

RESOLUTION NO. 18-106

Resolution Of The City Council Approving And Consenting to A Side Letter Agreement to the Memorandum Of Understanding Between The Management Of Emeryville Services Authority (MESA) and The Service Employees International Union, Local 1021 (SEIU) With A Term Effective July 1, 2018 Through June 30, 2019

WHEREAS, the City Council of the City of Emeryville and the Board of Directors for the Management of Emeryville Services Authority (MESA) provided direction and authority to the agencies' designated representatives to bargain the provisions of a Memorandum of Understanding covering terms and conditions of employment for employees represented by SEIU, Local 1021; and

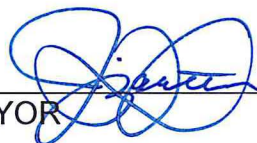
WHEREAS, on April 24, 2018 during a Labor-Management meeting, staff expressed an interest in creating an alternative holiday schedule which benefits both parents, who bring their children to the Emeryville Child Development Center, and staff alike; and

WHEREAS, on May 23, 2018, SEIU submitted to the MESA a petition signed by all potentially impacted Emeryville Child Development Center staff that stated their unanimous support for a change in the terms of observance of holidays and use of floating holidays; now therefore, be it


RESOLVED, that the City Council of the City of Emeryville hereby approves and accepts the Side Letter agreement between the Management of Emeryville Services Authority (MESA) and the Service Employee International Union (SEIU), Local 1021, in the form attached hereto as Exhibit A, effective upon adoption.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held Tuesday, July 10, 2018, by the following vote:


| | | |
|----------|----------|---|
| AYES: | <u>5</u> | Mayor Bauters, Vice Mayor Medina and Council Members Donahue, Martinez and Patz |
| NOES: | <u>0</u> | |
| ABSTAIN: | <u>0</u> | |
| ABSENT: | <u>0</u> | |


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

Side Letter of Agreement

A. Parties

This Side Letter of Agreement (hereinafter "**Agreement**" or "**this Agreement**") is between the **Management of Emeryville Services Authority** (hereinafter **MESA**) and **Service Employees International Union, Local 1021** (hereinafter "**SEIU**"), each a "**Party**" and jointly referred to as the "**Parties**." The Parties agree as follows.

B. Background

1. The Parties are signatories to a July 1, 2016 – June 30, 2019 Memorandum of Understanding (hereinafter "**the 2016-19 MOU**"), setting forth terms and conditions of employment for positions in the bargaining unit represented by SEIU.
2. On April 24, 2018, pursuant to a request by SEIU, the Parties discussed certain terms concerning a possible change in the observance of holidays and use of floating holidays by employees of the Emeryville Child Development Center who are subject to the 2016-19 MOU at variance with the 2016-19 MOU, and that said employees believe would benefit both the City of Emeryville and affected employees.
3. On May 23, 2018, SEIU submitted to the MESA a petition signed by all potentially impacted Emeryville Child Development Center staff that stated their unanimous support for a change in the terms of observance of holidays and use of floating holidays.
4. The MESA believes that such changes may serve operational City of Emeryville interests.
5. To promote the interests of the Parties in harmonious labor relations and determine whether the benefits of such changes are in fact as predicted, the Parties desire to enter into the experimental terms set forth below for a time certain.

Therefore, the Parties agree to the following terms.

C. Terms

1. Notwithstanding the terms of Section 17 of the Parties' 2016-19 MOU to the contrary, effective July 1, 2018, members of SEIU who are regularly assigned to the Emeryville Child Development Center (ECDC) (the "**Affected Employees**") will work on Veteran's Day and Indigenous People's Day, and shall instead receive December 24th and December 26th off as observed holidays.
2. If December 24th and/or December 26th falls on a Saturday, the Affected Employee shall observe the holiday on the preceding Friday. If December 24th and/or December 26th

falls on a Sunday, the Affected Employee shall observe the following Monday as the holiday.

3. In addition, Affected Employees must use one of their three floating holidays on New Year's Eve on which day the City may close the ECDC. In years in which New Year's Eve falls on a Saturday or Sunday, employees will be allowed to retain and use the third floating holiday in the same manner as other floating holidays.
4. This Agreement will take effect upon signing by all Parties and expire at the close of business on June 30, 2019, unless otherwise mutually agreed in writing by the Parties. At that time and absent such agreement, the preexisting terms governing holidays set forth in the 2016-19 MOU shall take effect and constitute the status quo pending the outcome of successor MOU negotiations. The terms of this Agreement shall supersede any portion of Section 17, Holidays, of the Parties' 2016-19 MOU with which it may conflict or is inconsistent.
5. Upon expiration of this Agreement, whether as initially scheduled on June 30, 2019 or on a later date established by written agreement, and absent written agreement to the contrary between the Parties, Affected Employees will revert to the schedules they held on June 30, 2018.
6. Any dispute over the meaning, interpretation or application of this Agreement shall be resolved through the grievance procedure set forth in the MOU.
7. The written terms set forth in this Agreement embody the entire Side Letter of Agreement between the Parties.

Made and entered into this ____ day of June 2018.

For the MESA:


For SEIU:

Carolyn Lehr
City Manager

Miroo Desai
President

Approved as to Form:

Lisa Lopez
Human Resources Director


Michael Guina
City Attorney/General Counsel