

RESOLUTION NO. 20-71

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL ADOPTING AND APPROVING THE TERMS AND PROVISIONS OF THE 2020-2022 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SOUTH EL MONTE AND THE SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION

WHEREAS, the City of South El Monte ("City") is a general law city and a public agency as defined in Government Code Section 3501(c); and

WHEREAS, the previous two-year Memorandum of Understanding between the City and SEMEMTA had an effective date of July 1, 2018 and expires on June 30, 2020; and

WHEREAS, representatives of the City and representatives of SEMEMTA met and conferred in good faith on a successor agreement on the terms and conditions of employment, within the meaning of Government Code Section 3505, by and between the City and members of SEMEMTA for fiscal years 2020-2022; and

WHEREAS, on June 22, 2020, members of SEMEMTA ratified the 2018-2020 Memorandum of Understanding prepared to memorialize the deal points agreed upon by the parties.

NOW, THEREFORE, BE IT RESOLVED that by the adoption of the Resolution, the City of South El Monte hereby approves:

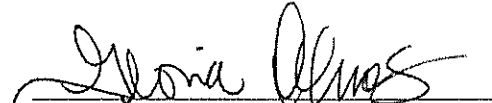
SECTION 1. That pursuant to Government Code Section 3505.1, as the terms of the "Memorandum of Understanding Between the City of South El Monte and the South El Monte Executive Management Team Association, July 1, 2020 – June 30, 2022 ("2020-2022 Memorandum of Understanding"), attached hereto and incorporated herein as Exhibit B, were reached by representatives of the City and SEMEMTA, representatives of the City and SEMEMTA have jointly prepared the 2020-2022 Memorandum of Understanding, which agreement is not binding until approved by the City Council of the City.

SECTION 2. That the 2020-2022 Memorandum of Understanding, which has been approved by SEMEMTA, is hereby adopted by the City of South El Monte for fiscal years 2020-2022.


SECTION 3. That all provisions contained in the 2020-2022 Memorandum of Understanding attached hereto shall, where any conflict exists, supersede all previously adopted memoranda of understanding between SEMEMTA and the City.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 29th day of June, 2020.


Gloria Olmos, Mayor


ATTEST:


Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-71, was passed and approved by the City Council of the City of South El Monte at an adjourned regular meeting of said Council held on the 29th day of June, 2020 and that said Resolution was adopted by the following vote:

AYES: Acosta, Angel, Delgado, Retamoza, (Mayor) Olmos
NOES: None
ABSENT: None
ABSTAIN: None


Donna G. Schwartz, City Clerk

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SOUTH EL MONTE AND THE
SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION, FOR THE
PERIOD BEGINNING JULY 1, 2020
AND ENDING JUNE 30, 2022**



PREAMBLE

Pursuant to Chapter 10 (Section 3500 et seq.) of Division 4, Title 1 of the Government Code and the Employer-Employee Relations Resolution of the City of South El Monte, the matters within the scope of representation that are set forth in this Memorandum of Understanding have been discussed by the representatives of the City of South El Monte ("City") and representatives of the South El Monte Executive Management Team Association ("Association" or "SEMEMTA").

The matters within the scope of representation that are set forth in this Memorandum of Understanding have been discussed in good faith and agreed to by the City and the Association as constituting an equitable adjustment to present wages, hours and other terms and conditions of employment as evidenced by the signatures of the duly authorized representatives of the City and the Association.

The provisions of the City's Personnel Rules and/or Municipal Code shall be modified as follows for those employees subject to this Memorandum of Understanding.

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ARTICLE I

DEFINITION OF TERMS

The following terms, whenever used in this Memorandum of Understanding, shall have the meaning set forth in this article.

SECTION 1 – ADVANCE WRITTEN NOTICE: A request for leave submitted on a recognized leave form of the City and approved by City Manager.

SECTION 2 – ANNIVERSARY DATE: The date of full-time employment, reinstatement, or promotion that is observed on an annual basis for salary increases and benefits.

SECTION 3 – BUSINESS DAY: Business day shall mean days that are neither weekends nor holidays. Work day shall mean the same as business day.

SECTION 4 - CLASSIFICATION: A position or positions assigned to the same job title.

SECTION 5 - DAY: Day shall mean calendar days except, where specified in this agreement.

SECTION 6 – EMPLOYEE: An individual compensated through the City payroll and appointed to one of the classifications represented by the Association as set forth in Attachment A.

SECTION 7 – LEAVE: An authorized absence from work.

SECTION 8 – PAY RATE: The regular monthly or hourly rate of pay that is assigned to an employee.

SECTION 9 - POSITION: The duties and responsibilities assigned to an employee within a classification.

SECTION 10 – SENIORITY: The total time employed as a full-time employee of the City.

SECTION 11 – SERVICE: Employment with the City.

ARTICLE II

COMPENSATION

SECTION 1 – PREPARATION OF COMPENSATION PLAN: The City Manager shall be responsible for the maintenance of the City's compensation plan. The compensation schedule shall contain a list of the job classifications represented by the Association and their pay rates and is attached hereto as Attachment A, B, C, and D.

SECTION 2 – ESTABLISHMENT OF PAY RATES: Upon appointment, an individual shall be assigned to a step on the salary range established for the classification. An employee will be eligible for an increase at first satisfactory evaluation (at or following six months of service for new-hire probationary employees hire prior to adoption of this agreement). Effective adoption of this agreement an employee will be eligible for an increase at or following 12 months of service.

SECTION 3 – WAGES: General salary increases are as follows:

- A. Effective July 1, 2020, salary ranges will be increased by 1.5%.
- B. Effective July 1, 2021, salary ranges will be increased by 1.5%.

SECTION 4 – LONGEVITY PAY: Except as provided below, bargaining unit employees shall not be eligible for longevity pay.

- A. An employee appointed to a full-time position in this bargaining unit before October 11, 2011 and who is not receiving longevity pay on the date October 11, 2011 shall be eligible to receive longevity pay calculated from date of hire, as long as said employee is performing at a satisfactory, or above, level as follows:
 - 1. Completion of the fifteenth (15) years of continuous service as a full-time employee: two and one-half percent (2½ %) of base salary.
 - 2. Completion of the twenty (20) years of continuous service as a full-time employee: two and one-half percent (2½ %) of base salary.
- B. Employees who, on October 11, 2011, are receiving longevity pay at a rate greater than three percent (3%) of base salary shall continue to receive such percentage of longevity pay, but shall not be eligible for any increase in such longevity pay percentage.
- C. Employees who, on October 11, 2011, are receiving longevity pay at a rate of three percent (3%) of base salary shall continue to receive such percentage of longevity pay and shall be eligible for an increase in such longevity pay percentage under subsection A.2., upon meeting its requirements. Thus, the maximum rate of total longevity pay for employees covered by this subsection C is five and one-half percent (5½ %).

D. An individual appointed to a full-time position in this bargaining unit after October 11, 2011 will not be eligible for longevity pay.

SECTION 5 – BILINGUAL SKILL PAY: Effective 11/1/10, the parties agree to suspend bilingual skill pay indefinitely.

SECTION 6 – PERFORMANCE REVIEW: Employees shall be evaluated at least once on an annual basis. Increases in pay shall be determined by the City Manager based on performance.

SECTION 7 – OVERTIME COMPENSATION: The City shall provide non-exempt employees with compensation or compensatory time off in lieu of compensation for overtime worked subject to the provisions of the Fair Labor Standards Act. Department Heads and mid-managers are exempt employees.

SECTION 8 – MEAL ALLOWANCE: An employee recalled to work due to an emergency shall be reimbursed for the actual cost of meal purchased by the employee up to a maximum of \$10.00. The employee must submit a receipt for the meal in order to be entitled to reimbursement.

SECTION 9 – ALLOWANCE FOR MILEAGE: The City shall reimburse employees for use of their personal vehicles for official City business to match the amount allowed by the regulations of the Internal Revenue Service.

SECTION 10 – CALL BACK: Non-exempt employees who are called back to work after completion of their regular shift shall receive three (3) hours of compensation or compensatory time off in lieu of compensation, or time actually worked, whichever is greater. This section shall not apply to any employee designated as an exempt employee under the Fair Labor Standards Act. Department Heads and mid-managers are exempt employees.

ARTICLE III

LEAVE PROCEDURES

SECTION 1 – HOLIDAY:

- A. Employees shall be provided with the following holidays with pay subject to the provisions of the South El Monte Municipal Code.
1. New Year's Day
 2. Martin Luther King Day
 3. Presidents' Day
 4. Cesar Chavez Day
 5. Memorial Day
 6. Independence Day
 7. Labor Day
 8. Columbus Day

9. Veterans' Day
10. Thanksgiving Day
11. Christmas Day
12. Employee's Birthday

Cesar Chavez Day will be earned as a Floating Holiday. With prior approval, employees may use the Cesar Chavez Floating Holiday on the day of the Cesar Chavez birthday celebration or any other scheduled workday. The holiday must be used in the calendar year granted. It may not be accrued or carried over to a subsequent year and is not subject to cash payment at termination.

SECTION 2 – ADMINISTRATIVE LEAVE: Management and Mid-Management employees shall not be entitled to any compensation for overtime work pursuant to Article II, Section 7. Management and Mid-Management employees will be granted forty (40) hours of administrative leave per fiscal year, which shall be credited to the employee on the date of their appointment prorated on an hourly basis for that fiscal year and on the first day of the fiscal year. Additional administrative leave may be granted at the discretion of the City Manager.

Administrative leave must be used within the fiscal year it is credited or it is forfeited. Upon termination of employment, Management and Mid-Management employees shall not be entitled to any compensation for accrued administrative leave.

Employees must provide the City Manager with a written request for the use of administrative leave utilizing the established leave request form in advance of the date and/or time which the employee intends to use the administrative leave.

SECTION 3 – MILITARY LEAVE: The City shall grant military leave to employees as required by law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken.

SECTION 4 – TIME OFF FOR VOTING: The City shall provide employees with time off for voting subject to the following conditions:

- A. When an employee claims not to have sufficient time outside of working hours to vote at a statewide election, the employee may, without loss of pay, with the approval of the City Manager, take off enough working hours which when added to the voting hours available outside of working hours will enable the employee to vote. The City Manager may not authorize an employee to take off more than two (2) hours from work. Time off for voting shall be at the beginning or end of a work period, whichever time allows the employee the most time for voting and the least time off from work.
- B. If the employee knows or has reason to believe that time off for voting will be necessary on election day, the employee shall notify the City Manager of that fact at least two (2) work days in advance.

SECTION 5 – BEREAVEMENT LEAVE: The City Manager shall grant an employee bereavement leave for a period not exceeding three (3) work days for deaths within the employee's immediate family. Immediate family is defined as any relative by blood or marriage who is a member of the employee's household, and the employee's spouse, registered domestic partner, parents or step-parents; spouse's parents or step-parents; brothers, step-brothers or half-brothers; sisters, step-sisters or half sisters; employee's grandparents; spouse's grandparents; grandchildren; aunts and uncles, in-laws, regardless of the residence of the deceased.

SECTION 6 – TIME OFF FOR JURY DUTY: The City shall grant up to twenty-two (22) business days off to an employee required to serve on jury duty with compensation at the employee's existing pay rate. The employee will remit to the City any money paid to him/her by the court for jury service.

SECTION 7 – FAILURE TO RETURN FROM LEAVE: An employee who fails to return to work within three working days after the conclusion of a leave provided for under this Article or a vacation leave without an authorized extension of such leave shall be considered to have voluntarily resigned from City service.

ARTICLE IV

INSURANCE AND RETIREMENT BENEFITS

SECTION 1 – HEALTH BENEFITS: The City, on a conditional basis, will make available to all members subject to the Memorandum of Understanding, enrollment in the Public Employees' Retirement System Medical and Hospital Care Plan (PERS Plan).

The Association on behalf of itself and all members of the designated appropriate bargaining unit acknowledges, understands and agrees the City is conditioning its willingness to allow employees to enroll in the PERS Plan on the basis the City retains the sole and absolute discretion to withdraw from the PERS Plan without meeting and conferring with the Association and without the agreement of the Association should anything occur that would modify the premium contribution format described in Section 2 of this Article. Should the City withdraw from the PERS Plan for the aforesaid reason, the City shall meet and confer with the Association related to a replacement Medical and Hospital Care Plan, pursuant to Article VII, Section 1 of this Memorandum of Understanding.

The City will meet and confer with the Association prior to determining whether to increase the City's contributions towards the PERS Reserve Fund charges or the PERS Administrative charges upon receiving written notification of any increases in those charges.

The City shall continue to make available to employees and their eligible dependents the City's current group dental and vision care plans or other plans of equal benefit.

The City will meet and confer with the Association to review alternative affordable dental and vision plans when the Association presents such plans to the City.

If an employee does not enroll in any medical insurance plan offered by the City, the employee shall receive a deferred compensation payment of \$100 per month. To be eligible for the \$100 deferred compensation payment, the employee must submit to the City written proof of duplicate medical insurance coverage or compelling evidence that enrollment in a medical insurance plan would violate the employee's religious beliefs.

SECTION 2 – CITY CONTRIBUTIONS: The City for the term of this agreement and only while the City participates in the PERS Plan, shall make the following contributions towards the cost of medical insurance for active employees:

For all active employees who join the PERS Plan, the City will contribute directly to PERS an amount to be applied to the applicable PERS Plan monthly premium. The City's contribution will be equal to the monthly premium rate established by Kaiser Permanente for its Family Health Plan.

SECTION 3 – VISION AND DENTAL INSURANCE: The City shall pay the monthly vision and dental insurance premiums for employees and their eligible dependents. The City and the Association agree to develop a labor-management committee to evaluate efficiency of current vision, dental and other City paid benefits. Committee will determine if any recommendations for future changes are to be communicated to the City Manager.

SECTION 4 – NOTIFICATION OF INCREASE IN PREMIUM: The City shall advise the Association in writing of increases in medical insurance premiums and the effective date of the increase within two weeks of receiving notice of the increase.

SECTION 5 – LIFE INSURANCE, ACCIDENTAL DEATH INSURANCE AND LONG-TERM DISABILITY INSURANCE: The City shall pay one hundred percent (100%) of the cost for each employee in providing term life insurance equal to the employee's annual salary, accidental death and dismemberment insurance equal to the employee's annual salary, and long-term disability insurance equal to two-thirds (2/3) of the employee's monthly salary. The long-term disability insurance plan shall provide a thirty (30) day benefit exclusion and benefit payments until the age of seventy (70) years.

SECTION 6 – PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS): The City shall include eligible employees in the Public Employees' Retirement System 2.5% at 55 plan, with the highest year and social security offset or the Public Employees' Retirement System 2% at 60 plan, depending upon the employee's hire date. Effective upon completion of the process required by CalPERS, the City will not pay a portion of an employee's contribution to the applicable Public Employees' Retirement System plan.

SECTION 7 – EMPLOYEE REQUIRED PERS CONTRIBUTION:

- A. For those employees covered by the 2.5% at 55 PERS retirement plan, the City will no longer pay a portion of the required PERS employee contribution. The employee will be required to pay the maximum individual employee contribution of eight percent (8%).
- B. For those employees covered by the 2% at 60 PERS retirement plan, the City will no longer pay a portion of the required PERS employee contribution. The employee will be required to pay the maximum individual employee contribution of seven percent (7%).
- C. For employees covered by the 2% at 62 PERS retirement formula, effective January 1, 2013 Public Employees' pension Reform Act of 2013 (PEPRA) prohibited employers from paying any portion of a "new member's" member contribution rate, the employee will be required to pay the maximum individual employee contribution of six-point two five percent (6.25%).

SECTION 8 – RETIREE HEALTH BENEFITS:

- A. The City will contribute \$1.00 per month towards PERS Medical and Hospital Care plan premium costs of annuitants. This amount will be upwardly adjusted by five percent (5%) of the amount of the City's direct contribution for active employees on an annual basis, or such other amount required by statute, until the contributions are equal.
- B. Employees fifty (50) years of age and older, who retire under PERS, shall be eligible to continue in the City's group medical, dental and vision care plans until age sixty-five (65), contingent upon the health provider's acceptance of the individual. The full cost of any insurance selected by the retiree shall be borne by the retiree. As long as the retiree is enrolled in an insurance plan his/her eligible dependents may also enroll in the insurance plans as provided above. The retiree and/or dependent shall pay the cost of dependent insurance benefits. During the term of this agreement and while the City participates in the PERS medical and hospital care program, the City will contribute an amount toward the PERS medical premium for eligible annuitants that is equal to the amount required under the Public Employees Medical and Hospital Care Act and the City's resolution electing coverage under that act.

SECTION 9 – EMPLOYER MATCHING RETIREMENT PROGRAM: The City and the Association agree, in accordance with applicable Internal Revenue Service rules and regulations to identify and establish a program for individual Retirement Savings Account (RSA) that will allow pre-tax contributions. The purpose of the RSA is to provide for a supplemental retirement program. Upon identification and establishment

of an RSA, eligible employees will have the option of contributing pre-tax earnings into the RSA. To be eligible for the RSA, individual employees must have fifteen (15) years or more of City service. The City will match up to fifty dollars (\$50) per month of the individual employees' contributions to the RSA.

ARTICLE V

CITY RIGHTS

SECTION 1 – EXCLUSIVE RIGHTS AND AUTHORITY:

- A. In order to ensure that the City is able to carry out its functions and responsibilities imposed by law, the City has and will retain the exclusive right to manage and direct the performance of City services and the work force performing such services. Therefore, the following matters shall not be subject to the meet and confer process but shall be within the exclusive authority of the City. The consideration of the merits, necessity, or organization of any service activity conducted by the City shall include but not be limited to the City's right to:
1. Determine issues of public policy;
 2. Determine and change the facilities, methods, means, and personnel by which the City operations are to be conducted;
 3. Expand or diminish services;
 4. Determine and change the number of locations, relocations, and types of operations and the processes and materials to be employed in carrying out all City functions, including but not limited to the right to subcontract any work or operation;
 5. Determine the size and composition of the work force to assign work to employees in accordance with requirements as determined by the City, and to establish and change work assignments;
 6. Determine job classifications;
 7. Appoint, transfer, promote, demote and lay off employees for lack of work or other appropriate reasons;
 8. Initiate disciplinary action for legitimate reasons;
 9. Determine policies, procedures and standards for selection, training and promotion of employees;
 10. Establish employee performance standards, including but not limited to quality and quantity standards;

11. Maintain the efficiency of governmental operations;
 12. Exercise complete control and discretion over the organization and the technology of performing its work and services;
 13. Establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services;
 14. Determine any and all necessary actions to carry out its missions in emergencies.
- B. The exclusive decision-making authority of the City Council and City Manager on matters involving City rights and authority shall not be in any way, directly or indirectly, subject to the grievance procedure. The employee may grieve the impact of the exercise of exclusive City rights and authority that directly relate to matters within the scope of representation.

ARTICLE VI

OTHER MATTERS WITHIN THE SCOPE OF REPRESENTATION

SECTION 1 – MEET AND CONFER IN GOOD FAITH - SCOPE: The City shall not be required to meet and confer in good faith on any subject preempted by federal or state law. The City shall meet and confer in good faith with the Association on all matters related to salaries, fringe benefits and other terms and conditions of employment. The City agrees to provide the Association or its designee, at no cost, each draft City budget as it is presented for review, the adopted City budget, and the annual audit. All other documents shall be made available pursuant to the provisions of the Public Records Act.

SECTION 2 – PURCHASE OF HOME OFFICE EQUIPMENT: The City will advance up to \$3,000 to an employee for the purpose of acquiring a personal computer and appurtenant types of office equipment which the employee will utilize at his/her home to facilitate work production and create the potential for employee trip reduction through telecommunications. More than one such advance may be made, but at no time may the combined total of all outstanding advances exceed \$3,000. Funds will be advanced only after the need for the equipment is verified and approved by the City Manager and a reimbursement agreement, approved by the City Attorney, is executed.

SECTION 3 – REIMBURSEMENT FOR DAMAGE TO EMPLOYEE VEHICLES: The City agrees to reimburse employees in an amount not to exceed two hundred dollars (\$200) per fiscal year for damages due to or caused by vandalism to the employee's vehicle while on City property during the employee's working hours. In order to be eligible for reimbursement, the employee must submit an incident report and a Sheriff's report to the City Manager and Risk Manager regarding the incident causing the damage to the vehicle.

SECTION 4 – EDUCATION REIMBURSEMENT: The City shall reimburse employees for the cost of all books and tuition incurred by the employee while attending an accredited educational institution for those courses directly related to the employee’s scope of employment or which are contained within an approved curriculum of study that is directly related to the employee’s scope of employment. Tuition shall be reimbursed at rates up to the tuition rates of the California State University system. The City shall reimburse the employee for all classes the employee completes with a grade of “C” or better provided the employee provides a list of classes prior to each quarter or semester; provides verification of the cost for tuition and books; and provides a certification of completion.

SECTION 5 – AFTER-SCHOOL PROGRAM ALLOWANCE: The City shall reserve a combined total of ten (10) slots at 50% of the regular rate in the After-School Program and Extended Day Care programs for use by employees for the care of their children or children for whom they are the primary caretaker. Should more than ten (10) of said children seek enrollment at any one time, priority for enrollment shall be based on the employee’s seniority.

An employee enrolling any child other than their natural, adopted or stepchild, shall be required to execute an “Affidavit of Eligibility” declaring under penalty of perjury that the child being enrolled is a member of their household and that they provide fifty percent (50%) or more of the child’s financial support and maintenance.

SECTION 6 – DEFERRED COMPENSATION: The City shall contribute, beginning July 1, 2015 three hundred dollars (\$300.00) per month to the deferred compensation plan on behalf of each bargaining unit employee.

ARTICLE VII

MODIFICATION AND DURATION

SECTION 1 – MODIFICATION AND WAIVER: The City and the Association agree that this Memorandum of Understanding contains all of the covenants, stipulations, and agreements of the parties. The City and the Association understand that provisions contained in the Municipal Code, personnel rules, or administrative orders that directly relate to matters within the scope of representation are a part of this Memorandum of Understanding. Except as otherwise provided, the City and the Association agree, understand and reserve the right, upon mutual agreement, to meet and confer in good faith with respect to any subject or matter covered in this Memorandum of Understanding.

SECTION 2 – SEVERABILITY: Notwithstanding any other provisions of this Memorandum of Understanding, in the event that any article, section, or subsection of this Memorandum of Understanding shall be declared invalid by any court or by any state or federal law or regulation, or should a decision by any court or any state or federal law or regulation diminish the benefits provided by this Memorandum of Understanding, or impose additional obligations on the City, the City and the Association shall meet and confer on the affected article, section, or subsection. In such

event, all other articles, sections or subsections of this Memorandum of Understanding not affected shall continue in full force and effect.

SECTION 3 – DURATION:

- A. This Memorandum of Understanding shall be binding on the City and the Association when approved and adopted by the City Council.

Except as otherwise provided herein, this Memorandum of Understanding shall be in full force and in effect from July 1, 2020 and shall remain in full force and in effect until and including June 30, 2022.

SECTION 4 – EMPLOYEE RIGHTS: The City and the Association recognize the right of employees to form, join and participate in lawful activities of employee organizations, and the equal alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall exert pressure upon nor discriminate against an employee in the exercise of these alternative rights.

- A. Employees in positions contained within the Association’s bargaining unit shall not be able to represent themselves for the purposes of negotiating revisions to the terms of this agreement.
- B. No employee will be interfered with, intimidated, coerced, restrained or discriminated against by any employee organization because of the exercise of his/her employment rights.
- C. Employees may discuss matters regarding items contained in this Memorandum of Understanding or conditions of employment with the officers of the Association for clarification or assistance during off-duty hours or during lunch hours and breaks or upon authorization according to administrative orders.

ARTICLE VIII

PERSONNEL RULES/MUNICIPAL CODE MODIFICATIONS

The provisions of the City’s Personnel Rules and/or Municipal Code shall be modified as follows for those employees subject to this Memorandum of Understanding.

SECTION 1 – WORKING HOURS: The City shall continue a 4/40-work week for all employees. City Hall’s general office hours are Monday through Thursday, 7:00 a.m. to 5:30 p.m.

SECTION 2 – VACATION LEAVE:

- A. Employees may accrue up to a maximum of 320 hours of unused vacation leave. Upon reaching 320 hours, employees shall earn no additional vacation accrual until their balance of accrued but unused vacation leave is reduced below 320 hours. Upon a written

administrative determination of the City Manager that work demands prevent an employee from using vacation time on a timely basis, the City Manager may permit an employee to exceed the maximum accrual cap by a specified amount and for a specified time, not to exceed 40 hours of vacation time and six (6) months. The City Manager may also require a plan designed to bring the employee back into compliance with vacation accrual limitations. It is the responsibility of each employee to arrange for timely use or, to the extent available, cash conversion of vacation time well in advance of reaching the maximum accrual limit.

- B. All employees who have accrued in excess of 250 hours will be paid for the excess vacation on a dollar for-dollar basis on June 30, or the last day in which City Hall is open prior to June 30 if June 30 is on a day in which City Hall is closed. Cash out request forms are due to the Finance Department no later than two business days prior to when checks will be issued to eligible City employees. Additionally, employees can be paid for the excess vacation on December 31, or the last day in which City

Hall is open prior to December 31 if December 31 falls on a day in which City Hall is closed. Cash out request forms are due to the Finance Department no later than two business days prior to when checks will be issued to eligible City employees:

1. Employee must have taken minimum hours of vacation in the fiscal year so that at the end of the fiscal year the vacation accrual does not exceed 320 hours.
 2. The pay out must otherwise comply with reasonable rules and procedures established by the City Manager.
- C. If vacation time is not taken due to administration determination, the employee shall be entitled to the stated cash-out provisions, as determined by the City Manager in his or her sole discretion.
- D. Employees appointed to a full-time position in this bargaining unit after October 11, 2011 shall be credited with vacation leave at the following rates based upon the length of service:
1. Eight (8) hours per month or ninety-six (96) hours per year (accrued at the rate of 3.692 for 26 pay periods annually) during the first five (5) years of service;
 2. Ten (10) hours per month or one hundred twenty (120) hours per year (accrued at the rate of 4.615 for 26 pay periods annually) during the sixth (6th) through the tenth (10th) years of service;
 3. Twelve (12) hours per month or one hundred forty-four (144) hours per year (accrued at the rate of 5.538 for 26 pay periods annually) during the eleventh (11th) through fifteenth (15th) years of service;

4. Thirteen (13) hours per month or one hundred fifty-six (156) hours per year (accrued at the rate of 6.000 for 26 pay periods annually) during the sixteenth (16th) through the twentieth (20) years of service; and
- E. Employees appointed to a full-time position in this bargaining unit before October 11, 2011 shall be credited with vacation leave at the following rates based upon the length of service:
1. With the leave accruals in Article VIII, Section 2, Item D, numbers 1 – 4; and
 2. Sixteen (16) hours and forty (40) minutes (16.66 hours) per month or one hundred ninety-nine point two (199.92) hours per year (accrued at the rate of 7.689_hours bi-weekly for 24 of the 26 pay periods annually) after the twenty-first year and following years of service.
- F. City Hall will be closed on all workdays between the Christmas Eve and New Year Holidays. Except as otherwise determined by the City Manager, City services will be suspended and employees will not be scheduled to work during this time. Employees shall be allowed to utilize available vacation hours or compensatory leave to remain in paid status while City services are suspended during this time.

SECTION 3 – HOLIDAY LEAVE: If a holiday falls on a day on which an employee is not scheduled to work, that employee shall be entitled to a floating holiday which must be utilized within one year of its accrual.

SECTION 4 – SICK LEAVE: Bargaining unit members will be subject to the following sick leave policy:

- A. Employees may accrue an unlimited number of sick leave hours.
- B. All employees who have accrued in excess of 330 hours may opt to be paid for up to 80 hours on a dollar for-dollar basis one-time per fiscal year during the payroll that includes March 31st;
- C. Employees leaving City employment shall be eligible to receive monetary compensation for any unused sick leave. The value of the accrued sick leave shall be calculated based on the employee's anniversary date as illustrated in the chart below:

| Years of Service | Value of Sick Leave |
|--------------------|---------------------|
| 5 – 10 years | 10% |
| 11 – 15 years | 15% |
| 16 years and above | 20% |

ARTICLE IX

TERMINATION PROCEDURES

SECTION 1 – RESIGNATION: An employee absent from work without authorization for three consecutive working days or more, shall be considered to have voluntarily resigned from City service.

ARTICLE X

DISCIPLINARY PROCEDURES

SECTION 1 – LEGITIMATE REASON FOR DISCIPLINARY ACTION: Disciplinary action consists of the discharge, involuntary demotion or suspension of an employee. An employee shall not be discharged, involuntarily demoted or suspended except for a legitimate reason. A legitimate reason for disciplinary action may include, but shall not be limited to the following:

1. Violation of administrative orders;
2. Failure to properly perform assigned duties;
3. Theft of City property;
4. Insubordination;
5. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
6. Unauthorized absence from employment;
7. Tardiness;
8. Failure to maintain satisfactory working relationships with other employees or the public;
9. Reporting for work, or being at work under the influence of or in possession of alcohol, or non-prescribed controlled substances;
10. Improper use of City funds;
11. Unauthorized use of City property;
12. Failure to properly care for City property;
13. Misstatement of a material fact;
14. Failure to maintain any employment qualification;
15. Willful falsification of any City report or record;

16. Failure to comply with health and safety standards;
17. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the City.

SECTION 2 – DISCIPLINING AUTHORITY: The City Manager or his/her designee shall have the responsibility to institute a disciplinary action, to schedule and conduct any pre-disciplinary conference and to impose disciplinary action.

SECTION 3 – NOTICE OF DISCIPLINE: Except as otherwise provided in the Personnel Rules, prior to imposing any disciplinary action, the Disciplining Authority shall notify the employee in writing of the nature of the proposed disciplinary action and its proposed effective date; the reason for the proposed disciplinary action; any specific charges against the employee; of the employee's right to receive copies of the written documents and materials upon which the proposed disciplinary action is based; and of the employee's right to respond to the charge, either orally or in writing.

SECTION 4 – REPRESENTATION: If an employee requests or is required to meet with the City Manager, a Department Head or any supervisor, and such meeting involves the possible imposition of disciplinary action against the employee, the employee, upon request, shall be entitled to have one representative present at such meeting.

SECTION 5 – EMERGENCY SUSPENSION: When the Disciplining Authority determines that an employee's conduct threatens or has caused injury to persons or property, or presents the possibility for additional misconduct, the Disciplining Authority may impose a suspension against the employee, effective immediately, until a pre-disciplinary conference is conducted pursuant to the Personnel Rules.

Within three (3) business days of such emergency suspension, the Disciplining Authority shall issue the employee the written notification specified in Section 3, above. The Disciplining Authority, unless otherwise requested by the employee, shall conduct a pre-disciplinary conference in not less than ten (10) days after the effective date of the emergency suspension.

The imposition of an emergency suspension against an employee does not preclude the Disciplining Authority from imposing a more severe disciplinary action against the employee receiving an emergency suspension.

The appeal rights of an employee receiving an emergency suspension shall be governed by the procedures provided for in the Personnel Rules for employees disciplined in a non-emergency situation.

SECTION 6 – REPRIMAND: A reprimand is a written criticism of an employee's work performance or conduct and may be issued to an employee in accordance with administrative orders. While a reprimand in and of itself is not a disciplinary action, it may form the basis of subsequent disciplinary action.

SECTION 7 – ORAL WARNING: An oral warning is a private conference between an employee and a Supervisor or Disciplining Authority at which the employee is informed of a deficiency in performance or conduct and advised as to corrective action which should be taken to improve the performance or conduct in question. A confidential written record shall be made of such a conference and a copy given to the employee. The written record, while not disciplinary action, may form the basis of subsequent disciplinary action.

ARTICLE XI **APPEAL PROCEDURES**

SECTION 1 – REQUEST FOR DISCIPLINARY HEARING: Employees shall have the right to appeal the imposition of disciplinary action. When an employee requests a disciplinary hearing, the request shall be in writing, signed by the employee, and presented to the City Manager within ten (10) days after the effective date of the imposition of the disciplinary action. Any such request shall be addressed to the City Manager and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary hearings shall be conducted in private unless the employee requests, in writing, a public hearing. If the employee fails to request a disciplinary hearing within the prescribed time, the employee shall have waived the right to a hearing and all rights to further appeal of the disciplinary action.

SECTION 2 – SCHEDULING OF DISCIPLINARY HEARING: The City Manager shall schedule any disciplinary hearing within a reasonable time after the filing of the employee's request, considering the availability of a hearing officer and the convenience of the employee and the witnesses.

SECTION 3 – HEARING OFFICER: The City Manager may be the Hearing Officer for a disciplinary hearing or the City Manager may designate any third party as the Hearing Officer.

SECTION 4 – REPRESENTATION AT DISCIPLINARY HEARING: At the disciplinary hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to produce and confront witnesses, and to present any relevant oral or documentary evidence.

SECTION 5 – BURDEN OF PROOF AND EVIDENCE: The City shall have the burden of proof at the disciplinary hearing and shall be required to prove the charges against the employee by a preponderance of the evidence. The disciplinary hearing shall not be conducted according to the technical rules of evidence.

SECTION 6 – CONDUCT OF DISCIPLINARY HEARING: The conduct of the disciplinary hearing shall be under the control of the Hearing Officer with due regard for the rights and privileges of the parties. The City Manager shall promulgate reasonable rules and regulations governing the conduct of the disciplinary hearings. The rules and regulations shall be available to employees. During the examination of a witness, the Hearing Officer may exclude from the hearing any and all other witnesses. The Hearing

Officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents.

SECTION 7 – HEARING OFFICER’S DECISION: Within a reasonable time after the disciplinary hearing, the Hearing Officer shall issue a written decision containing findings of fact and conclusions of law. The Hearing Officer shall have the authority to affirm, revoke or reduce the disciplinary action imposed against the employee. Except as otherwise provided for in this Memorandum of Understanding, the Hearing Officer’s decision constitutes a final resolution of any disciplinary action and no further appeal shall be permitted within the City’s administrative process.

SECTION 8 – APPEAL OF HEARING OFFICER’S DECISION: If the disciplinary action reviewed by the Hearing Officer constitutes discharge or a suspension of more than ten (10) working days, the City or the employee may request an appeal hearing before the City Council to review the Hearing Officer’s decision. If the employee fails to request an appeal hearing within the prescribed time, the employee shall have waived the right to an appeal hearing and all rights to further appeal of the disciplinary action.

SECTION 9 – REQUEST FOR APPEAL HEARING: When an employee requests an appeal hearing, the request shall be in writing, signed by the employee and filed with the City Council within ten (10) business days after the notification of the Hearing Officer’s decision. The appeal shall be addressed to the City Council and shall identify the decision appealed from the grounds for the appeal and the relief requested by the employee. All appeal hearings shall be conducted in private unless the employee requests, in writing, a public hearing. The City Council shall schedule any appeal hearing within a reasonable time and conduct any appeal hearing within fifteen (15) business days after the filing of the appeal.

SECTION 10 – REPRESENTATION AT APPEAL HEARING: At the appeal hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to present oral and written arguments to the City Council.

SECTION 11 – CITY COUNCIL’S DECISION: The decision of the City Council shall be in writing and contain findings of fact and conclusions of law within ten (10) working days following the hearing. The City Council may affirm, revoke or reduce the decision of the Hearing Officer. Except as otherwise provided for in this Memorandum of Understanding, the City Council’s decision shall constitute a final resolution of any disciplinary action and no further appeal shall be permitted within the City’s administrative process.

SECTION 12 – BINDING ARBITRATION: If the decision of the City Council constitutes the discharge of an employee or the suspension of an employee for more than ten (10) working days, the SEMEMTA president, or his/her designee, may request that the City Council’s decision be submitted to arbitration as provided within Personnel Rule XIV, Section 5.

ARTICLE XII

GRIEVANCE PROCEDURES

SECTION 1 – PURPOSE OF GRIEVANCE PROCEDURES: The grievance procedures shall be used to resolve employee complaints concerning the express terms and conditions of employment with the City. Article XIII, Grievance Procedures, shall not apply to any classification, position or employment covered by this MOU that is included in the unclassified service, or that is otherwise excluded from the classified service. The grievance procedures shall not be used for:

- A. The resolution of any complaint concerning any disciplinary action; or
- B. The resolution of any complaint concerning any aspect of the employment examination process.

SECTION 2 – MATTERS SUBJECT TO GRIEVANCE PROCEDURE:

- A. A violation of a specific term of this Memorandum of Understanding between the City and the Association;
- B. Improper application of rules, regulations and procedures;
- C. Unfair treatment, including coercion, restraint or reprisal;
- D. The impact of a reduction in force action (layoff);
- E. Promotion procedures unfairly implemented;
- F. Discrimination because of race, religion, color, creed, disability, sex, marital status, national origin or sexual orientation; or
- G. Any other matter affecting the terms and conditions of employment.

SECTION 3 – GENERAL PROCEDURES:

- A. Any grievance not filed or appealed to the next step within the time limits established in the grievance procedures shall be deemed settled on the basis of the last decision and not subject to further appeal or reconsideration.
- B. Failure by City to reply to a grievance within the time limits established in the grievance procedures shall automatically grant the right to process the grievance to the next level.
- C. By mutual agreement and for good cause, any level of review, or any time limits established in these procedures, may be waived or reasonably extended in writing at any step in the grievance procedure.

- D. By mutual agreement, the grievance may revert to a prior level for reconsideration.
- E. If a grievance is returned to the employee for insufficiency, the City will state in writing the reasons for the return. If the grievance was timely filed initially, new time limits for filing a revised grievance shall commence in accordance with Section 5 (B) of these procedures.
- F. The settlement of any specific complaint(s) or grievance(s) shall not constitute a precedent for settlement of complaints or grievances, nor for the interpretation of this Memorandum of Understanding to other individuals or circumstances.

SECTION 4 – RIGHTS, RESPONSIBILITIES AND RESTRICTIONS:

- A. Employees have the right to the assistance of a representative of their choice in the preparation of their written grievance and to represent them in formal or informal grievance meetings. The grievant may be required by either party to be present in any or all meetings, related to their grievance.
- B. An employee selected as a representative in a grievance must obtain the permission of his/her supervisor to be absent from his/her duties to attend a grievance meeting. The employee representative shall provide his/her supervisor with reasonable advance notice to ensure that his/her absence will not interfere with City operations.
- C. Grievances may be submitted on City time. In scheduling the time, place and duration of any grievance meeting, the operational needs of the City shall be of paramount consideration. Neither the grievant nor the City shall lose their rights because of limitations in scheduling meetings or limitations placed on the release of an employee representative due to the operational needs of the City.
- D. Only a person selected by a grievant and made known to the City prior to a scheduled formal grievance shall have the right to represent or advocate as an employee's representative.
- E. Only persons who have direct, first-hand knowledge of the event(s) giving rise to the grievance may be called as witnesses.
- F. Supervisors and department heads have the responsibility to inform an employee of any limitation of their authority to fully resolve a grievance. Employees have the responsibility to state clearly and concisely the specific action(s) being grieved, the article(s) allegedly violated, and the specific remedy requested.

SECTION 5 – GRIEVANCE PROCEDURES:

- A. Informal Discussion of Grievance: Within seven (7) business days from the occurrence of the matter on which a complaint is based, or within seven (7) business days from his/her knowledge of such occurrence, an employee shall informally discuss the matter with their immediate supervisor. If after such a discussion, the grievance has not been satisfactorily resolved, the employee shall have the right to file a formal grievance.
- B. First Level of Review: Within seven (7) business days after the informal discussion of the grievance with the employee's immediate supervisor, the employee shall have the right to file a formal written grievance with the employee's immediate supervisor. All formal grievances shall comply with the requirements of Section 4.G, above. Within seven (7) business days of receiving a formal written grievance, the immediate supervisor shall render a decision in writing to the employee on the original copy of the grievance. Should the grievance contain more than one issue, the grievant may accept any decision in part, and may continue the grievance process until all issues are resolved.
- C. Second Level of Review: Within seven (7) business days from his/her receipt of the immediate supervisor's written decision, and using the returned original copy of the grievance form, the employee may appeal the supervisor's decision to the City Manager, using the original copy of the grievance form. Within ten (10) business days from receipt of the employees' grievance, the City Manager or his/her designee who has not been involved in the grievance in the prior two (2) levels shall review the grievance and render a written decision and the reasons therefore to the employee. The decision of the City Manager shall conclude the administrative procedures for the grievance. Again, should the grievance be partially resolved at this level, the grievant may accept the partial resolution and continue the grievance process until all issues are resolved.

SECTION 6 – BINDING ARBITRATION:

- A. Within twenty (20) business days from the receipt of the written decision of the City Manager or his/her designee, or should the City Manager or his/her designee fail to render a decision within the time period provided by these procedures, the SEMEMTA president or his/her designee, may request that a grievance be submitted to arbitration as provided for hereinafter.
- B. Only those grievances that directly concern or involve the interpretation or application of the specific terms and conditions of this Memorandum of Understanding may be submitted to arbitration hereunder. In no event shall such arbitration extend to:

1. The interpretation, application, merits or legality of any federal, state or local law or ordinance, including specifically all ordinances adopted by the City Council.
 2. The interpretation, application, merits or legality of the exercise of the City's exclusive rights and authorities as specified in Article V of this Memorandum of Understanding.
- C. In the event SEMEMTA desires to request that a grievance, which meets the requirements of Section 6.B hereof, be submitted to arbitration, it shall, within the time requirements set forth above, transmit a written request to the State Mediation & Conciliation Service with a copy thereof simultaneously transmitted to the City Manager.
- D. The parties shall select a mutually acceptable arbitrator. If the parties cannot agree on an arbitrator, they shall notify the State Mediation & Conciliation Service and request that they provide the parties with a list of five names from which the parties will attempt to mutually select an arbitrator. If the parties cannot mutually agree upon an arbitrator from the list of arbitrators provided by the State Mediation & Conciliation Service, they will select an arbitrator through an alternate striking of names from that list. The last remaining name on the list will be the selected arbitrator. The party to strike the first name will be determined by chance.
- E. Arbitration of a grievance hereunder shall be limited to the formal grievance as originally filed by the employee to the extent that said grievance has not been resolved. Arbitration hereunder shall be conducted in accordance with applicable rules and procedures adopted or specified by the State Mediation & Conciliation Service unless the parties hereto agree to other rules or procedures for the conduct of such arbitration. The fees and expenses of the arbitrator shall be shared equally by the parties involved. All other expenses including but not limited to fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration will be the responsibility of the party incurring such cost, unless otherwise agreed by the parties. The parties involved shall share the costs of transcripts and similar materials required or requested by the arbitrator equally.
- F. Prior to a hearing by an arbitrator, a representative of the City and the Association shall meet and prepare a joint statement setting forth the issue(s) to be determined which shall be submitted to the arbitrator. In the event the City and the Association cannot agree on the joint statement, each party shall present to the arbitrator, at the hearing, its own submission statement; in which case the arbitrator shall determine which of the submitted issues are to be resolved.
- G. The decision of the arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this Memorandum of Understanding.

H. The decision of the arbitrator shall be binding upon the Association. To the extent the decision and award of the arbitrator does not require action by the City Council, such decision and award shall be binding upon the City. If within sixty (60) business days of receiving notice of a decision and award requiring action by the City Council, such action is not taken, the Association may then resort to a court of competent jurisdiction to pursue whatever other legal remedies are available to it under this Memorandum of Understanding.

THIS MEMORANDUM OF UNDERSTANDING is hereby executed by the authorized representatives of the CITY OF SOUTH EL MONTE and the SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION ("Association" or "SEMEMTA") and shall become effective when the same has been ratified and adopted by resolution of the City Council of the City of South El Monte.

Representatives of the South El Monte
Executive Management Team Association

Management Representatives of the City
South El Monte


SEMEMTA Representative

7/27/20
Date


Rachel Barbosa
City Manager

7/27/20
Date


SEMEMTA Representative

07/27/2020
Date


SEMEMTA Representative

7/27/2020
Date