required to remain On-Call until 7:30 a.m. the following Tuesday.

#### **10.3. PERFORMANCE INCENTIVE PLAN:**

The District maintains a Performance Incentive Plan. The Plan participation is voluntary for District employees. The employee and their respective supervisor will prepare individual annual performance

plans – setting goals, standards and objectives consistent with their job classification and District programs. These plans shall be developed prior to March each year, and will be re-evaluated after a twelve month period. Upon successful completion of the Plan, an incentive pay premium will become effective for a period of twelve months. An employee must satisfactorily continue to meet the goals of the Plan in order to remain eligible during the twelve month period. Employees are encouraged to continue with their individual Performance Incentive Plans. The Plan is subject to Assistant Manager review and approval by the District Manager.

**10.4. EDUCATIONAL AND TECHNICAL CERTIFICATION INCENTIVES:**

In the administration of the Performance Incentive Plan, the District shall recognize the following as incentive compensation for continuing education and certification:

**10.4.A. EDUCATION INCENTIVE:**

Upon proof of certification to the District, employees who have completed Continuing Education Units (CEU) or equivalent education or training outside of their normal District duties during the previous 24 months shall receive a per pay period incentive payment of \$ 20.00 per CEU or equivalent to a maximum of \$ 60.00 per pay period. The Continuing Education Incentive shall be based on increments of greater than or equal to 0.5 CEU; generally 1 hour of training equates to 0.1 CEU. To be eligible for this benefit, employees must obtain CEUs or equivalent education or training in areas directly applicable to the employee's current classification or classification series, as determined and approved in advance in writing by the District. The fees associated with obtaining the CEUs must be paid for by the employee.

CEU units earned beyond what are required for the maximum education incentive pay may be accrued for use toward education incentive pay in subsequent years, provided, however that beginning with credits earned July 1, 2014, only credit that has been received within the past three years may be eligible for the Continuing Education Incentive under this accrual provision.

CEU units or equivalent education and training taken in furtherance of a technical certification will not be subject to the Education Incentive provided under this provision.

**10.4.B. TECHNICAL CERTIFICATION:**

For the technical certifications listed below and not required for the employee's current job classification, the employee shall receive the incentive pay listed below, to a maximum of \$ 125.00 per pay period, effective the first day of the next pay period through the end of the pay period in which the certification expires.

Water Treatment Operator Grade 1	\$25.00
Water Treatment Operator Grade 2	\$35.00
Water Treatment Operator Grade 3	\$45.00
Water Distribution Operator Grade 1	\$25.00
Water Distribution Operator Grade 2	\$35.00
Water Distribution Operator Grade 3	\$45.00
Backflow Prevention Device Tester	\$25.00



Water Conservation Practitioner Level 1	\$25.00
Water Conservation Practitioner Level 2	\$40.00
Qualified Herbicide Pesticide Applicator	\$25.00
Class A Driver's License	\$30.00
With Air Brake Endorsement	
Class A Driver's License	\$25.00
With Hazardous Materials Endorsement	
Cross Connection Certificate	\$45.00

**10.4.C. TRAINING AND EDUCATION ASSISTANCE PROGRAM**

The District will provide financial assistance to regular employees for qualifying training and/or education programs (directly related to current position or career advancement) by advancing the cost of such programs (tuition, books and required materials) up to \$1,000 per program and a maximum of \$1,500 per employee during the contract period. The employee will repay the advance under the terms set forth below. Employees are required to submit receipts within 30 days of the advance or will be required to repay the loan in full immediately.

An employee requesting financial assistance to attend a training and/or education program must provide the District Manager with a written request for the advance (including the amount requested) and an official description of the program with sufficient information to determine whether the program qualifies for District financial assistance. Once approved, the District and the employee will agree on a repayment schedule providing regular payroll deductions from the employee's paycheck beginning with the pay period following the disbursement of funds, and for a period not to exceed 36 months. The District and the employee will then enter into a written agreement specifying the agreed upon terms.

The District will not approve any new financial assistance requests from an employee until any prior training and education assistance monies advanced are repaid in full.

If for any reason the employee separates from District employment prior to repayment of the monies advanced, the entire unpaid amount of the advance will become immediately due and payable to the District upon the effective date of separation.

**10.5. PAYDAY:**

The District designates every other Wednesday as a pay day. In the event the pay day falls on a Holiday, the employees will be paid the prior work day.

**ARTICLE 11 - EMPLOYEE BENEFIT PROGRAMS**

**11.1. MEDICAL BENEFITS:**

The District agrees to provide access to group medical coverage for all permanent employees and their dependents and provide a monthly contribution as described in Article 11, Section 7. The District shall also pay the minimum employer contribution set by CalPERS toward the employees PERS medical insurance premium.

**11.2. DENTAL BENEFITS:**

The District agrees to provide access to group dental coverage for all permanent employees and their dependents including orthodontic benefits for dependent children under nineteen (19) years of age and provide a monthly contribution as described in Article 11, Section 7.

**11.3. VISION BENEFITS:**

The District agrees to provide access to group vision coverage for all permanent employees and their dependents and provide a monthly contribution as described in Article 11, Section 7.

**11.4. SUPPLEMENTAL INSURANCE BENEFITS:**

The District agrees to provide access to supplemental insurance and to provide a monthly contribution as described in Article 11, Section 7.

**11.5. DEFERRED COMPENSATION [IRS Internal Revenue Code Section, 457(b)]:**

11.5.A. The employee may establish a deferred compensation account.

11.5.B. The employee shall have the option of placing compensation and other compensation received from the District into their deferred compensation account consistent with the rules, regulations and limitations pertaining thereto.

**11.6. LIFE INSURANCE:**

The District agrees to provide employer paid group term life insurance for all permanent employees based upon one and one half (1-1/2) times the employee's annual salary to a maximum of \$50,000.

The District will make available additional, individual term life insurance coverage based upon an additional one and one half (1 ½) times the employee's annual salary up to a maximum of \$50,000, subject to insurance company approval. The employee will be responsible for the additional premium cost for the individual policy and resulting taxes.

**11.7 FLEXIBLE SPENDING ACCOUNT**

In addition to the minimum employer contribution to PEMHCA required by CalPERS, the District shall provide a monthly contribution in the amount of \$1235 for each employee to use toward purchase of health and welfare benefits as described in Article 11, Sections 1-5 effective the first full pay period

following the acceptance of the agreement. The District shall increase the current monthly contribution effective the first full pay period following the dates listed below:

July 1, 2015: \$1260

July 1, 2016: \$1285

In order to decline medical coverage through the District and receive alternate benefits, an employee must provide evidence of the alternate group health coverage on an annual basis during open enrollment.

**11.8 RETIREE ADDITIONAL BENEFIT**

For those employees retiring from the District through a regular service retirement from CalPERS within one hundred twenty (120) days of separation from District employment and are 55 years of age or older at the time of retirement, the District shall make the following monthly payments toward retiree health insurance coverage, in addition to the minimum employer contribution required by PEMHCA:

District Years of Service	Age 55	Age 60	Age 65
10-14 years	\$100.00	\$130.00	\$195.00
15-19 years	\$135.00	\$180.00	\$270.00
20+ years	\$175.00	\$232.00	\$348.00

**11.9. CREDIT UNION:**

The District agrees to make available participation in the Santa Clara County Employee's Credit Union at no cost to the District.

**11.10. EMPLOYEE ASSISTANCE PROGRAM:**

The District shall provide and pay the premiums for a work-site based Employee Assistance Program for all permanent employees and their families, with a maximum of six sessions for each incident of treatment. The program shall include provisions for Union referral, formal and informal District referral and employee/family referral.

**11.11 POSTING JOB VACANCIES:**

Notice of all job vacancies shall be posted for no less than ten (10) working days in the break room and shop area, and shall provide a minimum of five (5) administrative work days to allow for receiving internal applications. The filling of posted vacancies shall not take place until the application deadline has passed.

## **ARTICLE 12 – LAYOFFS**

It is the District's rights to relieve its employees from duty because of lack of work or other legitimate reasons.

### **12.1. ORDER:**

Layoffs shall be by class position, and a Layoff List shall be created by the District in the following order:

- A. Probationary personnel in the order as determined by the District.
- B. Permanent personnel in the order of least continuous service (excluding leaves without pay) in the subject classification.

Exceptions to the order as outlined above may be made by the District on the basis of negative performance or special qualifications required by the District.

### **12.2. EMPLOYEE OPTIONS:**

Permanent employees displaced by layoff as outlined above may have the following options:

12.2.A. Accept layoff and (1) be placed on a Re-employment List for three (3) years with status the same as an employee on leave without pay for personal reasons, or (2) be processed out of District service under the same terms and conditions as a resigning employee, except the reason for termination shall be "layoff".

12.2.B. Be placed in an equal paying or lower paying vacant, permanent or temporary position, which the District intends to fill and for which the individual is found to be qualified. Selection from among individuals to be laid off to fill vacant positions shall be the District's hiring procedure, with competition to be limited to personnel scheduled for layoff.

12.2.C. Displace an individual in an equal paying or lower paying classification in the same or closely related occupational position as the present classification, provided (1) the displacing employee has greater total continuous service in the equal paying or lower paying class, plus the class from which the individual is being laid off, than the current incumbent has in the present classification, and (2) the displacing employee is found to possess the necessary skills, license, and expertise to perform the duties of the position. Employees displaced by this option will, for the purpose of this section, be considered laid off and will be provided the options in paragraph A.(1).

### **12.3. RE-EMPLOYMENT LIST:**

Laid off permanent employees who so choose may be placed on a Re-employment List in order of their continuous service in the classification from which they were laid off and will remain on that Re-employment List for a period not to exceed three (3) years. The Re-employment List will be used to fill vacant permanent and temporary positions when the list contains the names of employees found to be qualified for vacancies. Offers of employment will be made in the order of the names on the list, and the District will appoint the first employee on the list who is found to be qualified and for whom the vacancy is equal paying or lower paying than the former position. Refusal to accept such permanent position shall be considered as having voluntarily resigned. Employee's accepting lower level positions shall continue on the Re-employment List until they are appointed to a permanent position at their former level, or three (3) years, whichever occurs first.

### **12.4. NOTICE:**

Employees to be laid off as set forth herein shall be given thirty (30) calendar days written notice prior to said layoff. The Union shall also receive copies of such notice within the thirty (30) day notice period. The Union shall have an opportunity to meet and confer with the District in order to discuss possible changes to the layoffs or to minimize the impact of the layoffs. Those so notified shall notify the District within fifteen (15) calendar days of the option the employee shall pursue under Article 12, Section 12.2, herein.

### **12.5. APPEAL:**

A dispute raised by an employee as to the application or interpretation of this procedure, including exceptions under Article 14, Section 1 or Article 14, Section 2, shall be heard by the Board of Directors.

The notice of appeal shall be in writing and filed with the District within ten (10) days of notification of layoff. The Board of Directors shall hear the appeal and render the majority opinion within ten (10) days of receipt of the written notice of appeal. The majority finding of the Board of Directors shall be final and binding on the District and the employee. The hearing by the Board of Directors of an appeal is in lieu of any other grievance procedure.

## **ARTICLE 13 – LEAVES**

The minimum amount of vacation, sick, personal, or compensatory time to be taken at any one time is one (1) hour. Leave in excess of one (1) hour may be used in half (1/2) hour increments.

### **13.1. VACATION:**

Vacation will begin to accrue on the employee's date of hire at the rate of 6.6667 hours per month for the first five (5) years. To be eligible for vacation leave, an employee must have at least six (6) months of regular employment. Vacation may be accumulated and used in the subsequent calendar years in accordance with the schedule below:

Vacation shall not be accrued in excess of the accumulation limit. If, due to an emergency or District workload, the employee is not able to take earned vacation, such vacation may be accumulated beyond the accumulation limit upon the written approval of the District Manager.

The following schedule is based upon the years of service to the District:

<u>DISTRICT YEARS OF SERVICE</u>	<u>RATE OF ANNUAL DAYS OF EARNED VACATION</u>	<u>EARNED VACATION ACCUMULATION LIMIT</u>
1-5 Years	10 Days	15 Days
6-10 Years	15 Days	30 Days
11-15 Years	17-1/2 Days	40 Days
16-19 Years	20 Days	55 Days
20+ years	22 Days	70 Days

The maximum vacation, which may be scheduled or taken in any calendar year shall be twenty-five (25) days.

**13.1.A. SCHEDULING:**

Employees shall draw up the vacation schedule, subject to approval by the District.

Employees will request vacation of three (3) days or less at least one week in advance, except as approved by the District Manager.

Employees will request vacation of more than three (3) days at least fourteen (14) days in advance, except as approved by the District Manager.

**13.1.B. PAYMENT FOR EARNED/ACCUMULATED VACATION:**

The employees shall be eligible to convert earned or accumulated vacation to extra compensation subject to the following provisions:

**13.1.B.1)** Earned/Accumulated Vacation may be converted to extra compensation on an hour paid, per hour used basis for the first one hundred twenty (120) hours taken by the end of the conversion evaluation period of each calendar year provided at least eighty (80) hours of vacation (excluding furlough days) have been taken by the end of the conversion evaluation period of that calendar year and eight (8) hours of accrued, unused vacation remains in the employee's bank. Vacation cash out checks will be made available by the end of the third week of December to employees who have elected cash out. The conversion evaluation period is defined beginning with Pay Period 26 of the previous calendar year through Pay Period 25 of the current calendar year. The employee has the following options:

- a. May be converted to extra compensation at employees base hourly rate per hour of vacation converted.

- b. Vacation earned/accumulated may be converted to a contribution to deferred compensation at the employees base hourly rate each hour of vacation converted subject to the rules, regulations and limitations governing deferred compensation.
- c. Any combination of a. and b. above with the distribution being based on full one hour increments.

13.1.B.2.) Requests for payment of vacation shall be in writing on forms provided by the District and subject to the approval of the District Manager.

**13.2. PAID HOLIDAYS:**

Each employee of the District is eligible for paid holiday benefits beginning on his/her date of hire.

The District will observe the following holidays:

- 1) New Year's Day
- 2) Martin Luther King's Birthday
- 3) President's Day
- 4) Memorial Day
- 5) Independence Day
- 6) Labor Day
- 7) Columbus Day
- 8) Veteran's Day
- 9) Thanksgiving Day
- 10) Day after Thanksgiving
- 11) ½ Day Christmas Eve
- 12) Christmas Day

**13.3 SICK LEAVE:**

**13.3.A. Accrual of Sick Leave**

Eligible employees will be granted the equivalent of six (6) days (48 hours) of Sick Leave per year for medical reasons as outlined below. Sick Leave will accrue on a monthly basis. To be eligible to earn and use Sick Leave, an employee must have successfully completed six (6) consecutive months of employment.

**13.3.B. Use of Sick Leave**

To use accrued Sick Leave the employee must: 1) notify their supervisor or the District not later than one-half (½) hour (30 minutes) after the employee's scheduled starting time for the day of the absence; and 2) provide documentation in writing from a medical practitioner verifying the Sick leave in accordance with District requirements. Employees will be required to submit a doctor's note for sick leave of three (3) or more consecutive days. The District may require a doctor's note for sick leave taken for less than three (3) days in duration, in the event of an employee's excessive or abuse of leave.

Sick Leave shall only be used for those reasons outlined below:

1. Employee illness or injury;
2. Employee medical or dental appointments;
3. To care of a seriously ill spouse, child or other dependent when such individual requires the employee's attention or presence due to the absence of other family members to discharge this responsibility; or
4. To take spouse, child or other dependent to a medical appointment, when such individual is in need of medical or dental attention that requires the employee's presence due to the absence of other family members to discharge this responsibility.

Upon death, retirement, resignation, or separation by layoff (occurring after 10 District years of service) up to 1040 hours of accrued Sick Leave shall be paid to the employee or the employee's estate at the rate of 50% of the equivalent cash value. All accrued Sick Leave beyond 1040 hours, shall be paid off at the rate of 25% of the cash value.

Upon death, retirement, resignation or separation by layoff with ten (10) or less District years of service, up to 520 hours of accrued Sick Leave shall be paid off at the rate of 25% of the cash value. Accrued Sick Leave beyond 520 hours shall be paid off at the rate of 12.5% of the accrued cash value.

An employee, upon retirement, may convert unused Sick Leave to added service credit under PERS.

All other rights to Sick Leave shall be forfeited upon separation; provided, however, if an employee resigns or is laid off and is reinstated or re-employed within one (1) year from the date of separation, the employee shall have his/her former Sick Leave balance restored to the unpaid balance at the time of separation.

### **13.3.C. Sick Leave Conservation Program**

As an incentive for employee wellness and sick leave conservation, the following Sick Leave conversion provision shall apply:

At the end of the conversion evaluation period of each calendar year, all employees shall be entitled to convert Sick Leave to: 1) extra compensation; 2) contribution to deferred compensation; or 3) vacation time, based on the following criteria and conversion rates. The conversion evaluation period is defined as the beginning of Pay Period 26 of the previous calendar year through Pay Period 25 of the current calendar year.



Should an employee elect to convert Sick Leave to extra compensation, the District will provide a check to the employee by the end of the third week of December.

Sick Leave		Sick Leave Conversion* Based on Balance of Time in Hours		
		105 hours	500 hours	1000 hours
	Hours used			
	<32	12	24	48
	< 16	18	26	72

\*Accumulated Sick Leave at the end of pay period

Sick Leave conversion to extra compensation or contribution to deferred compensation shall be subject to the rules, regulations and limitations governing deferred compensation. Conversion to vacation shall be subject to earned vacation accumulation limits and vacation entitlement limitations as set forth in Article 13, Section 1.

Requests for conversion of conserved Sick Leave shall be in writing on forms provided by the District and subject to the approval of the District Manager.

**13.4. INDUSTRIAL INJURY LEAVE:**

If an employee is unable to perform assigned duties by reason of injury, sickness or disability, as defined in the Workers' Compensation Act of the State of California, the employee shall notify his/her Supervisor within twenty-four (24) hours from the date of discovery of such injury, sickness or disability. In job related cases of injury, sickness or disability, the employee shall receive the regular salary for the first forty (40) hours of such disability; provided, however, that any Workers' Compensation benefits received for this initial forty (40) hour period shall be assigned to the District. At the end of this forty (40) hour period, and if unable to resume work, the employee may elect to receive payment of any accumulated sick and/or vacation leave benefits, until such benefits are exhausted, or to receive Workers' Compensation benefits.

If the employee elects to use sick or vacation leave benefits, all Workers' Compensation benefits received shall be assigned to the District. This election shall be made in writing and submitted to the District prior to the payment of any sick leave or vacation benefits. Prorated credit to the employee's sick leave balance at the employee's current rate of pay shall be made based upon the amount of monies assigned to the District from Workers' Compensation benefits.

The period covered by industrial injury leave shall be considered as service time in determining eligibility for salary increases, sick leave and vacation benefits.

All provisions of the Workers' Compensation Act of the State of California shall be strictly adhered to.

### **13.5. BEREAVEMENT LEAVE:**

In the event of a death in the immediate family (i.e. parent, parent-in-law, step-parent, grandparent, grandchild, child, step-child, sibling, step-sibling, spouse or registered domestic partner), employees shall be entitled to Bereavement Leave of up to three (3) days with pay to attend a funeral. If it is necessary for additional Bereavement Leave due to individual circumstances, upon request and approval from their supervisor, the employee may extend their leave. Any additional time off will be charged against the employees sick or vacation leave, or may be taken without pay.

### **13.6. JURY/WITNESS LEAVE**

An employee subpoenaed as a witness, unless as a party to the action or as an expert witness, or ordered to jury duty, may be entitled to regular pay. Such entitlement to regular pay shall be extended for two (2) weeks only, provided the employee assigns any witness or jury fees for such service to the District. Further, any unemployment benefits received by the employee shall also be assigned to the District.

### **13.7. PERSONAL LEAVE:**

Eligible employees will be granted the equivalent of ten (10) days (80 hours) of Personal Leave per year for use at the employee's discretion.

Personal Leave will accrue on a monthly basis at a rate of 6.6667 hours per month. To be eligible to earn and use Personal Leave, an employee must have successfully completed six (6) consecutive months of employment.

Employees should request approval in writing at least twenty-four (24) hours prior to their intended absence, and to discuss with their supervisor the effect of their absence and arrangements to cover specific assignments.

Five (5) of the ten (10) days (forty (40) out of eighty (80) hours) of annual Personal leave will be subject to notice as follows:

- Employees will request Personal leave of three (3) days or less at least one week in advance, except as approved by the District Manager.
- Employees will request Personal leave of more than three (3) days at least fourteen (14) days in advance, except as approved by the District Manager.

An employee may also use the remaining five (5) days (forty (40) hours) of Personal Leave without advance notice. In this case, the employee must notify their supervisor or the District not later than one-half (½) hour (30 minutes) after the employee's scheduled starting time for the day of the absence. Personal Leave taken without advance notice will be tracked. When using Personal Leave, employees must use a minimum of one whole hour; additional amounts of Personal Leave on the same occasion may be used in half (1/2) hour increments.

At the end of each calendar year (pay period 26) all conserved Personal Leave not used during that year will be converted to Sick Leave and carried over to the following year; however, an employee may retain up to eight (8) hours of Personal Leave for use as Personal Leave in the following calendar year.

## **ARTICLE 14 - LEAVES WITHOUT PAY**

### **14.1. GENERAL PROVISIONS:**

Leaves without pay shall be granted as outlined below, provided however, that:

14.1.A A leave may be revoked upon evidence that the cause for granting it was misrepresented or has ceased to exist.

14.1.B Except as expressly required by law, the period covered by a leave without pay shall not be considered as service time in determining eligibility for vacation, sick leave, health and welfare benefits (including the flexible spending amount) salary increases, or other circumstances where service is a factor;

14.1.C Leave without pay granted to a probationary employee shall not be credited toward completion of the employee's probationary period; and

14.1.D All accrued vacation must be used or, at the option of the District, the monetary value of all accrued vacation must be paid to an employee before a leave of absence without pay can be granted, excluding leave granted for maternity or medical purposes.

14.1.E An employee's anniversary date for the purpose of performance evaluation and accompanying step increases shall be adjusted if an employee takes leave without pay of more than eighty (80) hours in one year.

### **14.2. MATERNITY LEAVE:**

Pregnant employees with one (1) year or more service shall be granted an unpaid maternity leave not to exceed six (6) months. Upon presentation of a written release to return to work, an employee on maternity leave shall be reinstated to her former or comparable level position.

### **14.3. UNPAID PERSONAL LEAVE:**

A leave without pay may be granted by the District, not to exceed six (6) months, for urgent or substantial personal reasons, including illness not covered by sick leave. Such leave may be extended by the District for a further period not to exceed three (3) months in exceptional circumstances with approval of the Board of Directors.

### **14.4. COMPULSORY LEAVE:**

The District may require an employee who is incapacitated for work due to illness, injury, or pregnancy to take such leave of absence as will be necessary until the employee can perform the required duties of the position.

In addition, the District may require an employee who has been charged in a court of law with a commission of a felony or misdemeanor involving moral turpitude, provided the crime as charged is related to the employee's employment status, to take a leave of absence without pay, pending termination by way of a plea or verdict at the trial court level as to the guilt or innocence of the employee. With a determination of innocence, the employee may be reinstated to the regularly assigned position, with return of all benefits, including salary, that were due for the period of such leave; subject, however, to appropriate disciplinary action, if warranted. Any disciplinary action shall be imposed effective as of

the commencement date of such leave. If the determination is one of guilt, the District may take appropriate disciplinary action, effective as of the commencement date of such leave.

**14.5. INSURANCE BENEFITS DURING UNPAID LEAVE:**

Except as noted herein, an employee is not eligible for District contributions toward Flexible Spending Account during leaves without pay. An employee may make such payments to the District for desired insurance coverage under the conditions as may be established by the insurance carrier.

For employees on maternity leave (inclusive of Pregnancy Disability Leave) without pay will be eligible for full District contributions toward health and welfare insurance (including District contributions to CalPERS for PEMHCA participation and the Flexible Spending Account) and basic life insurance for the first six (6) month period of such leave. After expiration of a six (6) month period of such leave, an employee may make such payments to the District for desired insurance coverage. In the event of an industrial injury or illness, the District will pay the PEMHCA and Flexible Spending Account contributions in accordance with State Workers' Compensation requirements.

**ARTICLE 15 – RETIREMENT**

The District shall continue to participate in the Public Employees Retirement System (PERS) with benefits as currently provided or with such changes and benefits as may be mandated by law or as agreed to by the District.

Tier One: For eligible employees hired before January 1, 2013, or hired after January 1, 2013 who meet the definition of "classic members" as defined by CalPERS, the District shall continue to participate in its Miscellaneous Plan Agreement with CalPERS to provide the 2.5% at 55 retirement option. The employee member contribution will be paid by the District but shall not be treated as reportable compensation.

Tier Two: For eligible employees who meet the definition of "new member" as set forth in Government Code Section 7522.02(f) the District will provide the CalPERS two percent (2%) at age sixty-two (62) formula retirement plan in accordance with Government Code Section 7522.20, based on the average of three years of employment, in accordance with Government Code Section 7522.32. New members shall be subject to the provisions of the Public Employee Pension Reform Act (PEPRA), including provisions governing reportable compensation.

Employees in Tier Two Pension shall pay the rate prescribed by CalPERS for employee contributions to the Public Employees' Retirement System in accordance with the rules and regulations governing such employee contributions, which consists of one-half of the total normal costs for pension. New members shall be subject to the provisions of the PEPRA, including provisions governing reportable compensation.

**ARTICLE 16 - SAVING CLAUSE**

If any provision of this M.O.U. shall be found to be invalid by a court of competent jurisdiction, or otherwise prohibited by law, the remainder of the policy shall not be affected.

## **ARTICLE 17 – GRIEVANCE PROCEDURES**

### **17.1. CREATION AND AUTHORITY:**

When requested, the Union shall have full authority to represent any member and settle any grievance.

### **17.2. CONDITION:**

The District agrees to meet with the grievant, or when requested, the Union or its designated representative, on any grievance in accordance with the provisions of this Section. Such meetings, including travel time, when held during normal scheduled working hours shall be without loss of pay.

### **17.3. PURPOSE:**

17.3.A. This grievance procedure shall be used to process and resolve grievances arising under this Memorandum of Understanding.

17.3.B. The purposes of this procedure are:

17.3.B.1. to resolve grievances informally at the lowest possible level; and

17.3.B.2. to provide an orderly procedure for reviewing and resolving grievances promptly.

### **17.4. DEFINITIONS:**

17.4.A. A grievance is a good faith complaint of one or a group of employees, or a dispute between the District and the Union involving the interpretation, application, or enforcement of the express terms of this Memorandum of Understanding. No matter shall be considered as a grievance under this Article unless it is presented within thirty (30) calendar days of when a reasonable person knew or should have known of the events on which the grievance was based.

17.4.B. As used in this procedure, the term "supervisor" means the individual who assigns, reviews and directs the work of an employee.

17.4.C. As used in this procedure, the term "party" means an employee, the Union, the District or their authorized representatives.

17.4.D. The employee retains all rights conferred by Section 3500 et seq., of the Government Code.

### **17.5. STEP ONE:**

An employee who believes he/she has cause for grievance may contact his/her supervisor with his/her representative or may contact his/her supervisor alone. The supervisor shall provide a verbal response and the reasons therefore within seven (7) working days after hearing the employee's grievance. If, after discussions with the supervisor, the employee does not feel the grievance has been properly

adjusted, the grievance shall be reduced to writing within seven (7) working days after receipt of the supervisor's verbal response.

**17.6. STEP TWO:**

If the grievance is not resolved under Step One of this procedure, and the employee elects to process a written grievance, the grievance statement shall include the following:

17.6.A. A statement of the grievance clearly indicating the question raised by the grievance and the article(s) and section(s) of this Memorandum of Understanding which the grievant claims has/have been violated.

17.6.B. The remedy or correction requested of the District.

17.6.C. The grievance form shall be signed by the grieving employee, the date and time of presentation affixed thereto, and signed as received by the employee's supervisor or designated representative.

The grieving employee's immediate supervisor or designated representative will give his/her answer to the grievance in writing within seven (7) working days from the time he/she received the grievance in writing. The supervisor's answer shall include the following:

17.6.C.1. a complete statement of the District's position and the facts upon which it is based.

17.6.C.2. the remedy or correction which has been offered, if any.

**17.7. STEP THREE:**

If a satisfactory settlement is not reached with the immediate supervisor or designated representative, the grievant may submit the matter in writing within seven (7) working days to the District Manager, or designated representative, who shall have full power and authority to settle the grievance. The employee and the designated representative of the District shall meet to hear the grievance appealed to the third step. Grievances appealed to the third step of the grievance procedure shall be in writing stating the grievant's position and shall be heard within seven (7) working days after the appeal to the third step of the grievance procedure. A written answer shall be made within seven (7) working days after the hearing, stating the District's position. District Manager's decision shall be final.

**17.8. STEP FOUR:**

If the grievance is not resolved after Step Three, the grievance may be submitted to mediation. A request for mediation may be presented in writing to the District Manager within seven (7) calendar days from the date a decision was rendered at Step Three. As soon as practicable thereafter, or as otherwise agreed to by the parties, a mediator shall hear the grievance. A request for mediation will automatically suspend the normal processing of a grievance until the mediation process is completed.

The mediation process shall be optional, and any opinion expressed by the mediator shall be informal and shall be considered advisory.

The Mediator shall, in cases where the matter is not resolved, be authorized to submit an advisory opinion to the parties. This opinion shall be confidential.

#### **ARTICLE 18 - PAST PRACTICE**

The parties agree that they shall adhere to established labor relations' principles in handling past practices. Specifically, in handling past practice issues within the scope of representation:

18.1. Past practices superseded by revised MOU language are null and void;

18.2. Past practices which contradict existing MOU language or written District rules shall be null and void upon reasonable notice from the District that the language will be followed;

18.3. Past practices within scope which are not covered by MOU language or District rules shall remain in effect through the term of the MOU unless the District has given notice and met and conferred.

#### **ARTICLE 19 - PEACEFUL PERFORMANCE OF DISTRICT SERVICES**

Participation by any employee in a strike or work stoppage is unlawful and shall subject the employee to disciplinary action, up to and including discharge.

No employee organization, its representatives or members, shall engage in, cause, instigate, encourage or condone a strike or work stoppage of any kind.

If a recognized employee organization, its representatives or members engage in, cause, instigate, encourage or condone a strike or a work stoppage of any kind, in addition to any other lawful remedies, the employee relations officer may suspend or revoke the recognition granted to such employee organization, and prohibit the use of bulletin boards, prohibit the use of District facilities and prohibit access to work or duty stations by such organization.

As used in this section "strike or work stoppage" means the concerted failure to report for duty, the willful absence from one's position, the stoppage or slow-down of work or the abstinence in whole or part from the full, faithful performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions of compensation or the rights, privileges or obligations of employment.

Any decisions of the employee relations officer made under this paragraph may be appealed to the Board of Directors by filing a written Notice of Appeal with the employee relations officer accompanied by a complete statement, setting forth all of the grounds upon which the appeal is based. Such Notice of Appeal must be filed within seven (7) business days after the affected employee organization first

receives notice of the decision upon which its complaint is based, or its complaint will be considered untimely and not subject to impasse procedures or any other appeal.

**ARTICLE 20 – LABOR MANAGEMENT COMMITTEE**

The Union and District agree to establish a Labor Management Committee. This Committee shall meet at least quarterly. The Committee shall be charged with discussing and resolving issues of mutual interest; excluding compensation matters covered by this agreement.

**ARTICLE 21 – MISCELLANEOUS PROVISIONS**

**21.1. NOTICES:**

All notices, requests, demands and other communications under this agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given or on the third day after mailing if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage prepaid and properly addressed as follows:

To District at:  
30 Mansfield Road  
Hollister, CA 95023

To Union at:  
334 Monterey Street  
Salinas, CA 93901

Any party may change its address for purposes of this paragraph by giving the other party written notice of their new address in the manner set forth above. Notice or demand shall be deemed delivered when sent registered or certified mail or, hand delivered, or directed to the respective parties at the address below at signature.

**21.2. ENTIRE AGREEMENT:**

This agreement contains the entire understanding of the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements, representations, and understandings among the parties, whether oral or in writing, relating to the subject matter hereof.

**21.3. NO WAIVER:**

No waiver of a breach, failure of any condition, or any right or remedy shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy will be deemed a waiver of any other breach, failure, right, or remedy whether or not similar, nor will any waiver constitute a continuing waiver unless the writing so specifies.



**21.4. SEVERABILITY:**

If any provision of this agreement is found to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

**21.5. CAPTIONS:**

The article and paragraph headings contained in this agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this agreement.

**21.6. SUCCESSORS AND ASSIGNS:**

This agreement shall be binding upon and inure to the benefit of each of the parties, their successors, and assigns.

**21.7. AMENDMENTS:**

This agreement may be amended or modified only by written instrument executed and delivered by all of the parties hereto.

**21.8. GOVERNING LAW:**

All issues regarding the subject matter of this agreement shall be construed and enforced in accordance with the laws of the State of California, excluding any choice of law principles that would cause the law of any other jurisdiction to be applied.

**21.9. THIRD PARTY RIGHTS:**

The parties do not intend to confer any benefit hereunder on any person or entity other than the parties hereto.

**21.10. TIME OF THE ESSENCE:**

Time is of the essence of this agreement and each of all of its provisions.

**21.11. FURTHER ASSURANCES:**

The parties agree to do such further acts and execute and deliver such additional agreements and documents as the other may reasonably request to consummate, evidence or confirm the agreements contained herein and in the manner contemplated hereby.

**21.12 INDEMNIFICATION OF THE DISTRICT:**

The San Benito County Water District (SBCWD) hereby recognizes SEIU, Local 521 as the exclusive representative of the Field and Office Employees. As more fully set forth in the August 28, 2007 side letter between the parties, the SEIU agrees to defend, indemnify and hold harmless the District against any claims, causes of action, unfair practice charge, liability or costs that may occur as a result of the District's recognition of Local 521 as the exclusive representative. (See Appendix C).

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be executed by affixing their signatures below.

SAN BENITO COUNTY WATER DISTRICT

SEIU, LOCAL 521

John Jobus 7-30-14  
[Signature] 8/4/14

[Signature] 7-9-14

David Diener 7-9-14

Mary Klemm 7/9/2014

**APPENDIX A**  
**Field and Office Employees**  
**Salary Schedule Effective First Full Pay Period after:**  
**Board Adoption of Agreement**

<b>Class</b>	<b>Step A</b> 12 Months	<b>Step B</b> 12 Months	<b>Step C</b> 12 Months	<b>Step D</b> 12 Months	<b>Step E</b> 12 Months	<b>Step F</b> 12 Months	<b>Step G</b> 24 Months	<b>Step H</b>
Electronic Technician	4801	4993	5193	5401	5617	5841	6075	6318
Engineer **	4707	4895	5091	5295	5507	5727	5956	6194
Engineering Technician	4098	4262	4432	4610	4794	4986	5185	5392
Maintenance Trainee	2651	2757	2867	2982	3101	3225	3354	3488
Maintenance I	3158	3285	3415	3552	3695	3842	3996	4156
Maintenance II	3519	3660	3807	3959	4117	4282	4454	4631
Maintenance III	3939	4096	4260	4431	4608	4792	4984	5183
Office Specialist I	2869	2984	3103	3227	3356	3491	3630	3776
Office Specialist II	3106	3230	3359	3493	3633	3779	3930	4087
Office Specialist III	3429	3566	3709	3857	4011	4172	4339	4512
Water Distribution Maint. I	3712	3860	4014	4175	4342	4516	4696	4884
Water Distribution Maint. II	4098	4262	4432	4610	4794	4986	5185	5392
Water Distribution Maint. III	4524	4705	4894	5089	5293	5505	5725	5954
Water Programmer I	3106	3230	3359	3493	3633	3779	3930	4087
Water Programmer II	3429	3566	3709	3857	4011	4172	4339	4512
Water Programmer III	3712	3860	4014	4175	4342	4516	4696	4884
Water Resources Technician I	3789	3941	4099	4262	4431	4610	4799	4988
Water Resources Technician II	4159	4325	4498	4678	4865	5060	5262	5472

\*\*\* This position is "Professional" and is able to choose Union affiliation or Professional status

**APPENDIX B**

**FIELD AND OFFICE EMPLOYEES UNIT**

**Positions**

Electronic Technician  
Engineer ('professional'/employee choice)  
Engineering Technician  
Water Resources Technician I  
Water Resources Technician II  
Maintenance Trainee  
Maintenance I  
Maintenance II  
Maintenance III  
Water Distribution/Maintenance I  
Water Distribution/Maintenance II  
Water Distribution/Maintenance III  
Office Specialist I  
Office Specialist II  
Office Specialist III  
Water Programmer I  
Water Programmer II  
Water Programmer III

Appendix "C"

**AGREEMENT BETWEEN THE SAN BENITO COUNTY WATER DISTRICT AND THE  
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 521**

This Agreement is made by and between the San Benito County Water District (hereafter collectively "District") and Service Employees International Union, Local 521") on the 28<sup>th</sup> day of August, 2007.

Whereas, in 2007 the District certified SEIU, Local 817 as the exclusively-recognized employee organization for employees working in classifications in the General Employees Unit;

Whereas, in June 2006, the International Executive Board of the SEIU decided to charter four new public sector local unions, and proposed that existing public sector local unions be merged into the new locals, based upon geographical relationships;

Whereas, on January 2, 2007, the SEIU President issued charters to the newly-established Local Unions, including Local 521, and directed Local 817 to be reorganized into Local 521;

Whereas, in March 2007, Local 521 informed the District that it was assuming the duties and responsibilities of Local 521 and that Local 817 no longer existed;

Whereas, in March 2007, the District notified Local 521 and Local 817 in writing, that its employee-employer relations resolution did not contain any provisions regarding amendment of certification because of merger, amalgamation, affiliation or transfer of jurisdiction, and that Local 521 and Local 817 should petition the Public Employee Relations Board (PERB) under PERB regulations 61300 and following to amend the Local 817 certification to Local 521;

Whereas, a letter dated June 7, 2007, from legal counsel for SEIU, Local 521, does not respond to the District's suggestion to petition PERB, but instead describes how members of Local 817 received due process as to the reorganization to Local 521 through a secret ballot election and that the election results were: 31,408 in favor of reorganization, 4,256 votes against, and 88 challenged ballots;

Whereas, the June 7, 2007 letter from legal counsel for SEIU, Local 521 states that there is a substantial continuity of representation between Local 817 and Local 521 because, under the SEIU reorganization plan, Local 521 will assume all of the rights and duties of the collective bargaining agreement between Local 817 and the District, and will maintain the current representational structure, stewards, Chief Stewards, and paid professional Union representatives;

Whereas, legal counsel for Local 521 has affirmed in the letter, dated June 7, 2007,

that all District employees previously represented by Local 817 will be represented by Local 521, will be granted full membership in Local 521, and will carry with them their prior union membership status without the need of any initiation fee or preliminary requirements;

Whereas, Local 521's legal counsel provides authorities in the June 7, 2007 letter in support of its claim that Local 817 members received full due process as to the reorganization and that Local 521 has preserved substantial continuity of representation with Local 817, in the view of the District the authorities that Local 521's legal counsel cites do not specifically address a situation similar to the SEIU reorganization plan; and

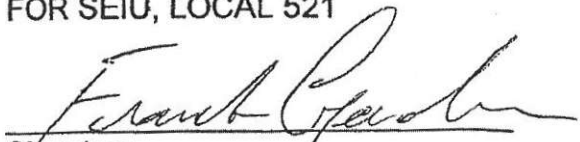
Whereas, the District's interests are: a) ensuring that its employees all rights due them under the law; and b) fully complying with its responsibilities under the Meyers-Milias-Brown Act (MMBA), Gov. Code §§ 3500 and following.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. All of the recitals above are material provisions of this Agreement.
2. Local 521 hereby agrees to defend, indemnify and hold harmless the District and its officers and employees from any unfair practice charge, claim, loss, legal action, liability or cause of action or administrative proceeding, liability, damages, costs, expenses, actual attorneys' fees, consultant fees, expert fees, losses or liability, in law or in equity, suit, or judgment of any nature whatsoever (hereafter "claim") arising out of the City's exclusive recognition of Local 521 as the successor employee organization to Local 817, as described in this Agreement. Local 521's indemnity and liability obligation is more fully set forth as follows:
  - A. Local 521 shall defend, indemnify and hold harmless the District and its District Board of Directors, officers, agents, attorneys, and employees from any claim, arising out of the operation of the District's amendment of the Local certification of exclusive employee organization to Local 521. Upon commencement of any such claim, Local 521 shall have the right to decide and determine whether any claim made or brought against the District or the District-affiliated persons identified above shall or shall not be compromised, resisted, defended, tried or appealed. Any such decision on the part of Local 521 shall not diminish Local 521's defense and indemnification obligations under this Agreement.
  - B. The District, immediately upon receipt of notice of such claim against it or any of its District-affiliated parties shall inform Local 521 of such claim, provide Local 521 with all information, documents, and assistance necessary for Local 521's defense or settlement of such claim and fully cooperate with Local 521 in providing all necessary employee witnesses and assistance. The cost of any such assistance or legal defense shall be paid by Local 521.

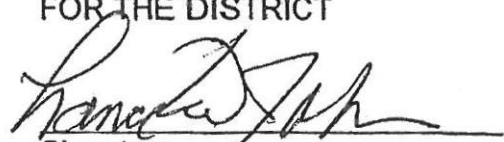
- C. Local 521, upon its compromise or settlement of such claim shall timely and directly pay the parties to such claim all such sums due under such settlement or compromise, without any contribution from the District. Local 521, upon final order and judgment of a Court of competent jurisdiction awarding damages or costs, shall pay all sums owing under such order and judgment, without any contribution from the District.
- 3. The Service Employees International Union (SEIU) will indemnify and hold harmless the San Benito County Water District (SBCWD) against any claim or causes, unfair labor practice charge, liability or costs brought against the SBCWD relating to the recognition of SEIU 521 as referenced in the Memorandum of Understanding between the parties.
- 4. In exchange for its promises under this Agreement to defend and indemnify the District, the District agrees to the request of Local 521 to be recognized as the successor to Local 817 with respect to the employees presently represented by Local, effective as of the date this Agreement is fully executed.
- 5. This Agreement constitutes a single integrated contract expressing the entire Agreement of the parties hereto. This Agreement shall supersede, and render null and void, any and all prior agreements between the parties hereto, concerning the subject matter thereof.
- 6. The Agreement is deemed to have been drafted jointly by the parties. Any uncertainty or ambiguity shall not be construed for or against any party based upon attribution of drafting to any party.
- 7. This Agreement shall be admissible in counterparts. All executed copies are duplicate originals and are equally admissible in evidence in any proceedings to enforce this Agreement or to defend against any other proceedings related to the terms of this Agreement.
- 8. The undersigned represent, warrant, and affirm that each has authority to bind its principals to this Agreement.

FOR SEIU, LOCAL 521

  
 \_\_\_\_\_  
 Signature

FRANK GORDEN, INTERNAL ORGANIZER  
 Print Name and Title

FOR THE DISTRICT

  
 \_\_\_\_\_  
 Signature

Lance W. Johnson, Manager  
 Print Name and Title