

MEMORANDUM OF UNDERSTANDING

between

MANAGEMENT AND CONFIDENTIAL UNIT, LOCAL 890

and the

MARINA COAST WATER DISTRICT

July 1, 2010⁹ – June 30, 201₂⁰

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PREAMBLE: PURPOSE

Both the Marina Coast Water District and the Union agree that the purpose of this Memorandum of Understanding is to ensure that all Marina Coast Water District employees be treated with mutual respect, dignity and fairness. To achieve that goal all rules, practices and policies will be applied equally and impartially.

It is the goal of the Marina Coast Water District and the Union that we all work toward a workplace which is healthy, cooperative, supportive and mutually trusting.

ARTICLE 1: PARTIES

THIS AGREEMENT is made and entered into between the Marina Coast Water District (herein called "MCWD") and the General Teamsters, Local 890 (herein called the "Union").

ARTICLE 2: RECOGNITION

MCWD recognizes the Union as the bargaining agent for all employees in the Management and Confidential Unit.

ARTICLE 3: TERM

This two-year ~~one~~-(12) ~~year~~ Agreement shall remain in full force and effect from the date it is adopted by the District and the Union up to and including June 30, 201~~20~~20 and thereafter shall continue in effect year by year unless one of the parties hereto notifies the other immediately preceding the expiration date, of its request to modify, amend or terminate specific sections of this Agreement. Upon receipt from the parties hereto of a timely request to modify, amend or terminate specific sections of the Agreement, the other party shall have ten (10) days to respond.

ARTICLE 4: NONDISCRIMINATION

The provisions of this Memorandum of Understanding shall be applied equally to all employees covered hereby without discrimination and free from sexual harassment, as well as unlawful physical disability, pregnancy, child birth or related medical conditions, national origin, religious creed, political belief, gender, sexual orientation, or any other basis protected by federal, state, or local law, ordinance, or regulation. It also prohibits unlawful harassment based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics.

Employees may elect to exercise their right to join and participate in the activities of the Union for the purposes of representation in all matters of their working conditions and employer-employee relations. The parties agree that there shall be no restraint, coercion or interference with any employee with respect to or because of the employee's membership in said Union.

The Union and MCWD agree that there shall be no discrimination within their respective organizations because of race, creed, sex, sexual preference, marital status, color, national origin,

age, religious affiliation, handicap, disability or political belief, nor shall a person be the subject of sexual harassment.

Union represented employees shall not be restricted in their rights to engage in political activity except as set forth in state and federal law.

Any party alleging a violation of this Article shall have the burden of proving the existence of a discriminatory act or acts or proving that, but for such act or acts the alleged injury or damage to the grievant would not have occurred.

ARTICLE 5: UNION RIGHTS

Section 5.1 Representation

The Union has the right to represent employees in the representation unit as specified by state law and the terms of this Agreement, and pursuant to the MCWD Employer-Employee Labor Relations Ordinance.

The Union will notify MCWD and maintain such notice during the terms of this Agreement of its elected officers and directors as well as its staff employees.

MCWD will notify the Union, upon request, of the name and classification of each new employee in the represented unit.

Section 5.2 Access to Work Locations

Reasonable access to employee work locations shall be granted official representatives of the Union, for representational purposes and for the purpose of transmitting information. Authorized Union staff representatives desiring such access shall first request permission from the appropriate management representative, at which time the representative shall inform said management representative of the purpose of the visit. Said management representative may deny access to the work location if in his/her judgment the visit would interfere with the operations of the facility, in which event the management representative will offer an alternative time and/or location for the visit

Section 5.3 Union Meet and Confer Representatives

Union may select no more than two (2) persons from the Management and Confidential Unit (and an alternate to serve in the absence of either representative who have each passed their initial probationary period with the MCWD, in addition to its staff members, to act as official representatives. These representatives will represent the Union in jointly scheduled meetings with the MCWD to address matters of mutual concern. The Union will notify the MCWD of the selected unit members. If it is mutually agreed that an issue that results in one or more meet-and-confer meetings, would impact only one of the work sections, then only the representative for that section, in addition to the Union staff person, will attend those meet-and-confer sessions.

The Union section representatives will be granted reasonable time during normal working hours for meeting and conferring with authorized representatives of the MCWD.

Section 5.4 Representation Program

Designated employee shall mean an employee who has served out his/her initial probationary period with the MCWD, and who is a member of and is designated by the Union to assist employees in processing grievances.

The designated employee shall be subject to the following:

- A. The designated employee shall be authorized a reasonable amount of time off without loss of pay to investigate and prepare grievances and disciplinary appeals of unit employees and shall have the right to serve as a representative for employees in grievance matters in accordance with the grievance and disciplinary appeals provisions of the Agreement.
- B. The designated employee shall not conduct Union business on MCWD time, except as specifically authorized by this Memorandum of Understanding.
- C. The designated employee may represent employees against whom disciplinary action is pending, as provided for in employees' Weingarten rights.

Section 5.5 Agency Fee and Dues Deduction

A. Employee Rights

The District and Union 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. Accordingly, membership in the Union shall not be compulsory.

B. Payroll Deductions

The District shall deduct from the pay of Union members and pay to the Union the normal and regular monthly Union membership dues as voluntarily authorized in writing by the employee on the District form, subject to the following conditions:

- (1) Such deduction shall be made only upon submission of the District form to the General Manager of the District. Said form shall be duly completed and executed by the employee.
- (2) The District shall not be obligated to put into effect any new, changed or discontinued deduction until the pay period commencing fifteen (15) days or longer after such submission.

C. Payment Method

- (1) A District employee who has not voluntarily made application for membership in the Union within thirty days after employment must, as a condition of employment in the District, pay to the Union a service fee. This fee is in exchange for representation services necessarily performed by the Union in conformance with its legally imposed duty of fair representation on behalf of said employee who is not a member of the Union.
- (2) In the event that an employee does not become a member of the Union or pay such fee directly to the Union, the District shall begin automatic payroll deduction.
- (3) Prior to beginning such automatic payroll deduction, the Union will certify to the District in writing that:
 - (a) The employee whose pay is to be affected by the deduction has:
 1. Refused to join the Union;
 2. Refused to tender the amount of the service fee as defined herein; and,
 3. Not applied for an exemption under Section 5 herein; and,
 - (b) The Union is complying with all applicable regulations regarding the implementation of agency fees including the submission of an annual report to the District and unit members within sixty (60) days after the end of the fiscal year.
- (4) The written certification in "(3)" above shall be a condition precedent to any collection of the service fee by the District.
- (5) The Union will file with the District a copy of the written notice required by law to be sent to non-Union members subject to the service fee.
- (6) Minimum Requirements for Automatic Payroll Deduction of Fee
 - (a) The District is under no obligation to make payroll deductions for periods during which a unit member is either terminated from active employment or not on the District's active payroll for any reason, including, but not limited to, layoffs and voluntary leave of absence for more than thirty (30) days.
 - (b) When a unit member is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period. In the case of a unit member who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. All other legal and required deduction has priority over Union dues and service fees.

Amount of Fee

The amount of fee collected from bargaining unit members shall be that allowed by Section 3540.1 of the Government Code.

D. Exemptions to Obligation to Pay Fee

- (1) Any unit member shall be exempted from the requirements of a service fee if such unit member 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" as defined by Section 3540.1 of the Government Code. In addition any unit member may be exempted from the service fee if such unit member registers a deep philosophical objection to financially supporting a "public employee organization".
- (2) To register such exemption, the unit member must submit a written statement indicating his/her objection to the General Manager.
- (3) An exempt unit member shall, as an alternative to payment of a service fee to the Union, pay an amount equivalent to such service fee to:
 - (a) Women's Crisis Center
 - (b) Citizenship Project

F. District's Obligation

The District's obligations under this Article are 1) to notify any unit member who has failed to comply with the provisions of this section that, as a condition of employment in the District, such unit member must either become a Union member, pay a service fee, or establish an exempt status and make payment pursuant to the provisions of this Agreement; and 2) deduct from pay appropriate amounts pursuant to Sections 2 and 4 herein

G. Hold Harmless and Indemnity Provision

The Union shall hold the District harmless and shall fully and promptly reimburse the District for reasonable legal fees and costs incurred in responding to or defending against any claims, disputes, or challenges, which are actually brought against the District or any of its agents by other than the Union in connection with the administration or enforcement of any section of this Agreement pertaining to representation fees. Such reimbursement shall include costs and attorneys' fees incurred by the District.

Nothing in the above shall require that any employee shall be required to join the Union if they are exempted from such requirement by the provisions of the Meyers-Milias-Brown Act, California Government Code 3500 et seq. The parties shall meet to designate those positions in the unit which are supervisory.

Section 5.6 Bulletin Board

The MCWD will furnish for the use of the Union a bulletin board in the employees break room. Said bulletin board shall be used for the purpose of posting Union official notices and all materials shall state clearly that it is authorized by the Union.

Union agrees that notices posted on MCWD bulletin boards shall not contain anything which may be reasonably construed as maligning MCWD, its representative(s), or any individual in any manner whatsoever.

Nothing in this Memorandum of Understanding or District policy shall be interpreted to prohibit designated Union paid staff or other formally designated representatives from informally discussing matters of mutual concern with individual Board members. Such discussions shall comply with the Brown Act open meeting law requirements, are to be informational only, and do not constitute a substitution for appropriate channels of communication with either District staff or the Board as a whole.

ARTICLE 6: MANAGEMENT RIGHTS

MCWD will continue to have, whether exercised or not, all the rights, powers and authority heretofore existing, and not specifically limited by this Memorandum of Understanding, including, but not limited to the following:

- Determine the standards of services offered;
- Determine the standards of selection for employment;
- Direct its employees;
- Take disciplinary action;
- Relieve its employees from duty because of lack of work or for other legitimate reasons;
- Issue and enforce rules and regulations;
- Maintain the efficiency of governmental operations;
- Determine the methods, means and personnel by which MCWD operations are to be conducted;
- Determine job classifications of MCWD employees;
- Exercise complete control and discretion over its work and fulfill all of its legal responsibilities.

All the rights, responsibilities and prerogatives that are inherent in the MCWD by virtue of federal, state, and local laws and regulation provisions cannot be subject to any grievance proceeding.

The exercise of the foregoing powers, rights, authority, duties and responsibilities by the MCWD Board, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this Agreement and then only to the extent such specific and express terms hereof are in conformance with the Constitution and laws of the United States and the Constitution and laws of the State of California.

ARTICLE 7: SAFETY

Section 7.1 Obligation

The MCWD will provide a safe and healthful workplace free of recognized hazards. The MCWD agrees to comply with all applicable local state and federal health and safety laws and regulations.

The Union agrees that it is the duty of all employees to comply with all reasonable rules and regulations and when possible, to be alert of all unsafe places, equipment and conditions and to report any such unsafe practices or conditions to the appropriate management representatives. If such notice is given in writing, employees will not be required to work in unsafe conditions. However, employees may not leave the worksite. Alternate work may or may not be assigned by the District until the unsafe condition is remedied or until it is determined that no unsafe conditions exist.

Section 7.2 Safety Equipment and Uniforms

MCWD shall provide and maintain appropriate safety clothing and equipment for union represented Technical Support personnel. Such items may include, depending upon assigned duties, laboratory coats and aprons dust masks and non-prescription safety glasses. Up to five (5) coats and aprons shall be cleaned weekly and worn clothing shall be replaced by the MCWD.

MCWD shall provide and maintain the appropriate uniforms for Operations and Maintenance personnel. Such items shall include: Long sleeved shirts and pants and jackets. Shirts and pants shall be cleaned weekly and worn clothing shall be replaced by MCWD.

MCWD will provide up to two-hundred dollars (\$200.00) credit for the purchase of safety-toed boots or safety-toed shoes for the following personnel: Systems Operator I/II/III, Water Quality Chemist, and engineering classifications that require inspecting as a function of the position. Replacement boots or shoes will be provided on an as-needed basis. Wearing of uniforms and safety boots during all working hours is mandatory for all employees provided with or eligible for reimbursement of same. Uniforms and boots are to be worn for District purposes only. Obscene or excessive adornment may not be worn.

The District shall provide one pair of prescription safety glasses, upon request, to each employee in Operations and Maintenance and Laboratory personnel. The reimbursement cost for each pair of glasses shall not exceed \$100.

~~Uniforms and boots are to be worn for District purposes only. Obscene or excessive adornment may not be worn.~~

~~The District shall provide one pair of prescription safety glasses, upon request, to each employee in Operations and Maintenance and union represented Laboratory personnel. The reimbursement cost for each pair of glasses shall not exceed \$100.~~

Section 7.3 VDT Screens

MCWD shall provide tinted screens for the video display terminals (VDTs) designed to reduce eye strain and screen glare.

The District shall provide raised foot stands for the Administrative staff, upon request.

Section 7.4 Hepatitis A & B Vaccinations

MCWD shall continue to maintain coverage, under normal group medical benefits, allowing for Hepatitis A and B vaccinations for individuals who are or will be at increased risk of infection with HAV (Hepatitis A virus).

Section 7.5 Wellness Program

MCWD will provide educational services to employees on nutrition, disease prevention and management, smoking cessation, obesity, etc. through posters, flyers and brown bag lunches with guest speakers. In addition, the District will offer free, onsite preventive health screenings to all employees provided the employee participates in a workforce health profile.

ARTICLE 8: WAGES

Section 8.1 Wage Increase

Effective July 1, 2010~~09~~, non-exempt employee’s salaries of this unit will be adjusted 4%. ~~there will be no cost of living adjustment.~~

Effective July 1, 2010, exempt, management employee’s salaries of this unit will be adjusted 2%.

Effective July 1, 2011, all employees’ salaries of this unit will be adjusted 2%.

Section 8.2 Annual Step Increase

The current practices relative to the granting of performance based merit increases shall continue for the term of this MOU.

Section 8.3 Longevity Steps

Upon reaching the following anniversaries, employees shall receive longevity pay increases as follows:

10 years of service	5% pay increase
15 years of service	5% pay increase
20 years of service	5% pay increase
25 years of service	2.5% pay increase
30 years of service	2.5% pay increase

The current practices relative to the granting of longevity pay shall continue for the term of this MOU.

Section 8.4 — Salary Survey

~~Prior to March 1, 2010, MCWD will conduct, internally, a salary survey of positions, salaries and job specifications to take into account expanded duties. MCWD will use information such as the AWWA salary survey and other market data to assist in determining if adjustments are appropriate.~~

~~Comparison agencies used will be the same for both bargaining units and all employees will be notified of the results of the survey.~~

ARTICLE 9: OVERTIME AND WORK WEEK

Section 9.1 Overtime

The following shall apply to all union-represented employees who are statutorily non-exempt from state and federal overtime requirements.

Overtime shall be defined as time actually worked in excess of forty (40) hours in a workweek and eight (8) or nine (9) hours in a workday, depending upon the employee's regularly scheduled shift. All overtime work shall be authorized by the appropriate representatives of management and be paid at time and a half (1.5) or may be credited with the equivalent compensatory time off at the option of the affected employee. Time worked in excess of 12 hours in one work day shall be paid at double time.

For the purpose of this section, paid holiday, vacation, and compensatory time off hours shall be considered as hours worked for the purpose of determining overtime. This does not apply to sick leave.

Compensatory time shall be used within ninety (90) days from its accrual date.

Section 9.2 Work Week and Hours

The normal workweek shall be Monday to Friday, eight (8) or nine (9) hours per day depending upon the employee's regularly scheduled shift. In an emergency or in unusual circumstances the workweek may be changed.

For Confidential and Laboratory personnel, the normal working hours are between 7:30 a.m. to 5:30 p.m. For Operations and Maintenance personnel the normal working hours are between 6:30 a.m. to 5:30 p.m. depending upon job assignment, except for regularly assigned stand-by and weekend duty. For Water Conservation and Engineering, normal working hours are 7:30 a.m. to 5:00 p.m.

Alternative Work Week: A 9/80 Flex Time schedule is available for employees who elect this option. Managers will have the discretion to consider and implement this schedule based on the

operational and managerial needs of the District. All employees of the District can request such schedule and the District agrees that the requests will not be unreasonably denied. Participation in the Flex Schedule affects the schedules of others; therefore, once established, changes in flex scheduling can only be changed if approved by the Department Head and General Manager.

ARTICLE 10: SPECIAL PAY PRACTICES

Section 10.1 Call-Out

The following shall apply to all union-represented employees who are statutorily non-exempt from state and federal overtime requirements.

MCWD agrees to guarantee a minimum of two (2) hours of paid time to any worker who, following the completion of his/her workday and departs from his/her place of employment, is called back and must report to a worksite because of work requirements, at times other than normal work hours. Such call outs shall be considered overtime. Responding to such call-outs is mandatory.

Once an employee has initially been called back to duty under call-back conditions, no additional call-back work credit shall be credited for any subsequent call-back, which occurs within the initial call-back minimum period of two (2) hours.

Section 10.2 Certification Bonuses

MCWD shall pay one-time bonuses of ~~two~~one-hundred ~~forty~~fifty dollars (\$~~25400~~) per certificate for employees who obtain the following certificates from the California State Water Resources Control Board: Wastewater Treatment Operator II, III, IV, V, from the California Department of Public Health; Water Distribution Operator II, III, IV, V, and Water Treatment Operator II, III, IV, V; and California Water Environment Association; Collection System Maintenance II, III, IV, V; Laboratory Analyst II, III, IV, V; and American Water Works Association CA-NV; Water Quality Analyst II, III, IV; Water Conservation Practitioner I, II, III and any other pertinent certifications on which the parties may agree.

Employees will be reimbursed after proof of completion of a course of study or exam with regard to the cost of licenses, certificates and renewals which are required to perform his/her job duties.

Section 10.3 Certification Pay

As an incentive to encourage employees to acquire knowledge in areas related to current or future position(s), MCWD provides a one-time, ongoing, salary increase based on certification at a higher level than what is required for the current classification, provided the classification is maintained.

Probationary employees are not eligible to receive certification bonuses or certification pay until he/she completes the initial MCWD probationary period and satisfy the current job specification certification for new employees.

Only one (1) certification incentive will be approved above the requirement of the current

classification. To avoid confusion as to which certifications are authorized, the employee should request approval from his/her immediate supervisor and the General Manager or designee before beginning this program.

<u>System Operator II</u> <u>Collection Operator II</u> <u>Laboratory Analyst II</u> <u>Water Quality Analyst II</u>	<u>Obtains Grade III certification from CWEA, CDPH, SWRCB, AWWA CA-NV</u>	<u>Receives 5% ongoing increase (as long as certification is maintained)</u>
<u>System Operator III</u> <u>Collection Operator III</u> <u>Laboratory Analyst III</u> <u>Water Quality Analyst III</u>	<u>Obtains Grade IV certification from CWEA, CDPH, SWRCB, AWWA CA-NV</u>	<u>Receives a 5% ongoing increase (as long as certification is maintained and not a requirement of the position)</u>
<u>System Operator IV</u> <u>Collection Operator IV</u> <u>Laboratory Analyst IV</u> <u>Water Quality Analyst IV</u>	<u>Obtains Grade V certification from CWEA, CDPH, SWRCB, AWWA CA-NV</u>	<u>Receives 5% ongoing increase (as long as certification is maintained and not a requirement of the position)</u>

The maximum amount allowable is five percent (5%) and certifications cannot be “stacked”.

Certification for positions not listed above will also be considered. The level of bonus will be set after evaluation of the program and with respect to the above specified bonuses.

Management employees are not eligible for this certification pay incentive.

Section 10.3 Education Reimbursement

Based on an employee’s submission of a completed Tuition Reimbursement Request form, including the supervisor and General Manager’s approval, a regular, full-time employee may be reimbursed for books and tuition only for a job-related course of study. The employee shall submit the information on the class/program prior to enrollment. If the request form is not submitted in advance of the beginning of the class/course of study, reimbursement may be denied.

Confirmation transcripts or evidence which verifies the student’s successful completion of the course (a grade C or better, “pass/fail” completion, a certificate or diploma) must be submitted to Human Resources prior to receiving reimbursement.

Section 10.4 Shift Differential

The following shall apply to all union-represented employees who are statutorily non-exempt from state and federal overtime requirements.

Any unit member whose assigned work shift includes the hours between 6p.m. and 11 p.m., (and who works a minimum of four (4) hours between 6p.m. and 11 p.m.) shall be paid a shift differential premium of five (5) percent an hour above the regular rate of pay for all hours

worked. Any unit member whose assigned work shift includes the hours between 11 p.m. and 5 a.m., (and who works a minimum of four (4) hours between 11 p.m. and 5 a.m.) shall be paid a shift differential premium of ten (10) percent an hour above the regular rate of pay for all hours worked.

ARTICLE 11: INSURANCE

Section 11.1 Health Insurance

The District agrees to pay the monthly medical/dental/vision insurance premiums for all regular, full-time employees. Beginning January 1, 2005 employees with dependants shall contribute the following amounts towards health premiums via a payroll deduction. The following amount(s) will be effective during the term of this MOU:

| ~~January 1, 2010-~~ \$90/month

At the option of the employee, Marina Coast Water District will provide continued medical benefits for retired District employees provided the minimum requirements established by the District are met. The requirements shall be as follows:

- A. The employee shall be at least 55 years of age and have a total of 20 years of service with the District.
- B. The District will pay 50% of the medical insurance cost for the employees at retirement who meet the requirement stated in item one above.
- C. All employees who exercise this option and who retire with 20 years of service are required to pay 50% of the cost of medical insurance and shall make their payments on the first of each month after retirement. Any retired employee who fails to make the required payment to the District shall have all benefits cancelled if not paid within 30 days of the due date.
- D. District employees shall be notified of the amounts owed to the District at the time of retirement. The amount paid shall be calculated based on 50% of the rates charged by the District's insurance carrier at the time of retirement. The employee shall be notified of any changes in the amount owed each year.

In the event costs are increased by a carrier during the term of the Agreement, the District will notify the Union and will meet and confer on the proposed change.

Section 11.2 Life Insurance

MCWD agrees to provide Group Term Life and Accidental Death and Dismemberment (AD&D) Insurance for all regular, full-time employees at an amount equal to two times their annual salary. Such insurance shall be at no cost to the employee, except that, insurance amounts above \$50,000 provided by the District shall be subject to tax law provisions.

Employees may purchase additional insurance through payroll deduction at a rate set by the insurance company.

Section 11.3 Short-Term/Long-Term Disability Plan

In addition to State Disability Insurance (SDI), the District provides, at no cost to the employee, a short-term/long-term disability plan that supplements SDI and offers up to 2/3 of the employee's base annual salary, subject to the provisions of the contract with the carrier.

Section 11.4 Retirement

MCWD agrees to continue to provide the following retirement benefits:

Basic Public Employees' Retirement Systems (PERS), 2% @ 60 formula with:

- a. Social Security
- b. Sick Leave conversion
- c. Highest twelve (12) months compensation
- d. Military Service credit as Prior Service
- e. Value of Employer-Paid Member Contributions (EPMC) to PERS reported as additional compensation, as provided for under Government Code Section 20636©. This shall apply to all Union members.

MCWD pays 100% of employer/employee contributions.

Section 11.54 Labor-Management Cost Containment Committee

MCWD and the Union agree to participate in a District wide labor-management committee to study methods and plans to reduce the cost of the insurance benefits to the MCWD, and examine possible alternatives to the current medical insurance plan.

Section 11.6 Employee Assistance Program (EAP)

Effective February 1, 2011, MCWD agrees to provide a confidential EAP benefit to all eligible employees and their dependent(s). This program is provided to promote employee health and well-being when personal problems affect an employee's life and work. The program provides information, consultation and counseling for employees and their family members, as well as offering training and consultation to management.

The EAP covered services include six (6) assessment/counseling sessions or financial/legal services for each incident of treatment.

Section 11.75 Insurance Administration

The MCWD continues to have the right and the obligation to administer the various insurance programs. These rights and obligations include, but are not limited to, the right to select the carriers and insurance claims administrators after consideration of the recommendations of the health insurance labor-management committee and prior meeting and consultation with the Union. Changes in insurance carriers or administrators shall not result in any appreciable

reduction in benefits. In the event a change in insurance carriers is made, an open enrollment period will be authorized.

ARTICLE 12: HOLIDAYS

The following listed days shall be observed during the term of this MOU as legal holidays:

- New Year's Day
- Martin Luther King, Jr. Birthday
- President's Birthday
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Day After Thanksgiving
- Working day immediately preceding Christmas Day
- Christmas Day
- Employee's Birthday
- Floating Holiday

Observed holidays falling on Saturday will be celebrated on Friday; those falling on Sunday will be celebrated on Monday. Employee Birthday and Floating Holiday may be taken at any time during the calendar year upon approval of the department supervisor.

Union represented employees who are statutorily non-exempt from state and federal overtime requirements and who may be required to work on a holiday will be permitted to choose compensation in the form of compensatory time off at double time and one half the regular salary rate for the holiday worked, or monetary payment for the day. If the monetary payment is selected, it will result in the employee getting payment of double time and one half if the total credited hours for the week exceed forty (40).

ARTICLE 13: VACATION

Section 13.1 Accrual

The following vacation schedule shall apply:

1	year of service	10 working days per year
2-3	years of service	11 working days per year
4 - 10	years of service	16 working days per year
11+	years of service	20 working days per year

Vacation time will accrue through the year and will be pro-rated and credited at the end of each pay period. The maximum accrual allowance shall be two hundred and sixty ~~forty~~ (260~~40~~) hours. Vacation time earned in excess of 260~~40~~ hours shall be paid during the next following pay

period. Vacation leave cannot be used by new employees during their initial probationary period, unless approved, in advance, by the General Manager.

Section 13.2 Advance Approval and Cancellation Notice

- A. Application for approval of vacation leave shall be made no less than ten (10) working days in advance. Approval of vacation leave for less than five (5) working days can be approved at the discretion of the immediate supervisor. No vacation leave shall be approved in less than one-hour increments.
- B. MCWD shall provide at least seven (7) working days notice to employees if, due to workload requirements, an employee will not be able to take his/her pre-authorized vacation, unless emergency situations require a shorter notice. MCWD will authorize vacations as soon as operationally possible.

Section 13.3 Buy-Out

The MCWD shall, upon termination or resignation of an employee, compensate that employee for his/her accrued vacation time at his/her current rate of pay.

Section 13.4 Cash-Out

Employees may elect to cash out accumulated vacation time provided that the employee maintains at least forty (40) hours of accrued vacation credit. Cash-out must be done in conjunction with a regular paycheck.

ARTICLE 14: SICK LEAVE

Section 14.1 Accrual Rate

Sick Leave time will accrue through the year and will be pro-rated and credited at the end of each pay period. Employees shall accrue one day per calendar month with an unlimited accumulation amount.

Notification of illness shall be made as soon as possible and no later than 1 hour after the start of the workday, if at all possible.

After three (3) days of consecutive sick leave, an explanation of the employee's illness shall be submitted by the employee's physician along with a release by the physician to return to work and a statement by the physician that the employee is physically able to perform their job.

Employees who use two (2) days or less of their annual sick leave entitlement will be given the opportunity at the end of the calendar year to convert two (2) of the remaining sick leave days into vacation, or let the sick leave days accumulate. Sick leave used for doctor/dentist appointments during work hours will not be subject to this.

Section 14.2 Retirement Payoff

After ten years of continuous service, or at age of sixty years or above, upon termination or retirement, an employee shall be paid for sixty (60%) of his/her accumulated sick leave up to a maximum of 240 hours. All payments will be made at the current rate of pay.

ARTICLE 15: LEAVES

Section 15.1 Leave Without Pay

Any regular full-time employee may be granted leave without pay with approval of the General Manager for any of the following reasons: Illness or disability; pregnancy; and/or personal reasons acceptable to the General Manager.

All approved leaves shall be without pay and without loss of earned employee benefits. Employees shall continue to receive health benefits on leaves of absence without pay if the employee pays for said benefits. Employees shall continue to receive health benefits on leave of absence without pay if the employee pays for said benefits.

Section 15.2 Military Leave

Every employee of MCWD shall be granted military leaves of absence and other benefits as provided in Division II, Part I, Chapter VII of the Military and Veteran's Code of the State of California and the Uniformed Services Employment and Reemployment Rights Act (USERRA)

Section 15.3 On the Job Injury Leave

An employee may choose to apply his/her accrued sick leave and/or vacation during an on-the-job-injury leave until he/she becomes eligible for other benefits, thereafter he/she may elect to apply pro-rated accrued sick leave, to the extent of his/her recorded sick leave and to receive compensation from MCWD together with that to which he/she is entitled under the California Worker's Compensation Law, to equal his/her regular MCWD salary, including SDI benefits. When an on the job injury or illness does occur, a written statement from the employee is required within twenty four (24) hours to be submitted to the Management Services Administrator. MCWD will continue to provide health benefits for each employee on a job injury or illness leave as long as the employee continues to use pro-rated, accrued sick leave and/or vacation leave to equal normal salary, and until such sick leave and/or vacation leave are expended or such time as the employee returns to active employment or resigns from MCWD.

Section 15.4 Bereavement Leave

Employees shall be entitled up to three (3) days of paid leave for a death of a family member. A family member includes the employee's spouse or State-registered domestic partner and the following persons related to the employee or spouse or State-registered domestic partner: mother, father, brother, sister, child, step-child, grandparents, grandchild, or legal guardian. Such leave

shall be separate from sick leave and vacation and is to be used within two (2) weeks upon the death of the family member. Up to five (5) days may be granted for exceptional circumstances acceptable to the General Manager.

Upon approval, employees may use either accumulated sick leave and/or vacation leave if more time off is necessary.

Section 15.5 Jury Duty

Jury duty shall be considered leave with pay provided the unit member submits a copy of the jury summons and documentation indicating the dates and times of jury service to his/her supervisor. An employee, while serving on jury duty will receive pay in the amount of the difference between the employee's regular earnings and any amount received for jury service. The employee may retain any fee paid as a travel allowance.

Section 15.6 Management Leave

Union represented employees who are exempt from state and federal overtime requirements shall continue to be permitted to take management leave in recognition of the special requirements of their jobs. Effective July 15, 2009, management leave shall be accrued on a bi-weekly basis at the rate of 3.077 hours per pay period. The maximum accrual allowance for management leave will be eighty (80) hours per fiscal year. Management leave earned by the end of each fiscal year shall be taken within the first quarter of the following fiscal year or the leave will be forfeited.

Any employee with more than eighty (80) hours of earned management leave prior to July 15, 2009 will be capped at his/her higher accrued amount and must, by June 30, 2012, either use or cash out management leave above the maximum accrual.

Section 15.7 Voluntary Furlough Without Pay

The following shall apply to the "Voluntary Furlough Without Pay Plan:

- a. No form of salary compensation may be taken (i.e. vacation, compensatory time, management leave). Paid holidays which occur during the furlough period will continue to be paid as usual.
- b. All existing benefits that have been paid by the District shall continue to be paid by the District and all deductions previously paid by the employee shall continue to be taken out of the employee's check when a check has been issued with sufficient funds. In other cases, it shall be the employee's responsibility to make arrangement to pay his/her portion of benefits or other payroll deductions. This includes, but is not limited to, health, union dues, court ordered payments, voluntary supplemental life insurance premiums and voluntary supplemental health insurance such as AFLAC.
- c. No loss of seniority or break in service will be suffered by the employee.
- d. All benefits shall accrue as if the employee were working (i.e., vacation, sick leave).
- e. An employee may take up to forty (40) hours of voluntary furlough without pay at any one time in a fiscal year. A written request must be approved, in advance, by the

employee's manager. Shorter increments of time (no less than four (4) hours) may be requested, subject to approval by the department manager. The manager may accept or reject a request for furlough after consideration of the employee's position and department workload.

- f. Employees with accrued vacation and/or compensatory time in excess of the District maximum may not participate in this plan until they are in compliance with the maximum hours allowed.
- g. Taking unpaid furlough should not result in the need for any other employee to work overtime.

If you have any questions, please contact the Management Services Administrator

ARTICLE 16: DEFERRED COMPENSATION

The District shall make available a 457 deferred compensation plan for all bargaining unit employees. The District's 457 Deferred Compensation Plan allows employees, on a voluntary basis, to authorize a portion of their salary to be withheld and invested at their direction for payment upon termination of employment or retirement. All contributions are deducted from employees' salary on a pre-tax basis. Upon withdrawal from the Plan, participants will be responsible for appropriate taxes.

MCWD will comply with IRS regulations regarding maximum contributions and provisions of tax laws.

ARTICLE 17: PRE-TAX VOUCHERS

MCWD shall work with the Union to provide a pre-tax voucher system for bargaining unit employees' dependent care expenses.

ARTICLE 18: WORKING OUT OF CLASSIFICATION

When an employee covered by the provisions of this Agreement is assigned through a personnel action form to perform the primary and essential duties of a higher paid vacant position, that employee shall be compensated at the step in the higher classification that provides an increase to the assigned employee of at least five percent (5%). The assignment must be for over twenty (20) days in a calendar year. Such additional compensation will normally begin on the twenty first (21st) working day after assignment to the higher position or earlier, subject to the discretion of the General Manager.

ARTICLE 19: LAYOFF POLICY

The District may lay off employees because of lack of work, lack of funds, material change in duties or organization, or in the interest of economy or cause outside District's direct control.

For purposes of layoff, seniority shall be defined as length of continuous service while an employee of the District. Layoff of employees within each category of employment status and

within a targeted job classification shall be based on seniority unless the employee's past job performance or disciplinary record justifies an exception to seniority ranking.

Layoffs shall be made among all employees in the same job classification within the District in the following order:

- A. Temporary employees.
- B. Probationary employees.
- C. Regular employees.

ARTICLE 20: GRIEVANCE PROCEDURE

Section 20.1 Grievance Defined

A grievance includes every dispute concerning application or interpretation of this Memorandum of Understanding by an employee adversely effected thereby, but shall not include the following:

- A. Disciplinary actions as defined herein, which shall be subject to appeal through the procedure contained in this Agreement for the appeal of disciplinary actions;
- B. Complaints regarding Occupational Health and Safety, or Workers' Compensation or the applicable procedures for such complaints;
- C. The exercise of any MCWD rights as specified in this Memorandum of Understanding, so long as the exercise of such rights does not conflict with other provisions of this Agreement;
- D. Any impasse or dispute in the meet and confer process;
- E. Any matter for which a different appeals procedure is provided either by statutes, ordinances, resolutions or agreements.

The Union shall be entitled to file a grievance on behalf of an employee adversely affected by a grievable matter.

The Union may file a grievance on its own behalf only on those matters which pertain to the rights of the Union as an organization as specified in Article 5 of this Agreement.

Section 20.2 No Discrimination

There shall be no restraint, interference, coercion, discrimination or reprisal against any employee for exercising any rights under the grievance procedure.

Section 20.3 Time Limits

The time limits set forth herein are essential to the grievance procedure and shall be strictly

observed. The time limits may be extended by agreement of the parties, and any such extension must be confirmed in writing.

If, at any stage, of the grievance procedure the employee is dissatisfied with the decision rendered, it shall be the grievant's responsibility to submit the grievance to the next designated level within the time limits set forth.

Failure to submit the grievance within the time limits imposed shall terminate the grievance process, unless the time limits have been extended by mutual agreement, and the grievance shall not be subject to further appeal or reconsideration.

The grievant has the right to promptly proceed to the next step within the prescribed time limits if the appropriate management representative fails to respond within the time limits specified.

Section 20.4 Grievance Procedure Steps

Step 1: Discussion with Immediate Supervisor

Within thirty (30) days of when the grievant knew or reasonably should have known of the act or omission, which gave rise to the grievance the grievant shall first discuss a grievance informally with his/her immediate supervisor. Every reasonable effort shall be made to resolve the grievance at this level. The immediate supervisor shall verbally respond to the grievant within three (3) working days of the informal discussion between the grievant and supervisor.

In the event of a sexual harassment grievance, the employee is not required to discuss the grievance with the immediate supervisor, and may start the grievance process at Step 2.

Step 2: Formal Written Procedure

- A. In the event the employee believes the grievance has not been satisfactorily resolved, the employee shall submit the grievance in writing on to his/her Department Head within five (5) working days after receipt of the immediate supervisor's verbal response.
- B. Within five (5) working days of receipt of the grievance, the Department Head shall:
 - (1) Meet the grievant to discuss the grievance at the request of concerned parties (i.e., the grievant, the grievant's representative, or the supervisor);
 - (2) Deliver his/her written decision outlining the reasons behind the decision to the grievant and his/her representative within three (3) working days following the meeting, if held; if no meeting was held, within seven (7) working days of the receipt of the grievance.

Step 3: General Manager Review

This step applies only to union represented employees who did not submit the written grievance to the General Manager at Step 2.

- A. If a grievance is not settled at Step 2 of this procedure, the grievance may be appealed to the General Manager in writing within ten (10) working days from the receipt of the decision of the immediate supervisor or his/her failure to respond to the grievance. In submitting the grievance to Step 3, the grievant or grievant's representative may request a meeting with the General Manager.
- B. Within five (5) working days of receipt of the grievance, the General Manager shall:
 - (1) Meet the grievant to discuss the grievance at the request of the concerned parties (i.e., the grievant, the grievant's representative, or the supervisor);
 - (2) Deliver his/her written decision outlining the reasons behind the decision to the grievant and his/her representative within three (3) working days following the meeting.

Step 4: Mediation/Recommendation for Union Represented Employees

- A. If a grievance is not settled when appealed to the General Manager, the grievant may request that the matter be referred to mediation/Recommendation by requesting a mediator from the California Mediation and Conciliation Service in writing within ten (10) working days from the receipt of decision of the General Manager or his/her failure to respond to the grievance. A copy of the request will be sent to the General Manager.
- B. At the earliest possible date which can be arranged between the Mediator, the General Manager and the Union, the Mediator shall:
 - (1) Meet with the parties and attempt to find a mutually acceptable resolution to the grievance,
 - (2) If a mediated solution is not attained render a confidential written recommended finding as to the facts of the grievance and a proposed remedy and rationale therefore,
 - (3) Deliver his/her written recommendation to the General Manager, grievant, and his/her representative as soon as possible.

Step 5: MCWD Board of Directors Review and Determination

- A. If the employee does not agree with the written decision of the General Manager,

within fifteen (15) days after receipt of the General Manager's decision, or the recommendation of the mediator if Step 4 is utilized, he/she can appeal to the MCWD Board of Directors by addressing the appeal to the President of MCWD Board.

- B. The MCWD Board will schedule the appeal for consideration as soon as possible after receipt of the request, but not later than thirty (30) days after the date of filing of the notice of appeal.
- C. Either party may submit written argument to the Directors. The written argument must be submitted within at least five (5) working days prior to the hearing.
- D. Each party shall be allotted fifteen (15) minutes for presentation of oral argument to the Directors.
- E. The Directors may affirm, reverse, or modify the decision of the General Manager or remand the grievance for further review by the General Manager or by the Mediator if Step 4 is utilized. The Directors shall consider the recommendation of the mediator in making their decision. The Directors may remand the grievance no more than one time. In such event the existing time lines shall be observed. The decision of the Directors shall be final and binding on the parties.

ARTICLE 21: DISCIPLINARY ACTION

Section 21.1 Disciplinary Actions

The objective of any disciplinary action is to correct less than satisfactory performance and to bring a worker's performance up to District standards. Disciplinary action is not primarily punitive in intent, but is intended to be corrective action.

The appointing authority may take disciplinary action against any employee, provided that the rules and regulations prescribed herein are followed and that employee who is not on probationary status has the right to appeal pursuant to this article, except as herein provided. As used in this article, "disciplinary action" shall mean formal written reprimand, suspension, disciplinary demotion, disciplinary probation, or dismissal. No employee shall be discharged or disciplined without just cause and the principles of progressive discipline shall be followed. Permanent employees shall be subject to disciplinary action by the General Manager only in accordance with the procedures set forth below.

As part of the District's progressive disciplinary process, an employee may be placed on disciplinary probation for a specified period of time not to exceed four (4) months for each instance, with the understanding that should the causes for such action not be satisfactorily corrected or remedied during the period, subsequent disciplinary action may be taken, up to and including termination.

Section 21.2 Notice of Disciplinary Action

In order to institute disciplinary action, the appointing authority shall serve notice of the proposed disciplinary action in accordance with the following procedures:

Except as otherwise provided herein or when emergency or other special circumstances require immediate action, a notice of proposed disciplinary action (other than for formal reprimand) shall be delivered to the employee, either personally or by the US Postal Service, to the current address listed on the employee's most recent personnel action form, no less than five (5) calendar days prior to the effective date of any punitive action against the employee.

The notice of proposed disciplinary action shall include the following:

- A. The nature of the disciplinary action;
- B. The effective date of the action;
- C. The causes for the action in ordinary, concise language with the dates and places thereof, when known;
- D. A statement that identifies the material upon which the action is based and states that it is available for inspection; and,
- E. A statement advising the employee of his/her right to respond either verbally or in writing to the appointing authority or his/her designee imposing the disciplinary action prior to the effective date and the right to be represented in that response. The statement shall also refer to that section of this Agreement titled "Appeals from Disciplinary Action" and state that members of the bargaining unit are represented by General Teamsters, Local 890 and shall give the address and telephone number of the Union office.

Section 21.3 Pre-Disciplinary Due Process Meeting

If the employee does not waive his/her right to a Skelly meeting, the General Manager shall conduct an informal meeting to allow the employee to respond to the charges made.

The employee may present information and respond to questions personally or through his/her representative.

The General Manager shall give the employee written notice of the decision which shall be reached within five (5) working days after said meeting.

Section 21.4 Implementation of Discipline

In the case of a suspension without pay of one (1) working days or less, or a suspension with pay of twenty (20) working days or less, the suspension may be imposed by a single notice containing items A, B, C, D & E above. This notice shall be delivered to the employee on or as soon after the effective date of the suspension as possible.

Except as provided above, in order to implement the proposed disciplinary action of a lesser disciplinary action based on the same cause(s), a notice of disciplinary action shall be delivered to the employee, either personally or by the US Postal Service to the current address listed on the employee's most recent Personnel Action form, on or before the effective date of the disciplinary action.

The notice of disciplinary action shall contain the information in items A, B, C, D & E above and, in addition, shall include a statement as to the right to appeal and representation by a party of his/her own choice and shall include a referral to the section of this Agreement concerning appeals from disciplinary action and shall include a statement that members of the bargaining unit are represented by the General Teamsters, Local 890 with the address and telephone number of the Union office.

Section 21.5 Reprimand

An appointing authority may reprimand an employee by furnishing him/her with a statement, in writing, of the specific reasons for such reprimand. A copy of notice of the reprimand shall be given to the General Manager for inclusion in the employee's personnel file and shall not be subject to appeal, but the employee and/or his/her representative shall have the right to discuss the reprimand, or notice of reprimand during normal business hours, with the supervisor issuing the reprimand within 3 working days of receipt of reprimand.

Disciplinary reprimands shall be removed from the employee's personnel file after the second year of their issuance, upon the employee's request, and if the employee does not receive any further disciplinary action in the two year period.

Section 21.6 Appeal of Disciplinary Action

A. Appeal

If an employee who has had a pre-disciplinary due process (Skelly) meeting wishes to appeal the decision of the General Manager further, and who has completed his/her six (6) months probationary status, he/she shall file with the MCWD Board of Directors no later than the fifteenth (15th) day after receipt of said notice of disciplinary action.

Should said fifteenth (15th) day fall on a day in which offices of the MCWD are not open for business, the time within which said notice of appeal may be filed shall be extended until 5:00 p.m. of the next following day when MCWD offices are open for business.

B. Time of Hearing -- Notice

A hearing by the MCWD Directors or by a Hearing Officer appointed by the Board, relating to the validity of the charges upon which the disciplinary action was based shall commence not later than thirty (30) days after the date of the filing of the notice of appeal. Upon request of the employee, the MCWD Board shall appoint a Hearing Officer

who shall be selected by the parties by alternate striking from a list provided by the State Mediation and Conciliation Service. Absent a request from the employee, the MCWD Board may choose to appoint a Hearing Officer or to have the matter heard by the Directors.

The appellant employee shall be given not less than ten (10) days written notice of the date, time, and place of said hearing of the Directors or the Hearing Officer. Said notice of the date, time, and place of hearing shall be effective upon its deposit in the US mail, postage prepaid with return receipt requested, and addressed to the last known address of the appellant as set forth in the appellant employee's personnel file.

C. Conduct of Hearing

At the time and place designated, the MCWD Board of Directors or Hearing Officer shall hold a hearing for the purpose of determining the validity of the charges brought against the appellant employee and of the reasonableness of the discipline imposed pursuant to said charges. Such hearing shall be closed to the public unless otherwise requested by the appellant employee. The appellant employee may be present and have the right to be represented by counsel.

The hearing may be continued from time to time and at the end of such presentation the MCWD Board of Directors or Hearing Officer may take the evidence under consideration for a reasonable period of time before announcing its decision in the matter.

D. Hearing

The General Manager and the appellant employee may call witnesses, shall have the right of cross-examination and may present documentary and demonstrative evidence.

E. Recommendation of Hearing Officer

If a Hearing Officer is appointed by the MCWD Board of Directors a non-binding advisory opinion or recommendation shall be presented in writing to the MCWD Board as soon as possible after the hearing is complete.

The advisory opinion shall include recommended findings of fact, a recommended decision on the merits of discipline, and may include recommendations to modify or reverse the disciplinary action. If the Hearing Officer is provided by the California Mediation and Conciliation Service, the Hearing Officer shall first attempt to mediate the question between the parties.

F. Decision of MCWD Board of Directors

The decision of the MCWD Board of Directors shall designate express findings of the charges upon which the disciplinary action was based and may wholly reverse or affirm the disciplinary action imposed by the General Manager or modify the severity of the

same.

G. Loss of Salary

If the discipline action of the General Manager is wholly reversed by the MCWD Board of Directors, or the severity of discipline imposed is partially reversed, the appellant employee shall be entitled, upon the decision of the Directors or Hearing Officer, to complete or partial reinstatement, as the case may be, and shall be entitled to reimbursement from MCWD funds of that salary forfeited by virtue of that portion of the disciplinary action which was overruled by the MCWD Board of Directors.

H. Appeals of Decision

The findings and decision of the MCWD Board of Directors on appeal shall be final and conclusive on all parties, and not subject to the grievance procedures provided for in this contract.

ARTICLE 22: PROBATIONARY PERIOD FOR NEW EMPLOYEES

All new employees of MCWD shall be subject to a probationary period of six (6) months. New employees on probation are at-will employees. Upon approval of the General Manager, the probationary period may be shorter, but not less than three (3) months prior to reaching the status of regular full-time employee.

The probationary period may be extended by the General Manager pending qualifications, demonstration of work habits and performance on the job.

A probationary employee may be released at any time that his/her performance is determined unsatisfactory and therefore unsuitable for permanent assignment.

ARTICLE 23: PERSONNEL RECORDS

The MCWD and Union agree that personnel records are not subject to public inspection.

All Personnel records are and remain the property of MCWD.

Employees shall have the right to inspect, review and receive a copy of any official record relating to his/her performance as an employee which is kept or maintained by MCWD.

When any comment adverse to an employee's interest is entered in his/her official personnel records, the employee shall have the opportunity to read and receive a copy of the adverse entry. An employee, or staff representative of the Union with prior written consent of the employee, may upon request inspect that employee's personnel file during regular business hours by appointment.

The Management Services Administrator shall keep the official personnel records of all

employees.

Notwithstanding any other provision of this item, MCWD and the Union agree that an employee is not entitled to inspect or review such documents as reference letters, background investigations, records pertaining to investigation of a possible criminal offense, or material designated confidential by law.

ARTICLE 24: POSTING POSITIONS

The District agrees to post in-house for six (6) days, before recruiting externally, when they intend to fill new or existing or permanent positions authorized by the Board. Additionally, the District shall provide the Union steward or designee with a copy of the posting prior to the date of the internal posting. This provision does not apply when recruiting temporary, interim or term Personnel. The District shall encourage unsuccessful internal candidates to receive confidential career counseling from District Supervisory Personnel as feedback for professional development and preparation for future opportunities.

ARTICLE 25: PRODUCTIVITY

The District and Union agree to form a committee to explore methods of improving productivity.

ARTICLE 26: NO STRIKE/NO LOCKOUT

The parties to this MOU recognize and acknowledge that the services performed by MCWD employees are essential to the public. The Union agrees that under no circumstances will the Union recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in, any strike, sit-down, stay-in, sick-out, slow-down, or picketing (hereinafter collectively referred to as work-stoppage), nor to curtail any work or restrict any production, or interfere with any operation of MCWD during the term of this agreement. In the event of any such work-stoppage by any member of the bargaining unit, MCWD shall not be required to negotiate on the merits of any dispute which may have given rise to such work-stoppage until said work-stoppage has ceased.

In the event of any work-stoppage, during the term of this Memorandum of Understanding, whether by the Union or by any member of the bargaining unit, the Union, by its officers, shall immediately declare in writing and publicize that such work stoppage is illegal and unauthorized and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon MCWD in the event of any work stoppage the Union promptly and in good faith performs the obligations of this paragraph, and providing the Union had not otherwise authorized such work stoppage, the Union shall not be liable for any damages cause by the violation of this provision. MCWD shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to, any work-stoppage activity herein prohibited, and MCWD shall also have the right to seek full legal redress, including damages, as against any such employee, as long as not in violation of his/her rights under the United States Law or Constitution or the California State Law or Constitution.

In turn, the MCWD agrees not to lockout any employee during the term of this Memorandum of Understanding.

ARTICLE 27: SEPARABILITY

If any section, subsection, paragraph, clause or phrase of this Agreement is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Agreement, it being hereby expressly declared that this document, each section, subsection, paragraph, sentence, clause and phrase thereof, would have been adopted irrespective of the fact that any one or more sections, subsections, sentences clauses, or phrases be declared invalid or unconstitutional.

ARTICLE 28: FULL UNDERSTANDING, MODIFICATION WAIVER

It is intended that this Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Existing matters within the scope of representation which are not referenced in this Memorandum of Understanding and which are subject to the meet and confer process shall continue without change unless modified subject to the meet and confer process. MCWD assures the Union that unless changes are warranted by operational necessity, it does not intend, nor does it anticipate, during the term of this Memorandum of Understanding any change, modification or cancellation or wages, hours and working conditions which are subject to meet and confer and which are presently in effect or contained in this Memorandum of Understanding.

~~Expect~~ Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its rights, and agrees that the other shall not be required, although they may mutually agree otherwise, to negotiate with respect to any subject or matter covered herein or with respect to any other matter within the scope of negotiations, during the term of this Memorandum of Understanding.

Any agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the MCWD's Board of Directors.

The waiver of any breach, term or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE 29: GENDER AND NUMBER

As used in this Memorandum of Understanding, the masculine, feminine, or neuter gender, and the singular or plural number, shall include the others whenever the context so indicates.

THIS MEMORANDUM OF UNDERSTANDING ENTERED INTO THIS _____ DAY of _____, 201194.

MANAGEMENT AND CONFIDENTIAL MARINA COAST WATER DISTRICT
UNIT, TEAMSTERS, LOCAL 890

Richard Youngblood,
President
Bargaining Committee

William Y. Lee, President~~Howard Gustafson,~~

Suresh Prasad~~Evelina Adlawan~~
William Y. Lee, Vice President
Bargaining Committee

Dan Burns, Vice President

Fritze Conle
Union Representative

Jim Heitzman, General Manager