

Side Letter of Agreement ("Agreement") Between
The City of Redlands ("City") and
The Redlands Civilian Safety
Employees Association ("RCSEA")

The City has recognized the RCSEA as the exclusive bargaining unit for non-sworn safety employees; this recognition is pursuant to the California Meyers-Milias-Brown Act, California Government Code Section 3500, et seq., which governs employer-employee relations within various public agencies in the State of California. The City and RCSEA have in place a Memorandum of Understanding ("MOU") for July 1, 2012 through June 30, 2015 which governs wages, hours, and working conditions (attached and incorporated herein by reference).

Since 1985, the provisions of the Federal Fair Labor Standards Act ("FLSA") have applied to public agencies in the State of California, Garcia v. San Antonio Metropolitan Transit Authority (1985) 469 U.S. 528, 105 S.Ct. 1005, 83 L.Ed.2d 1016. Section 7(b) of the FLSA, codified at 29 United States Code ("USC") Section 207(b), provides:

"No employer shall be deemed to have violated subsection (a) of this section by employing any employee for a workweek in excess of that specified in such subsection without paying the compensation for overtime employment prescribed therein if such employee is so employed—

- (1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than 1,040 hours during any period of 26 consecutive weeks; or
- (2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of 52 consecutive weeks the employee shall be employed not more than 2,240 hours and shall be guaranteed not less than 1,840 hours (or not less than 46 weeks at the normal number of hours worked per week, but not less than 30 hours per week) and not more than 2,080 hours of employment for which he shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum workweek applicable to such employee under subsection (a) of this section or 2,080 in such period at rates not less than one and one-half times the regular rate at which he is employed."

In a letter ruling issued by the Federal Department of Labor ("DOL") on November 1, 1985 (attached and incorporated herein by reference), the DOL stated in part:

"We have been advise [sic] by the NLRB that it has the authority to process petitions from labor organizations of government employees seeking certification as 'bona fide' for purposes of sections 7(b)(1) and 7(b)(2) of FLSA. Petitions for such certification should be filed in an appropriate NLRB Regional Office where

they will be processed and forwarded to the Board in Washington, D.C., which will make the decision whether or not to issue certification.

Therefore, if the tests for exemption under section 7(b)(1) and 7(b)(2) are met and the public employee labor organization is certified as 'bona fide' by the NLRB, the public employees covered by the 'agreement' are eligible for such exemption."

The City and RCSEA have agreed to seek approval of the National Labor Relations Board ("NLRB") for a "partial exemption" pursuant to Section 7(b)(2) of the FLSA.

The City and RCSEA agree to the following:

1. Only employees represented by RCSEA may be compensated under the provisions of this Agreement.
2. Participating RCSEA employees are guaranteed annual employment.
3. The applicable period of 52 consecutive weeks is a calendar year, commencing January 1.
4. The guaranteed number of hours in the 52-week period may not be less than 1,840 hours nor more than 2,080 hours.
5. No RCSEA employee may be employed in excess of 2,240 hours in the 52-week period.
6. In those instances where the City has employed an RCSEA employee in excess of 2,240 hours in the 52-week period, the City must recompute the earnings of such employee for each workweek within the 52-week period and pay statutory overtime pay for each hour, or part thereof, worked in excess of 40 in the workweek. However, all straight-time and overtime pay previously paid under the terms of Section 7(b)(2) of the FLSA may be credited against the amount of wages found due an employee as a result of any such recomputation. Any hours paid for but not worked, such as vacation or sick time, are excluded from the 2,240-hour count.
7. There are four recognizable maximum hours standards that come into play in this Agreement. The first maximum hours standard is that which requires overtime pay after 12 hours of work per day or 56 hours of work per week. This standard must be complied with in all workweeks up until the time that the number of hours guaranteed, on either (1) a total number of hours of work in a 52-week period basis, or (2) a specified number of hours per a specified number of workweeks basis, have been worked. The number of hours guaranteed may not exceed 2,080 in a 52-week period on either basis. Where the hours guaranteed for a 52-week period are less than 2,080, overtime pay must be paid for all hours worked over 40 in a workweek after the guaranteed number of hours have been worked. This is the second maximum hours standard. The third maximum hours standard requires overtime pay for each and every hour worked in excess of 2,080 hours up to and including 2,240 hours, regardless of the number of hours guaranteed or the basis used to determine the guarantee. Finally, the fourth maximum hours standard is that which requires overtime pay for all hours worked over 40 in a workweek

RCSEA
REDLANDS CIVILIAN SAFETY EMPLOYEES ASSOCIATION
A LABOR UNIT OF THE REDLANDS POLICE DEPARTMENT
CITY OF REDLANDS

March 11, 2014

National Labor Relations Board:

On February 20th 2014 members of the Redlands Civilian Employees Safety Association (RCSEA), Labor Unit for the City of Redlands, met with Police Chief Mark Garcia and Human Resources Director Amy Martin, for the City of Redlands. The meeting was scheduled to review a Draft Proposal to Amend Article 8 of the current Memorandum of Understanding (MOU).

The proposal amends the current Memorandum by adding Subsection D to Article 8, 3/12 schedule as the Standard Tour of Duty and amends Article 8-Overtime.

29 United States Code, Section (U.S.C.) 207(b) provides that the City may calculate overtime for unionized public employees based on the average work hours over a one year period, providing a partial exemption to paid premium overtime for working in excess of 40 hours in a seven day period. This section requires that the recognized bargaining unit, RCSEA, must enter into a partial exemption plan with the city to utilize this calculation. If an agreement is made between the bargaining unit and the City, the bargaining unit and the City must petition the National Labor Relations Board for approval of the Partial exemption.

The Amendment to the RCSEA MOU is as Follows:

A. ARTICLE 8 - Overtime, SUBSECTION D

For the duration of the term of this MOU, commencing with the full execution of this agreement, the City will calculate employee overtime, consistent with 29 U.S.C. 207(b), in the following manner:

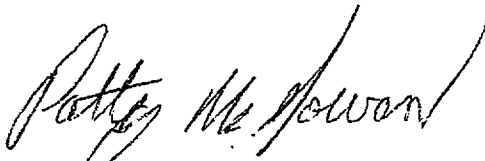
1. Work hours in excess of 12 hours per day on a normally assigned work day will be calculated as overtime, consistent with the proceeding stipulations for Article 8 of the current RCSEA MOU.

Continued

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2. For the limited purposes of overtime calculations an employee's pay back period, when assigned a 3/12 schedule as the Standard Tour of Duty , will not be calculated as overtime, unless the payback period exceeds the total number of hours necessary to average a 40 hour work week based on the annual average or is more 12 hours in a day or more than 56 hours in a week.
3. Overtime will be calculated based on an annual average of forty hours per week per year.
4. Employees regular work hours for those employees assigned to a 3/12 work schedule as their Standard Tour of Duty will be limited To 2240 hours per year.

In an effort to assist employees in maintaining their customary flexible working schedule, RCSEA (Redlands Civilian Safety Employees Association) Agrees to enter into this agreement with the City of Redlands for the duration of the term of this MOU.



Patty McGowan, President
RCSEA Redlands Civilian Safety Employees Association

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in all workweeks within the 52-week period because of the fact that the employee worked in excess of 2,240 hours in the 52-week period.

This Agreement will be submitted to the NLRB to obtain certification that RCSEA is a bona fide collective bargaining agent for RCSEA represented employees. This Agreement shall become effective upon such NLRB certification and adoption by the Redlands City Council.

The City shall maintain payroll/overtime records as required by 29 C.F.R. Section 516.20.

Upon certification by the NLRB and approval of this Agreement by the Redlands City Council, the current MOU shall be considered amended to add subsection D to Article 8, Overtime, to calculate overtime in the following manner:

1. Work hours in excess of 12 hours per day on a normally assigned work day will be paid as overtime.
2. An employee's "payback period," when assigned a 3/12 schedule as the standard tour of duty, will not be paid as overtime unless the "payback period" exceeds the total number of hours necessary to average a 40-hour workweek based on the annual average, or is more than 12 hours in a day, or is more than 56 hours in a week.
3. Overtime will be calculated based on an average of 40 hours per week per year.
4. Employees' regular work hours, for those employees assigned to a 3/12 work schedule as their standard tour of duty, will be limited to 2,240 hours per year.

In an effort to assist employees in maintaining their flexible working schedule, the City and RCSEA enter into this Agreement.

Date: 8/19/14

For the City of Redlands



Pete Aguilar, Mayor

Attest: 

Jeanne Donaldson,
Deputy City Clerk

Date: 3/17/14

Representative for RCSEA



RCSEA Representative