

**TENTATIVE**

**SIDE LETTER OF AGREEMENT**

between

**CITY OF HAYWARD**

and

**SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021**

In recognition of the unanticipated and sudden fiscal impact of the COVID-19 pandemic on the City of Hayward and the projected budget shortfall for FY 2021, the parties mutually agree to a furlough program in FY 2021 for all SEIU 1021 members.

**Furlough Obligation**

Between July 1, 2020 and June 30, 2021, all full-time employees must meet a furlough obligation of thirty (30) furlough hours. Part-time employees who regularly work twenty (20) or more hours per week will be required to take a pro-rated number of furlough hours based on their regularly scheduled hours.

Should the City's combined General Fund Revenue for Sales Tax, Real Property Transfer Tax, Transient Occupancy Tax, and Utility Users Tax (collectively "Four Tax Revenues") attributable to the months of September, October, and November of 2020, combined with additional financial aid through a federal stimulus that may be used to replace lost General Fund Revenues, used to cover General Fund staffing costs, or entirely discretionary in nature, be 90% or less (0-90%) of the Four Tax Revenues attributable to the months of September, October, and November 2019, employees shall be required to meet an additional obligation of twenty-five (25) furlough hours, for a total of fifty five (55) furlough hours in fiscal year 2021. Part-time employees who regularly work twenty (20) or more hours per week will be required to take a pro-rated number of furlough hours based on their regularly scheduled hours.

The following data shall be used to determine General Fund Revenue for the months of September, October, and November 2019, and the months of September, October, and November 2020:

- a. Sales Tax will be verified by the amounts included on the "Local Jurisdiction Statement of Tax Distribution" as provided by the California Department of Tax and Fee Administration for the period in question.
- b. Real Property Transfer Tax will be verified by remittances received from Alameda County and Title Companies for the periods in question.

- c. Transient Occupancy Tax will be verified by remittances received from third party hoteliers which is subject to audit. Detail from the City's General ledger account 100-15-1520-15200-41430- will collect the data and source documentation can be provided upon request for verification.
- d. Utility Users Tax will be verified based on the remittances provided by third party utility providers which is subject to audit. Detail from the City's General Ledger account 100-15-0001-10001-41470-will collect the data and source documentation can be provided upon request for verification.

For purpose of calculating the difference between the City's combined General Fund Revenue for the Four Tax Revenues in September, October, and November of fiscal years 2020 and 2021, the following calculation shall be used:

The sum total of Fiscal Year 2021 September, October, and November Sales Tax + Real Property Transfer Tax + Transient Occupancy + Utility Users Tax + financial aid through a federal stimulus in FY 2021 meeting the criteria above divided by the sum total of Fiscal Year 2020 September, October, and November Sales Tax + Real Property Transfer Tax + Transient Occupancy + Utility Users Tax.

The determination as to whether employees will need to meet the additional furlough obligation shall be made on or before February 20, 2021.

### **Furlough Days**

An employee will be allowed to meet their furlough obligation through days off of their choosing, provided the requests for days off are approved in advance by the employee's supervisor. Supervisors will be encouraged to approve the use of such requests unless operational necessity precludes approval.

Furlough hours shall not be taken in increments of less than 4 hours. Employees must first meet their furlough obligation prior to taking accrued vacation or compensatory time off.

An employee must submit their request for the use of floating furlough days no later than May 1, 2021. Absent such a timely request, the employee's supervisor can unilaterally schedule the furlough hours to be taken by the employee.

In the event of a dispute regarding the approval of furlough hours, the employee's supervisor shall forward the reason for denial to the City Manager for review, whose decision shall be final.

### **Furlough Payback**

In order to mitigate the financial impact of the Furlough Program on employees, employees may elect to spread the payback of the furlough obligation evenly throughout FY 2021. Employees must make this election within 30 days of the effective date of this agreement.

For employees who elect to have the furlough obligation spread evenly throughout FY 2021, incremental deductions of paid time from each employee's paycheck shall commence beginning the pay period following the employee's election, and the obligation shall be spread evenly over remaining pay periods through December 31, 2020. If, pursuant to this agreement, employees must meet an additional twenty-five (25) hour furlough obligation for a total of fifty-five (55) furlough hours, incremental deductions from each employee's paycheck shall continue with the additional obligation spread evenly over the remaining pay periods through the pay period including June 30, 2021 (adjusted for part-time employees).

Any employee who voluntarily leaves City employment, except in cases of retirement, prior to completely reimbursing the City for the furlough hours taken will have any remaining prorated balance of owed furlough payback hours deducted from their final paycheck.

While the City will make great efforts to avoid layoffs, the parties recognize that the decision to lay off employees is a management right, and nothing in this side letter is intended to limit the City's ability to lay off employees for lack of work or lack of funds requiring reduction in personnel. Although the procedures for layoff as provided in Section 3.00 of the current Memoranda of Understanding between the City and SEIU shall continue to be subject to the grievance procedure contained in the Memorandum of Understanding between the City and SEIU, the decision to lay off employees shall not be subject to the grievance procedure.

### **Exceptions to Furlough Obligation**

Any new employees or employees returning from an unpaid status will have a furlough obligation based on the number of pay periods remaining in FY 2021.

Any employee paid under Workers' Compensation will not be expected to participate in the Furlough Program until they have returned to work. At that time, a determination will be made to calculate the employee's furlough obligation based on the number of pay periods remaining in the furlough payback period.

### **Vacation Sell-Back**

Full-time employees may cash out up to forty (40) hours of vacation leave in fiscal year 2021.

Part-time employees may cash out up to twenty (20) hours of vacation leave in fiscal year 2021. Employees must elect to cash out their vacation leave prior to the last pay period of fiscal year 2021. The parties expressly agree that this term shall expire on June 30, 2021 and is subject to renegotiation.

The parties acknowledge that the furlough is a concession voluntarily made by the employees represented by the Union. This agreement shall expire at the end of the pay period including December 31, 2021.

For the City:

For the Union:

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