

**Amendment No. 1
TO THE 2012-2014 COLLECTIVE BARGAINING AGREEMENT
BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO
AND
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021**

The parties hereby amend the Memorandum of Understanding as follows:

ARTICLE III – PAY, HOURS AND BENEFITS

351. ~~Recruitment and Retention.~~ Upon request of the Union or the City, the City and the Union shall appoint members of a Labor Management committee to meet and confer as to employee premium and equity claims in a classification. When a request to meet and confer is submitted by December 1 of either year for Fiscal Years 2012-2013 or 2013-2014, the Union and the City shall meet no later than January 1 of the following year. The criteria for such wage adjustments shall include:
352. a. ~~The base wage for the classification is below or above that of employees performing the same or similar work in the relevant labor market (including both public and private, and other City and County of San Francisco job classifications) as demonstrated by verifiable salary surveys; and/or~~
353. b. ~~There is an ongoing and demonstrable recruitment and/or retention problem.~~
354. ~~The impasse procedure of Charter section A8.409 is applicable to this paragraph, with arbitration by March 2013, and decision by May 1, for any unresolved claims. Implementation of any change is to be effective upon expiration of this MOU, except that any claims as to the Sheriffs' Cadet and Food Service Worker classifications will be heard first and any changes for those classifications will be effective as of July 1, 2013.~~

ARTICLE IV – GRIEVANCE PROCEDURE & PERSONNEL FILES

A. GRIEVANCE PROCEDURE

Step IV Final and Binding Arbitration (except termination grievances)

573. Should there be no satisfactory resolution at Step III, the Union has the right to submit and advance the grievance to final and binding arbitration within thirty (30) calendar days of receipt of the Step III response. ~~The City and the Union shall establish a Standing Arbitration Panel of fourteen (14) arbitrators. From this standing panel, the parties shall create fourteen (14) subgroups, each containing seven arbitrators from the standing panel, selected at random. These subgroups shall be numbered sequentially from one through fourteen, as determined by the parties. When the Union moves a matter to arbitration, the City shall provide the next arbitration subgroup in sequential order, from which the parties shall alternately strike until a single name remains, and said arbitrator shall be designated to hear the matter. Whether the~~

Union or City deletes the first name in the alternating process shall be determined by lot. The parties shall utilize a standing panel for arbitrator selection. To select an arbitrator from the standing panel, the parties shall strike arbitrators alternately from the standing panel until one arbitrator remains to hear each particular case. The party who strikes first will alternate between the parties; however, the first party to strike will be determined by lot, coin flip or other comparable method. The parties acknowledge that in a particular case they retain the right to be able to mutually agree to select an arbitrator who may or may not be on the standing panel.

573a. The parties will utilize a standing arbitration panel of 7 arbitrators (“Standing Panel”), plus two alternates. To form this Standing Panel, the parties will simultaneously exchange a list of 9 proposed arbitrators. From the two lists, those arbitrators who appear on both lists shall be selected. To complete the Standing Panel, the parties will strike the names remaining on the two lists until the Standing Panel is completed. The first alternate will be the last name struck and the second alternate will be the second to the last name struck. The party to strike first will be determined by lot, coin flip or other comparable method.

573b. If an arbitrator is no longer available or willing to serve on the Standing Panel due to death, retirement, incapacity, or other reason personal to the arbitrator, the position becomes vacant and the first alternate will replace that arbitrator. The second alternate will replace any other arbitrator whose position becomes vacant prior to the annual process described in paragraph 573c(c) below. If there are additional vacancies, those vacancies will be filled annually pursuant to the method described in 573c(c) below.

573c. Every January, the parties will fill any vacancies as follows:

(a) Any arbitrator on the Standing Panel (other than an alternate) who has not been selected for any case in the preceding calendar year will be removed from the Standing Panel and the position will become vacant.

(b) Any arbitrator on the Standing Panel or serving as an alternate who is no longer able or willing to serve due to death, retirement, incapacity, or other reason personal to the arbitrator, will be removed and the position will become vacant.

(c) Any vacancies described in (a) and/or (b) above, will be filled as follows: each January, the parties will simultaneously exchange a list containing the names of additional proposed arbitrators equal to the number of vacancies that exist, including vacant alternates. From the two lists, arbitrators who appear on both lists shall be selected as Standing Panel members. If the number of names on both lists is greater than the number of vacancies on the Standing Panel, then the assignment to the Standing Panel will be determined by alternate striking of such names until the Standing Panel is filled. The last name(s) stricken will become the alternates according to the method described in Paragraph 573a above. If additional vacancies remain, the parties will alternately strike the names remaining on the two lists until the Standing Panel is completed. The party to strike first will alternate between the parties each year. Any vacant alternate

position(s) will be filled according to the striking method described in paragraph 573a. An arbitrator cannot serve on the Standing Panel and as an alternate at the same time.

(d) When filling any vacant positions as set forth in Paragraph 573c(c), the parties will simultaneously exchange the lists by January 31, and will complete the selection process no later than February 15. (If either the January 31 or the February 15 date falls on a weekend or holiday, the deadline for the submission of names will be the next business day.) Any party that fails to exchange a list of arbitrators, or to engage in the selection process by the dates set forth above, will be deemed to have waived its right to submit a list of arbitrators under this provision.

574. Except when a statement of facts mutually agreeable to the Union and City is submitted to the arbitrator, it shall be the duty of the arbitrator to hear and consider facts submitted by the parties.
575. The City and the Union must commence selecting the arbitrator and scheduling the arbitration within thirty (30) calendar days of ERD's receipt of the Union's arbitration request. The parties agree to recommend to the selected arbitrator that the hearing be scheduled within ninety (90) calendar days of his/her selection. Should the designated arbitrator be unable to comply with this requirement, the parties shall by mutual agreement commence contacting other arbitrators on the panel, beginning with the last struck, until an arbitrator is selected who will meet such requirement.
576. ~~The parties will meet and confer on a new arbitrator selection procedure with a new process to be set by January 2013, with Barry Winograd serving as a final and binding arbitrator if no agreement can be reached.~~
577. The arbitrator shall have no authority to add to, subtract from, or modify the terms of this Agreement.
578. The parties shall encourage the arbitrator to make his/her awards within forty-five (45) calendar days following the receipt of closing arguments or briefs. The decision of the arbitrator shall be final and binding on all parties.
579. Each party shall bear its own expenses in connection therewith. All fees and expenses of the arbitrator and court reporter and report, if any, shall be borne and paid in full and shared equally by the parties. Transcript costs shall be paid separately by the party requesting the transcript. If parties mutually request, and the arbitrator agrees, a court reporter may not be required.
580. Individuals who may have direct knowledge of the circumstances relating to the grievance may be present at the request of either party at the hearing. In the case of employees of the City, they shall be compensated at an appropriate rate of pay for time spent.

581. The parties agree to use their best efforts to arbitrate grievances appealing the termination of employment within ninety (90) days of the Union's written request to arbitrate.

Termination Grievances

582. 1. This provision regarding termination grievances is adopted on a trial basis only. It shall sunset on the last day of this Agreement, and shall not be renewed except by mutual agreement. If the provision is not renewed, termination grievances shall be processed in the same fashion as other grievances under this Agreement.

583. 2. The parties shall commence arbitration of a grievance challenging the termination of employment within ninety (90) days of the request for arbitration, unless it is not possible under the circumstances. To that end, the parties agree to process termination grievances as follows:

a. Initial filing of grievances

584. i. Termination grievances will be filed directly at Step II or, at the Union's option, at Step III (Director of Employee Relations or designee). In either case, the initial filing will be due not later than fifteen (15) days of the effective date of termination.

585. ii. The City's response, whether at Step II or at Step III, will be due not later than fifteen (15) days of the Union's filing. The Union's submission to arbitration from a Step III response will be due no later than fifteen (15) days from its receipt of the City's response. Upon notice from the Union, failure of the City to follow the time limits shall serve to move the grievance to the next Step.

b. Arbitration

586. In the first year of this Agreement, the City and the Union shall select a standing panel of arbitrators to hear termination grievances. The panel shall be established in the following fashion: Within fifteen (15) days of the effective date of this Agreement, each party shall submit to the other the names of five (5) arbitrators. Within seven (7) days thereafter, the parties, beginning by lot, shall alternately strike names from the list until six (6) names remain. The six remaining persons shall constitute the standing termination arbitration panel for the first year of the Agreement.

587. c. Termination cases submitted to arbitration by the Union shall be heard at the next prescheduled termination hearing date that is at least sixty (60) but not more than ninety (90) days after the submission to arbitration.

588. d. The parties agree to preschedule each arbitrator for one set of two (2) dates each calendar year. These two (2) dates shall be scheduled to provide continuity for hearings that require more than one (1) day. The parties will attempt to schedule dates so that there will be hearing dates available at least every other month. At the end of the first year of the program, the parties will meet to discuss the utilization of scheduled dates and whether the number of dates should be changed.

589. The order in which the parties will solicit dates from the arbitrators will be based on the arbitrator's last name, in alphabetical order. If an arbitrator is not able to provide any dates in the specific month the parties have requested, the parties will solicit dates from the next arbitrator in order.
590. If the arbitrator requests a court reporter, or by prior agreement of the parties, a court reporter will be utilized. In these circumstances, the costs will be shared by the parties and the reporter must agree to submit the hearing transcript to the parties and the arbitrator within five (5) business days of the close of the hearing. If only one party requests a court reporter, that party shall pay all associated costs. Closing briefs, if permitted by the arbitrator, will be due to the arbitrator within fifteen (15) calendar days of the close of the hearing, or receipt of transcripts, when mutually requested or required by the arbitrator, whichever is later. Either party may choose to make a closing oral argument in lieu of a written brief. By the parties' mutual agreement, or as determined by the arbitrator, the arbitrator may issue a bench decision on the record, stating the arbitrator's award and the reasons therefore. Any written decision from the arbitrator will be due within thirty (30) calendar days of the receipt of the parties' briefs or the close of oral arguments, whichever is later.
591. e. Annually, on a date to be determined by the parties after consultation, either party may exercise the right to strike the name of one arbitrator from the panel. The party which nominated that person shall have the right to appoint a replacement.
592. f. If an arbitrator withdraws from the panel, the party who originally proposed him/her shall nominate two (2) more arbitrators and allow the other party to strike one (1) name.
593. g. Neither party may propose for inclusion on the arbitration panel the name of an arbitrator who has been peremptorily stricken by the other party in that same year; provided, however, that in any subsequent year after the exercise of such a strike, either party may resubmit the name of that arbitrator for inclusion.

Expedited Arbitration

594. Suspensions up to and including fifteen (15) days and written warnings shall be processed through an expedited arbitration proceeding. By mutual written agreement entered into, before or during Step III of the grievance procedure, the parties may submit other grievances to this expedited arbitration process. At least one day each month will be used for these grievances. The expedited arbitration shall be before an arbitrator to be mutually selected by the parties who shall serve until the parties mutually agree to remove him/her or for twelve (12) months, whichever comes first. Alternatively, at the time of the selection of the arbitrator, either party may request a list of seven (7) appropriately experienced arbitrators from the American Arbitration Association from which the arbitrator will be selected by the method of striking names. The parties shall not use briefs. Every effort shall be made to have bench decisions followed up by written decisions. These decisions will be final and binding, and shall not be used in any other cases except those of the grievant involved. Transcription by a certified court reporter shall be taken but shall be transcribed only at the direction of the arbitrator.

595. Each party shall bear its own expenses in connection therewith. All fees and expenses of the arbitrator and court reporter and report, if any, shall be borne and paid in full and shared equally by the parties.
596. In the event that an expedited arbitration hearing is canceled resulting in a cancellation fee, the party initiating the request or causing the cancellation shall bear the full cost of the cancellation fee, unless a mutually agreed upon alternative is established.

Rights of Individuals

597. An employee may not be disciplined or discharged without just cause and without written notice of the intended action. The City agrees to follow the principles of progressive discipline.
598. Employees who are released or disciplined during their initial probationary period or during any probationary period established by this Agreement, may appeal the release or discipline provided that the grounds for the grievance or appeal shall be limited to a claimed violation of the provisions of Article II.A. (Discrimination Prohibited or Reasonable Accommodation). In such an appeal the employee shall bear the burden of proof with respect to the claimed violation.
599. Employees covered by this agreement with temporary status shall be subject to termination or dismissal for just cause only, and the rights described in these sections of the Agreement, including the right to expedited or regular arbitration, in the appropriate case, upon their completion of six (6) months of service.

Skelly Rights

600. An employee subject to suspension or discharge, shall be entitled, prior to the imposition of that discipline or discharge, to a hearing and to the following:
- 601.
- a. A notice of the proposed action; and
 - b. The reasons for the proposed discipline; and
 - c. A copy of the charges and the materials upon which the action is based; and
 - d. The right to respond, either orally or in writing, to the authority initially imposing the discipline.
602. The Skelly meeting shall be presided over by a management representative who is not the employee's immediate supervisor unless the Department provides the opportunity for the employee to seek administrative review of the Skelly Officer's recommendation prior to the Appointing Officer taking final disciplinary action.

