

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller

FROM: John Carroll, Assistant Clerk, GAO Committee, Board of Supervisors

DATE: August 5, 2019

SUBJECT: LEGISLATION INTRODUCED - Cost Analysis, Memoranda of Understanding - July 2019

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Mayor Breed on July 30, 2019:

These matters are pending committee action; I'm forwarding them to you for a cost analysis.

Please forward your analysis to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

File No. 190832 [Memorandum of Understanding - Fire Fighters Union Local 798, Unit 1]

Ordinance adopting and implementing the First Amendment to the 2018-2021 Memorandum of Understanding between the City and County of San Francisco and the San Francisco Fire Fighters Union, Local 798, Unit 1, to update the Union Security and Surf Rescue Premium provisions.

File No. 190833 [Memorandum of Understanding - Fire Fighters Union Local 798, Unit 2]

Ordinance adopting and implementing the Second Amendment to the 2018-2021 Memorandum of Understanding between the City and County of San Francisco and the San Francisco Fire Fighters Union, Local 798, Unit 2, to update the Union Security and Surf Rescue Premium provisions.

File No. 190834 [Memorandum of Understanding - Laborers International Union, Local 261]

Ordinance adopting and implementing the First Amendment to the 2019-2022 Memorandum of Understanding between the City and County of San Francisco and the Laborers International Union, Local 261, to update the Overtime Compensation and Health Insurance provisions.

c: Todd Rydstrom, Office of the Controller
Michelle Allersma, Office of the Controller
Carol Lu, Office of the Controller

1 [Memorandum of Understanding - Fire Fighters Union Local 798, Unit 1]

2
3 **Ordinance adopting and implementing the First Amendment to the 2018-2021**
4 **Memorandum of Understanding between the City and County of San Francisco and the**
5 **San Francisco Fire Fighters Union, Local 798, Unit 1, to update the Union Security and**
6 **Surf Rescue Premium provisions.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. The Board of Supervisors hereby adopts and implements the First
16 Amendment to the 2018-2021 Memorandum of Understanding (“MOU”) between the City and
17 County of San Francisco and the San Francisco Fire Fighters Union, Local 798, Unit 1, to
18 update the Union Security and Surf Rescue Premium provisions.

19 The First Amendment to the MOU so implemented is on file with the Clerk of the Board
20 of Supervisors in Board File No. 190832.

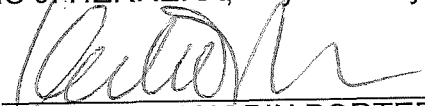
21 Section 2. The Board of Supervisors hereby authorizes the Department of Human
22 Resources to make non-substantive ministerial or administrative corrections to the MOU.

23
24 Section 3. Effective Date. This ordinance shall become effective upon enactment.
25 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance

1 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of
2 Supervisors overrides the Mayor's veto of the ordinance.

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APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
KATHARINE HOBIN PORTER
Chief Labor Attorney

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**AMENDMENT No. 1
TO THE 2018-2021 MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO
AND
SAN FRANCISCO FIRE FIGHTERS UNION
LOCAL 798, IAFF, AFL-CIO
UNIT 1**

The parties hereby agree to amend the Memorandum of Understanding as follows, subject to approval by the San Francisco Board of Supervisors:

SECTION 6. UNION SECURITY

6.1 Designation of Management Employees

- a. Except as provided otherwise herein, the provisions of this Section shall apply to all employees in classifications covered under this Agreement when on paid status.
- b. However, the provisions of this Section shall not apply to individual employees of the Fire Department who have been properly and finally determined to be management employees pursuant to Section 16.208 of the Administrative Code (Employee Relations Ordinance).
- c. When the Employee Relations Director receives a request from the Chief of the Fire Department or designee to designate position(s) as management, the Employee Relations Director shall give the Union notice of such request. The Union shall have ten (10) business days within which to request a meeting to discuss the requested designation(s). Upon request of the Union, the Employee Relations Director and the Union shall meet to discuss the requested designation(s). The Employee Relations Director shall thereafter approve or disapprove the requested designation(s).
- d. If the Union disagrees with such designation(s), the Union may submit the matter to an Administrative Law Judge for hearing and final determination.
- e. ~~Designation(s) of position(s) by the Employee Relations Director as management for which no challenge has been filed by the Union shall result in termination of agency shop fees if applicable. Challenges of designation(s) by the Union shall result in agency shop fees being placed in escrow until the disagreement is resolved by an Administrative Law Judge. Following final determination by the Administrative Law Judge, the fees shall be dispersed to either the employee or the Union depending on who prevails.~~

6.2 Agency Shop

~~Every employee of the City in the Unit shall, as a condition of continued employment, become and remain a member of the Union, or in lieu thereof, shall pay a service fee to the Union. The fair share service fee payment shall be established annually by the Union, provided that such fair share agency shop service fee will be used by the Union only for the purposes permitted by law.~~

6.3 Payroll Deductions

- a. ~~The Union shall provide the Employee Relations Director with a current statement of membership dues and service fees. Such statement of membership dues and service fees shall be amended as necessary.~~
- b. ~~The City Controller may take up to thirty (30) days to implement changes in membership dues and service fees after receipt by the Employee Relations Director of an amended statement of dues and fees.~~
- c. ~~The Controller shall continue to make deductions of membership dues or service fees, as appropriate, from the regular periodic payroll warrant of each member of the Unit.~~
- d. ~~Nine (9) business days following payday, the City will promptly pay over to the Union all sums withheld for membership dues and service fees. The City shall provide, with each payment, a list of employees paying membership dues and a list of employees paying service fees. All such lists shall contain the employee's name, employee number, classification, and amount deducted. All payroll deductions are subject to Administrative Code Section 16.90.~~

6.4 Financial Reporting

~~Annually, the Union will provide an explanation of the service fee and sufficient financial information to enable the service fee payer to gauge the appropriateness of the fee. The Union will provide a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker not chosen by the Union and will make provision for an escrow account to hold amounts reasonably in dispute while challenges are pending.~~

6.5 Religious Exemption

~~Any employee in the Unit, who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization and is recognized by the National Labor Relations Board to hold such objections to Union membership, shall upon presentation of membership and historical objection be relieved of any obligation to pay dues or fees to the Union. The Union shall be informed in writing of any such objections.~~

6.6 Hudson Compliance

~~The Union shall comply with the requirements set forth in Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986) for the deduction of agency shop fees. Annually, the Union shall certify in writing to the City that the Union has complied with the requirements set forth in this section and in Hudson. The Union is solely responsible for compliance with all applicable federal and state laws regarding collection of fees.~~

6.2 Authorization for Deductions

- a. The Union shall submit any request to initiate, change, or cancel deductions of Contributions from represented employees' pay according to the Controller's "Union Deductions Procedure" ("Procedure"), which the Controller may amend from time to time with reasonable notice to the Union. "Contributions" as used in this Section 6 means Union membership dues, initiation fees, political action funds, other

contributions, and any special membership assessments, as established and as may be changed from time to time by the Union.

- b. The City shall deduct Contributions from a represented employee's pay upon submission by the Union of a request, in accordance with the Procedure. The Procedure shall include, and the Union must provide with each request, a certification by an authorized representative of the Union, confirming that for each employee for whom the Union has requested deduction of Contributions, the Union has and will maintain a voluntary written authorization signed by that employee authorizing the deduction. If the certification is not properly completed or submitted with the request, the City shall notify the Union, and make the requested deduction changes only upon receipt of a proper certification.
- c. The Procedure is the exclusive method for the Union to request the City to initiate, change, or cancel deductions for Contributions.
- d. Union rules provide that for employees whose membership card or other authorization form does not provide terms of revocation, the member may revoke by submitting a written revocation to the Union during the thirty (30) day period immediately before the anniversary date on which the employee signed the employee's form. The parties agree that the City has no role, responsibility or decision making authority over the terms of Union membership, including revocation of such membership, or over revocation of an employee's authorization for deductions of Contributions, except to cancel deductions upon notice from the Union as provided in this Section.
- e. The City shall implement new, changed, or cancelled deductions the pay period following the receipt of a request from the Union, but only if the Union submits the request by noon on the last Friday of a pay period. If the Controller's Office receives the request after that time, the City will implement the changes in two following pay periods.
- f. If an employee asks the City to deduct Contributions, the City shall direct the employee to the Union to obtain the Union authorization form. The City will not maintain a City authorization form for such deductions. If a represented employee hand delivers the official Union form authorizing such deductions to the Controller's Payroll Division, the City shall process the authorization and begin the deduction within thirty (30) days. The City will send the Union a copy of any authorization form that it receives directly from a represented employee.
- g. Except as otherwise provided in this subsection 6.2, each pay period, the City shall remit Contributions to the Union, after deducting the fee under San Francisco Administrative Code Section 16.92. In addition, the City will make available to the Union a database that includes the following information for each represented employee: name; DSW number; classification; department; work location; work, home, and personal cellular telephone number; personal email address if on file with the City; home address; and any Contributions amount deducted.
- h. Except as otherwise provided in this subsection 6.2, the City shall continue to deduct and remit Contributions until it receives notice to change or cancel deductions from the Union in accordance with the Procedure, or it receives an order from a court or

administrative body directing the City to change or cancel the deductions for one or more employees.

- i. With the exception of subsection (f) above, the Union is responsible for all decisions to initiate, change, and cancel deductions, and for all matters regarding an employee's revocation of an authorization, and the City shall rely solely on information provided by the Union on such matters. The City shall direct all employee requests to change or cancel deductions, or to revoke an authorization for deductions, to the Union. The City shall not resolve disputes between the Union and represented employees about Union membership, the amount of Contributions, deductions, or revoking authorizations for deductions. The City shall not provide advice to employees about those matters, and shall direct employees with questions or concerns about those matters to the Union. The Union shall respond to such employee inquiries within no less than 10 business days.

6.73 Indemnification

The Union agrees to indemnify and hold harmless the City for any loss or damage arising from this provision. The Union shall indemnify, hold harmless, and defend the City against any claim, including but not limited to any civil or administrative action, and expense and liability of any kind, including but not limited to reasonable attorney's fees, legal costs, settlements, or judgments, arising from or related to the City's compliance with this section. The Union shall be responsible for the defense of any claim within this provision, subject to the following: (i) the City shall promptly give written notice of any claim to the Union, (ii) the City shall provide any assistance that the Union may reasonably request for the defense of the claim; and (iii) the Union has the right to control the defense or settlement of the claim; provided, however, that the City shall have the right to participate in, but not control, any litigation for which indemnification is sought with counsel of its own choosing, at its own expense; and provided further that the Union may not settle or otherwise resolve any claim or action in a way that obligates the City in any manner, including but not limited to paying any amounts in settlement, taking or omitting to take any actions, agreeing to any policy change on the part of the City, or agreeing to any injunctive relief or consent decree being entered against the City, without the consent of the City. This duty to indemnify, hold harmless, and defend shall not apply to actions related to compliance with this section brought by the Union against the City. This subsection 6.3 shall not apply to any claim against the City where the City failed to process a timely, properly completed request to change or cancel a Contributions deduction, as provided in subsection 6.2.

6.84 New Employee Orientation

The rights and obligations of the City and the Union under Government Code Sections 3555-3559, are met through City-wide Union Access to New Employees Program applicable to all City Agencies and all City Employee Unions. See Appendix B.

SECTION 26. HAZARDOUS MATERIALS PAY

- 26.1 Members who are qualified Hazardous Materials (HAZ MAT) Specialists shall receive \$26.50 Hazardous Materials Pay, per biweekly pay period.
- 26.2 Any employee who possesses a Hazardous Materials Certificate shall receive a Haz Mat premium of five percent (5%) of base pay for all hours worked at Rescue 1, Rescue 2, or Station 36.

- 26.3 Any employee who is qualified as a Surf Rescue Swimmer shall receive a Surf Rescue premium of five percent (5%) of base pay for all hours worked in designated **Premium** Surf Rescue spots at Station 14; Truck 16, 18, 19, 23, 34, 35, or 51; Airport Station 2; or Engine 16 **Stations 14, 16, 18, 19, 23, 34, 35, or 51, or at the Airport. The number of designated Premium Surf Rescue Spots will not exceed twenty-two (22) and will be assigned according to a Department General Order.**
- 26.4 Hazardous Materials Pay and Surf Rescue Premium Pay shall be considered as part of an employee's regular rate of pay for the purpose of computing overtime pay due under this Agreement only to the extent required by the Fair Labor Standards Act, but shall not be included in the calculation of retirement benefits due from the San Francisco City & County Employees' Retirement System or any other benefit which is a function or percentage of salary.

APPENDIX A: H-8 PER DIEM EMPLOYEES

SECTION 5. UNION SECURITY

5.1 ~~Agency Shop~~

~~Every Employee shall, as a condition of continued employment, become and remain a member of the Union, or in lieu thereof, shall pay a service fee to the Union. The fair share service fee payment shall be established annually by the Union, provided that such fair share agency shop service fee will be used by the Union only for the purposes permitted by law.~~

5.2 ~~Payroll Deductions~~

~~a. The Union shall provide the Employee Relations Director with a current statement of membership dues and service fees. Such statement of membership dues and service fees shall be amended as necessary.~~

~~b. The City Controller may take up to thirty (30) days to implement changes in membership dues and service fees after receipt by the Employee Relations Director of an amended statement of dues and fees.~~

~~c. The Controller shall continue to make deductions of membership dues or service fees, as appropriate, from the regular periodic payroll warrant of each Employee.~~

~~d. Nine (9) business days following payday, the City will promptly pay over to the Union all sums withheld for membership dues and service fees. The City shall provide, with each payment, a list of Employees paying membership dues and a list of Employees paying service fees. All such lists shall contain the Employee's name, Employee number, classification, and amount deducted. All payroll deductions are subject to Administrative Code Section 16.90.~~

5.3 ~~Financial Reporting~~

~~Annually, the Union will provide an explanation of the service fee and sufficient financial information to enable the service fee payer to gauge the appropriateness of the fee. The Union will provide a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker not chosen by the Union and will make provision for an escrow account to hold amounts reasonably in dispute while challenges are pending.~~

5.4 ~~Religious Exemption~~

Any Employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization and is recognized by the National Labor Relations Board to hold such objections to Union membership, shall upon presentation of membership and historical objection be relieved of any obligation to pay dues or fees to the Union. The Union shall be informed in writing of any such objections.

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The Union shall comply with the requirements set forth in *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986) for the deduction of agency shop fees. Annually, the Union shall certify in writing to the City that the Union has complied with the requirements set forth in this section and in Hudson. The Union is solely responsible for compliance with all applicable federal and state laws regarding collection of fees.

5.1 Authorization for Deductions

- a. The Union shall submit any request to initiate, change, or cancel deductions of Contributions from represented employees' pay according to the Controller's "Union Deductions Procedure" ("Procedure"), which the Controller may amend from time to time with reasonable notice to the Union. "Contributions" as used in this Section 5 means Union membership dues, initiation fees, political action funds, other contributions, and any special membership assessments, as established and as may be changed from time to time by the Union.
- b. The City shall deduct Contributions from a represented employee's pay upon submission by the Union of a request, in accordance with the Procedure. The Procedure shall include, and the Union must provide with each request, a certification by an authorized representative of the Union, confirming that for each employee for whom the Union has requested deduction of Contributions, the Union has and will maintain a voluntary written authorization signed by that employee authorizing the deduction. If the certification is not properly completed or submitted with the request, the City shall notify the Union, and make the requested deduction changes only upon receipt of a proper certification.
- c. The Procedure is the exclusive method for the Union to request the City to initiate, change, or cancel deductions for Contributions.
- d. Union rules provide that for employees whose membership card or other authorization form does not provide terms of revocation, the member may revoke by submitting a written revocation to the Union during the thirty (30) day period immediately before the anniversary date on which the employee signed the employee's form. The parties agree that the City has no role, responsibility or decision making authority over the terms of Union membership, including revocation of such membership, or over revocation of an employee's authorization for deductions of Contributions, except to cancel deductions upon notice from the Union as provided in this Section.
- e. The City shall implement new, changed, or cancelled deductions the pay period following the receipt of a request from the Union, but only if the Union submits the request by noon on the last Friday of a pay period. If the Controller's Office receives the request after that time, the City will implement the changes in two following pay periods.

- f. If an employee asks the City to deduct Contributions, the City shall direct the employee to the Union to obtain the Union authorization form. The City will not maintain a City authorization form for such deductions. If a represented employee hand delivers the official Union form authorizing such deductions to the Controller's Payroll Division, the City shall process the authorization and begin the deduction within thirty (30) days. The City will send the Union a copy of any authorization form that it receives directly from a represented employee.
- g. Except as otherwise provided in this subsection 5.1, each pay period, the City shall remit Contributions to the Union, after deducting the fee under San Francisco Administrative Code Section 16.92. In addition, the City will make available to the Union a database that includes the following information for each represented employee: name; DSW number; classification; department; work location; work, home, and personal cellular telephone number; personal email address if on file with the City; home address; and any Contributions amount deducted.
- h. Except as otherwise provided in this subsection 5.1, the City shall continue to deduct and remit Contributions until it receives notice to change or cancel deductions from the Union in accordance with the Procedure, or it receives an order from a court or administrative body directing the City to change or cancel the deductions for one or more employees.
- i. With the exception of subsection (f) above, the Union is responsible for all decisions to initiate, change, and cancel deductions, and for all matters regarding an employee's revocation of an authorization, and the City shall rely solely on information provided by the Union on such matters. The City shall direct all employee requests to change or cancel deductions, or to revoke an authorization for deductions, to the Union. The City shall not resolve disputes between the Union and represented employees about Union membership, the amount of Contributions, deductions, or revoking authorizations for deductions. The City shall not provide advice to employees about those matters, and shall direct employees with questions or concerns about those matters to the Union. The Union shall respond to such employee inquiries within no less than 10 business days.

5.62 Indemnification

The Union agrees to indemnify and hold harmless the City for any loss or damage arising from this provision. The Union shall indemnify, hold harmless, and defend the City against any claim, including but not limited to any civil or administrative action, and any expense and liability of any kind, including but not limited to reasonable attorney's fees, legal costs, settlements, or judgments, arising from or related to the City's compliance with this Section 5. The Union shall be responsible for the defense of any claim within this provision, subject to the following: (i) the City shall promptly give written notice of any claim to the Union, (ii) the City shall provide any assistance that the Union may reasonably request for the defense of the claim; and (iii) the Union has the right to control the defense or settlement of the claim; provided, however, that the City shall have the right to participate in, but not control, any litigation for which indemnification is sought with counsel of its own choosing, at its own expense; and provided further that the Union may not settle or otherwise resolve any claim or action in a way that obligates the City in any manner, including but not limited to paying any amounts in settlement, taking or omitting to take any actions, agreeing to any policy change on the part of the City, or agreeing to any injunctive relief or consent decree being entered

against the City, without the consent of the City. This duty to indemnify, hold harmless, and defend shall not apply to actions related to compliance with this section brought by the Union against the City.

5.73 New Employee Orientation

The rights obligations of the City and the Union under Government Code Sections 3555-3559, are met through City-wide Union Access to New Employees Program applicable to all City Agencies and all City Employee Unions. See Appendix B.

FOR THE CITY

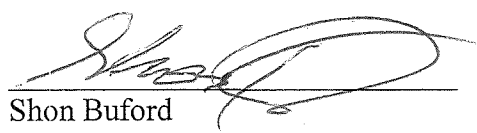
Date: 7/30/19



Carol Isen
Employee Relations Director

FOR THE UNION

Date: 7/29/2019



Shon Buford
President

APPROVED AS TO FORM:

City Attorney

Date: 7/29/19



Katharine Hobin Porter
Chief Labor Attorney

OFFICE OF THE MAYOR
SAN FRANCISCO



LONDON N. BREED
MAYOR

SK

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Sophia Kittler
RE: Memorandum of Understanding - Fire Fighters Union Local 798, Unit 1
DATE: 7/30/19

Ordinance adopting and implementing the First Amendment to the 2018-2021 Memorandum of Understanding between the City and County of San Francisco and the San Francisco Fire Fighters Union, Local 798, Unit 1, to update the Union Security and Surf Rescue Premium provisions.

Should you have any questions, please contact Sophia Kittler at 415-554-6153.

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BOARD OF SUPERVISORS
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2019 JUL 30 PM 3:57
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